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THE ILLINOIS UNDERGROUND UTILITY FACILITIES DAMAGE PREVENTION ACT

Executive Summary for SB1570

The following is a partial listing of the amendatory changes that have been submitted to the legislature.

Section 2.1.1 “Excavator” new - Changes the definition within the Act from “person” to “excavator” and means the entity (person or a public or private company) that is actually engaged in the excavation or demolition work.

Section 2.1.2 “Pre-mark” new - Inserts a definition of what a proposed excavation pre-mark is and how it can be accomplished.

Section 2.1.3 “No show request” – Clarifies the excavator’s responsibility to individually list facility owners or operators that have not marked their facilities prior to the dig start date and time.

Section 2.1.5 “Re-mark request” – Clarifies the excavators responsibility to provide specific area of the original locate request extent that needs to be re-marked and pre-mark the area

Section 2.1.8 “One-Call Notice System” new – Addition to this existing definition to clarify the reference to “One-Call Notice System” throughout the Act means JULIE for the state outside of Chicago or means the Chicago Utility Alert Network / Chicago 811 within the city of Chicago.

Section 2.3 “Excavation” – Adds to the list of exempted activities (no notification required): the use of a ground or round-tipped probe rod when used as part of underground facility locating, bar holing, a long-used technique by gas and pipeline utilities to find leaking underground facilities and in emergencies grounding of utility equipment when no other ground source available.

Section 2.7 “Tolerance Zone” – Replaces an existing definition with a definition that defines the tolerance zone for 1) facilities whose locate markings identify the diameter of that underground facility; 2) facilities whose locate markings do not identify the diameter of the underground facility; and 3) for the first time, subaqueous facilities. Also, states that utility markings may not exceed the actual width of the facility. Further, recognizes that the tolerance zone applies to visible utility structures.

Section 2.8 “Approximate location” – The actual location of the marked underground facility that lies entirely within the tolerance zone.

Section 2.11 “Roadway surface milling” – Format Change and addition of saw cutting to definition along with clarifying depth contained within limits of hard surface pavement.

Section 4 Required activities:

Subsection (b) – Language expanded to clarify that precautions to avoid utilities includes hand or vacuum excavation to the depth of the proposed excavation/demolition. This comports to how we educate our stakeholders.

Subsection (c) – Cleanup refers to new definition of pre-mark.

Subsection (g) – New language prohibits excavators from extending a notification without any excavation taking place.

Subsection (h) – New language to clarify timeline requirements.

Subsection (i) – Cleanup and new language requiring pre-marking prior to requesting a remark.

Subsection (j) – New subsection that establishes within the Act some utilities’ longstanding practice of “watch and protect”. It requires excavators to honor the request of a utility for a “watch and protect”, but also requires utilities to honor the excavation schedule of the excavator.

Section 6 Emergency excavation or demolition:

Subsection (e) – New language recognizes extreme widespread weather events and the ability for utilities that are trying to restore widespread outage areas to process locate requests on behalf of their subcontractors. However, liability remains with utility owner/operator unless the subcontractor has obtained their own notice.

Subsection (f) – New language providing for a 14 calendar day expiration of an emergency request.

Section 7.5 Exposed facility - new - New section and language that requires excavators to report unmarked “exposed” but otherwise undamaged facilities via a notification through the One-Call System.

Section 10 Record of notice; marking of facilities:

First, this very long section and has been broken up into easier to read subsections.

Subsection (e) – New language captures a long standing practice between excavators and facility owners or operators.

Subsection (g) – Removes ability of an excavator to waive the requirement for a facility owner or operator to notify them for an all clear.

Section 11 Penalties; liability; fund:

Removes the word “wilfully” from the entire Section.

Subsection (d) – This section addresses penalties for emergency locate requests that are not actually emergency requests. New language adds “no-show” and “incomplete” requests to those notification types that are subject to the excavator penalties for misrepresentation.

Subsection (e) – New language is proposed stating a facility owner/operator will not be subject to a penalty when they have responded within the timeframes of the request and have taken reasonable precautions when locating their underground facilities.

Subsection (j) – Addition of a reference to where the Illinois Commerce Commission rules are located and removes from the criteria that the ICC One-Call enforcement will use in determining the magnitude of the penalty: “ability to pay and ability to continue business”.

Subsection (l) – Removes JULIE representative from the Advisory Committee and adds a second general public member having a professional background in the legal community.

In addition, references to CATS (Community Antenna Television System Service) facilities currently in the Act be removed. These types of underground utility facilities are captured in Section 2.2.