

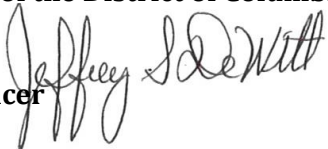
Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: January 15, 2019

SUBJECT: Fiscal Impact Statement – Underground Facilities Protection
Amendment Act of 2019

REFERENCE: Draft Bill as shared with the Office of Revenue Analysis on January 7,
2019

Conclusion

Funds are sufficient in the fiscal year 2019 through fiscal year 2022 budget and financial plan to implement the bill.

Background

When any person wants to do an excavation or demolition (project) in public or private space that could interact with utility operator facilities, she or he must call into the District's one-call center to report the proposed project and request that the utility operators inspect the project location and mark any utility facilities within their purview or notify the person in charge of the project that no facilities exist.

The bill requires a utility operator to report back to the one-call center after it marks its facilities¹ or if it determines that none of its facilities would be affected by the project. A project cannot proceed until the person responsible for the project receives confirmation from the one-call center that markings have been made or that no facilities exist. The project also cannot proceed if the person responsible for the project knows or has reason to know that utility facilities exist but have not been marked, unless the one-call notification process is repeated and the utility operator notifications have again been provided.

¹ The bill allows the Mayor to establish marking standards to which utility operators must conform.

The Honorable Phil Mendelson

FIS: "Underground Facilities Protection Amendment Act of 2019," Draft Bill as shared with the Office of Revenue Analysis on January 7, 2019

The bill requires that a project provide adequate protection, including supports as needed, to utility operator facilities when they enter the immediate vicinity of the facility.²

The bill eliminates an exception for small excavation projects that were contained within the limits of the original excavation and did not exceed twelve inches in depth.

Current law³ allows a utility operator to seek three times the damages resulting from an excavation or demolition. Current law⁴ also allows the District's Attorney General to pursue graduated civil penalty depending on whether it was a first or subsequent offense. The bill increases the civil penalty for subsequent violations from \$3,500 to \$5,000 for a second offense and \$5,000 to \$10,000 for a third or subsequent offense.⁵ As an alternative to these civil penalties, the bill authorizes the Mayor to issue civil fines and penalties under the Civil Infraction Act.⁶

The bill authorizes the Mayor to implement educational programs, collect data, and require reporting by entities subject to the Act in order to develop an effective damage prevention program.⁷

Financial Plan Impact

Funds are sufficient in the fiscal year 2019 through fiscal year 2022 budget and financial plan to implement the bill. The District Department of Transportation (DDOT) and the Department of Consumer and Regulatory Affairs (DCRA) will implement the bill's provisions with the former responsible for public space and the latter responsible for private space. DDOT and DCRA can enforce the one-call rules for both people directing projects and utility companies and can establish any education programs with their existing budget resources.

² The immediate facility is within 18 inches of the facility.

³ The Underground Facilities Protection Act of 1980, effective March 4, 1981 (D.C. Law 3-129; D.C. Official Code § 34-2707(b)).

⁴ See id. at D.C. Official Code § 34-2707(c).

⁵ The bill maintains the civil penalty for a first violation at \$2,500.

⁶ Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.01).

⁷ As described in the Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006, approved December 29, 2006 (Pub.L. 109-468; 49 U.S.C. § 60134).