

ONE HUNDRED SEVENTH LEGISLATURE - FIRST SESSION - 2021
COMMITTEE STATEMENT
LB344

Hearing Date: Monday February 01, 2021
Committee On: Transportation and Telecommunications
Introducer: Friesen
One Liner: Change provisions of the One-Call Notification System Act and create the Underground Excavation Safety Committee

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:
Aye: 6 Senators Albrecht, Cavanaugh, M., DeBoer, Friesen, Geist, Hughes
Nay: 2 Senators Bostelman, Moser
Absent:
Present Not Voting:

Oral Testimony:

Proponents:

Senator Curt Friesen
B. J. Woehler
Mary Jacobson

Representing:

Introducer
National Utility Contractors Assn of NE
USIC

Opponents:

Tip O'Neill

Representing:

NE Telecommunications Assn

Neutral:

Jill Becker
Regina Shields
Millissa Johnson-Wiles

Representing:

Black Hills Energy
NE State Fire Marshal
NE Assistant Attorney General

Submitted Written Testimony:

Proponents:

Matt Schaefer

Representing:

AGC NE

Opponents:

Randi Scott
Seth Voyles
James Dukesherer

Representing:

Northern Natural Gas
Omaha Public Power District
NE Rural Electric Assn

Neutral:

Robert Everett

Representing:

NE One Call Board

Summary of purpose and/or changes:

LB 344 would amend the One-Call Notifications Act to create the Underground Excavation Safety Committee ("Committee"). The One-Call Notification Act is the enabling legislation for Nebraska 811, which is a free service for anyone who is planning a digging project, including homeowners and professional excavators. Nebraska State law requires anyone who digs to place a locate request at least two full business days before digging. Once a request is submitted, utilities will locate and mark their lines.

Currently, the Attorney General handles all complaints for violations of the One-Call Notification Act. Some groups have expressed frustration with how long it takes for these claims to be adjudicated and resolved. The Committee would serve as a filter for the Attorney General, so that they could focus on the most serious violations.

The Committee would review complaints filed with the State Fire Marshal, give all parties notice of hearing, conduct administrative hearing which would allow all parties to introduce evidence and make arguments before the Committee concerning the alleged violation, and submit written findings and recommendations to the Attorney General within 30 days specifying (i) whether a violation of the One-Call Notification System Act occurred, and (ii) if a violation occurred, the appropriate civil penalty for such violation. The Committee could only recommend a civil penalty through a unanimous vote, and could recommend continuing education for the violator by a majority vote.

The Attorney General would then have to provide a status report to the Committee on each active complaint on not less than a quarterly basis.

The Committee would be made up of the State Fire Marshal, two representatives of operators of underground facilities, and two representatives of excavators. The representative members would be appointed by the Governor to staggered terms. The State Fire Marshal would be directed to adopt rules and regulations governing the Committee. The Committee would hold at least quarterly meetings.

Section-by-Section Summary:

Section 1 and 2 harmonize references.

Section 3 defines Committee as the Underground Excavation Safety Committee.

Section 4

---Subsection (1) establishes the Committee makeup. It shall include the State Fire Marshal, two representatives of underground operators, and two representatives of excavators. The representative members shall be appointed by the Governor.

---Subsection (2) establishes Committee procedures and reimbursement.

---Subsection (3) sets quarterly meetings for the Committee, and sets conflict of interest provisions for Committee members.

Section 5 amends section 76-2325 to establish Committee and State Fire Marshal administrative review procedures.

---Subsection (1)(a) allows the State Fire Marshal to initiate review proceedings before the Committee either by their own complaint, or upon filing of a complaint by any person or entity.

---Subsection (1)(b) provides for notice of hearing procedures.

---Subsection (1)(c) directs the Committee to, within 30 days, to submit written findings to the Attorney General of (i) whether a violation of the One-Call Notification System Act occurred, and (ii) if a violation occurred, the appropriate civil penalty for such violation

---Subsection (1)(d) provides that a civil penalty may be recommended upon a unanimous vote of the Committee, and continuing education for a violator may be recommended upon a majority vote of the Committee.

---Subsection (3) authorized the Committee to recommend an action to recover a civil penalty.

Section 6 amends section 76-2325.02 to direct the Attorney General to make annual reports to the Committee, in addition to the reports already required to be made to the Legislature, State Fire Marshal, and One-Call board of Directors, and directs the Attorney General to provide a status report to the Committee on each active complaint on at least a quarterly basis.

Section 7 repeals the original sections.

Explanation of amendments:

AM83 adds two representatives of locators to the Committee.

Curt Friesen, Chairperson