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No. 965

H.P. 679

House of Representatives, March 12, 2013

An Act To Improve Maine's Underground Facility Damage Prevention Program

Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative BEAULIEU of Auburn.
Cosponsored by Senator CLEVELAND of Androscoggin and
Representatives: BOLDUC of Auburn, HARVELL of Farmington, HOBBS of Saco,
LAJOIE of Lewiston, WEAVER of York, WERTS of Auburn.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 5 MRSA §12004-I, sub-§73-C** is enacted to read:

3 **73-C.**

4 Public Utilities Dig Safe Advisory Not Authorized 23 MRSA §3361
5 Board

6 **Sec. 2. 23 MRSA §3360-A, sub-§10-B** is enacted to read:

7 **10-B. Database.** The Public Utilities Commission shall maintain a database and
8 website of contact information pertaining to persons that own or operate underground
9 facilities and are not underground facility operators pursuant to subsection 1, paragraph F
10 and are not voluntary members of the system. Such an owner shall:

11 A. Register the owner's or operator's underground facility with the Public Utilities
12 Commission for inclusion in the database under this subsection;

13 B. Provide the Public Utilities Commission with a list of all the municipalities in
14 which the owner's or operator's underground facility is located;

15 C. Provide the Public Utilities Commission with current 24-hour contact information
16 that enables anyone planning to excavate in a municipality in which that owner's or
17 operator's underground facility is located to notify that owner or operator at any time
18 of the need to mark the location of the underground facility;

19 D. In the event contact information is added to or changed, provide the Public
20 Utilities Commission with updated contact information within 5 business days from
21 the date that the contact information is added to or changed; and

22 E. Respond to any notices received pursuant to subsection 10-A regarding the
23 owner's or operator's underground facility within the time frames set forth in
24 subsection 4 for underground facility operators. As part of the owner's or operator's
25 response, the owner or operator shall mark the location of the underground facility or
26 notify the excavator that the owner or operator has no underground facility within the
27 area of the planned excavation.

28 The Public Utilities Commission shall adopt rules necessary to implement this subsection.
29 Rules adopted under this subsection are major substantive rules as defined in Title 5,
30 chapter 375, subchapter 2-A.

31 **Sec. 3. 23 MRSA §3361** is enacted to read:

32 **§3361. Dig Safe Advisory Board**

33 The Dig Safe Advisory Board, established in Title 5, section 12004-I, subsection
34 73-C and referred to in this section as "the board," shall provide advice to the Public
35 Utilities Commission on matters pertaining to the protection of underground facilities, as
36 defined in section 3360-A, subsection 1, paragraph E, and the implementation of best
37 practices to provide that protection.

1 **1. Membership.** The board consists of 15 members as follows:

2 **A.** Thirteen persons appointed by the Governor:

3 (1) One person who is a municipal public works official. The Governor shall
4 consider any recommendations for appointment under this subparagraph
5 submitted by a statewide association that represents municipalities in the State;

6 (2) One person who is a builder or contractor. The Governor shall consider any
7 recommendations for appointment under this subparagraph submitted by a
8 statewide association that represents builders and contractors in the State;

9 (3) One person who is a general contractor. The Governor shall consider any
10 recommendations for appointment under this subparagraph submitted by a
11 statewide association that represents general contractors in the State;

12 (4) Two persons who represent quasi-municipal water or sewer utilities, one of
13 whom represents a small utility and one of whom represents a large utility. The
14 Governor shall consider any recommendations for a person representing a small
15 utility submitted by a statewide organization that represents rural water or sewer
16 utilities in the State. The Governor shall consider any recommendations for a
17 person representing a large utility submitted by an association that represents
18 larger water or sewer utilities in the State;

19 (5) Two persons who represent telephone utilities, one of whom represents a
20 small rural telephone utility and one of whom represents a large telephone utility.
21 The Governor shall consider any recommendations for appointments under this
22 subparagraph submitted by an association in the State that represents telephone
23 utilities;

24 (6) One person representing cable television service providers in the State;

25 (7) One person representing owners or operators of underground fuel storage
26 facilities. The Governor shall consider any recommendations for appointment
27 under this subparagraph submitted by a statewide association in the State that
28 represents organizations that sell fuel that is stored underground;

29 (8) One person representing the owner or operator of a natural gas pipeline;

30 (9) One person representing investor-owned transmission and distribution
31 utilities as defined in Title 35-A, section 3104, subsection 1, paragraph A;

32 (10) One person representing consumer-owned transmission and distribution
33 utilities as defined in Title 35-A, section 3201, subsection 6; and

34 (11) One person who is a municipal official or who represents municipal
35 officials. The Governor shall consider any recommendations for appointment
36 under this subparagraph submitted by a statewide association that represents
37 municipalities in the State;

38 **B.** An employee of the Department of Transportation, to be appointed by the
39 Commissioner of Transportation; and

40 **C.** An employee of the Public Utilities Commission, to be appointed by the chair of
41 the Public Utilities Commission.

1 **2. Terms.** The term of a member of the board appointed by the Governor under
2 subsection 1, paragraph A is 4 years, except that a vacancy occurring before the
3 expiration of a member's term must be filled in the same manner as the original
4 appointment for the unexpired portion of the member's term.

5 **3. Chair.** The board shall elect by majority vote a chair from among its members
6 annually.

7 **4. Duties.** The board shall meet as often as determined necessary by the members of
8 the board, but no less than once per quarter in each calendar year, for the purpose of
9 addressing issues and developing recommendations pertaining to the underground facility
10 damage prevention system under section 3360-A, subsection 1-A.

11 **5. Report to the Legislature.** On or before January 15th of each calendar year, the
12 board shall submit a report to the joint standing committee of the Legislature having
13 jurisdiction over energy and utility matters describing the activities of the board during
14 the previous calendar year. The report must include a description of the topics that were
15 discussed by the board and any recommendations for legislation necessary to improve the
16 underground facility damage prevention system under section 3360-A, subsection 1-A.
17 The joint standing committee may report out legislation to implement those
18 recommendations.

19 **6. Compensation.** Compensation is not authorized for members of the board.

20 **Sec. 4. Initial appointments to Dig Safe Advisory Board; staggered terms.**
21 Notwithstanding the Maine Revised Statutes, Title 23, section 3361, subsection 2, of the
22 initial gubernatorial appointments to the Dig Safe Advisory Board, 4 members serve an
23 initial term of 4 years, 3 members serve an initial term of 3 years, 3 members serve an
24 initial term of 2 years and 3 members serve an initial term of one year. The initial terms
25 must be assigned to the gubernatorial appointments by a process of random selection.

26 SUMMARY

27 This bill establishes the Dig Safe Advisory Board, which will collaborate with the
28 Public Utilities Commission for the purpose of improving the protection of underground
29 facilities. The bill also requires that persons who own underground facilities and who are
30 not members of the underground facility damage prevention system register their
31 facilities with the Public Utilities Commission and provide the commission with current
32 24-hour contact information for purposes of notification regarding excavations.