

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4109-06  
Bill No.: SCS for SB 904  
Subject: Capital Improvements; Construction and Building Codes; Environmental Protection; Liability; Public Service Commission; Railroads; Utilities  
Type: Original  
Date: March 31, 2008

Bill Summary:           Modifies provisions pertaining to the Underground Facility Safety and Damage Prevention Act

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Road Fund	(\$138,500 to \$275,000)	(\$277,000 to \$550,000)	(\$277,000 to \$550,000)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>(\$138,500 to \$275,000)</b>	<b>(\$277,000 to \$550,000)</b>	<b>(\$277,000 to \$550,000)</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 6 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2009</b>	<b>FY 2010</b>	<b>FY 2011</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2009</b>	<b>FY 2010</b>	<b>FY 2011</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

- Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).
- Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2009</b>	<b>FY 2010</b>	<b>FY 2011</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

---

## **FISCAL ANALYSIS**

### ASSUMPTION

Officials from the **Department of Agriculture, Department of Natural Resources, Department of Economic Development - Public Service Commission and Office of Public Counsel, and Office of Administration - Division of Facilities Management, Design and Construction** and the **Administrative Hearing Commission** assume no direct fiscal impact to their respective agencies as a result of this proposed legislation.

Officials from the **Office of State Courts Administrator** state this proposal has no fiscal impact on the Courts.

Officials from the **Department of Transportation (MoDOT)** assume this proposed legislation amends the definition of “underground facility” which will result in MoDOT becoming part of Missouri One Call System. This would require MoDOT to locate all underground facilities, including storm drainage pipes, prior to the excavation period and, if requested, the design stage of construction projects.

MoDOT officials state that as currently written, this proposal would require One Call to ask requesters if they intend to work on public rights of way. MoDOT assumes the new procedure could potentially reduce the number of requests by 40% to 70%. Based on the potential reduction, approximate costs for One Call membership would range from \$550,000 to \$277,000 annually.

The proposal states that Missouri One Call participants are not required to respond to a notice of intent to excavate received directly from an excavator, except for requests to clarify markings or for requests made during an emergency. MoDOT assumes this language could be interpreted as creating an exception for excavators from receiving a permit from MoDOT to work on MoDOT right of way, which could expose MoDOT to additional liability from accidents caused by excavators. In addition, MoDOT could be liable for an excavator’s attorney fees if MoDOT sues an excavator alleging damage to an underground facility caused by an excavator.

**Oversight** assumes the liability issues are speculative and therefore, for fiscal note purposes only, assign no cost for this portion of the proposal.

In response to the introduced version of this proposal, officials from **St Louis County** and **Kansas City** stated there would be no fiscal impact to their respective political subdivisions.

<u>FISCAL IMPACT - State Government</u>	FY 2009 (6 Mo.)	FY 2010	FY 2011
<b>ROAD FUND</b>			
<u>Cost - One Stop ticket (work order fee)</u>	(\$138,500 to <u>\$275,000</u> )	(\$277,000 to <u>\$550,000</u> )	(\$277,000 to <u>\$550,000</u> )
<b>ESTIMATED NET EFFECT ON ROAD FUND</b>	<b><u>(\$138,500 to \$275,000)</u></b>	<b><u>(\$277,000 to \$550,000)</u></b>	<b><u>(\$277,000 to \$550,000)</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2009 (6 Mo.)	FY 2010	FY 2011
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This proposed legislation modifies provisions pertaining to the Underground Facility Safety and Damage Prevention Act.

Under current law, gas distribution lines, electric lines, telecommunications facilities, cable t.v. facilities, water lines, storm drainage, and sewer lines located on private property and owned by the landowner are not considered "underground facilities" for purposes of the Underground Facility Safety and Damage Prevention Act. This proposal modifies this definition by requiring that if any of the above-mentioned lines are used for vehicular traffic control, the lighting of streets and highways, or communications for emergency response, they shall be considered an "underground facility." The lines shall also be considered an "underground facility" if they cross or lie within a public easement, public right-of-way, or another person's property.

The proposed legislation requires that, as part of the process to request the locating of underground facilities, the notification center shall ask excavators to identify if the proposed excavation will be on public right-of-way or easement for public vehicular traffic use.

FISCAL DESCRIPTION (continued)

The proposal removes the requirement that an excavator shall mark the excavation location for certain excavations when the underground facility owner notifies the excavator that the excavation location cannot be determined from the information provided. Currently, when an excavator receives notification from an underground facility owner or operator that the location of the excavation cannot be determined by the information provided, the excavator can provide project plans to the owner or operator or meet in person on-site. The proposal also allows an excavator to mark the excavation location.

The proposal allows design requests to be made through the notification center. Any such design request shall provide the same information as what is required for a notice of intent to excavate and the notification center shall treat a design request in a manner similar to a notice of intent to excavate. Underground facility owners who receive notification of a design request shall either mark the pipeline location or else contact the person making the design request within 5 working days of receiving the notification. Making a design request does not relieve any person from submitting a notice of intent to excavate to the notification center for the actual excavation work.

Railroads regulated by the Federal Railroad Administration shall not be required to file notices of intent to excavate when the excavating will be done entirely on land owned by the railroad.

The proposal specifies that the current damage reporting requirements for excavators also apply to any damage caused by excavators to protective devices for underground facilities.

Owners or operators of underground facilities shall respond to a notice of an emergency within two hours of receiving such a notice. Excavators may be liable for costs associated with compliance by the owner or operator with this provision if the situation is not actually an emergency situation as defined.

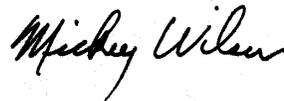
The proposal repeals Section 319.036, RSMo, regarding exemptions to the excavation notification requirements for agricultural property.

The proposal contains an effective date of January 1, 2009.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Agriculture  
Department of Economic Development  
    Public Service Commission  
    Office of Public Counsel  
Department of Natural Resources  
Office of State Courts Administrator  
Office of Administration  
    Division of Facilities Management, Design and Construction  
    Administrative Hearing Commission  
Department of Transportation  
St Louis County  
Kansas City



Mickey Wilson, CPA  
Director  
March 31, 2008