



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB2263

Introduced 2/14/2023, by Rep. Lawrence "Larry" Walsh, Jr.

SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Underground Utility Facilities Damage Prevention Act. Makes various changes to the definitions. Provides that owners or operators of underground utility facilities are required to be members of the One-Call Notice system (rather than the State-Wide One-Call Notice System). Provides that if, upon notice from the One-Call Notice system, an underground utility facility owner or operator determines there is a critical underground utility facility within the proposed excavation area and the underground utility facility owner or operator desires to have an authorized representative present during excavation near the critical underground utility facility, the underground utility facility owner or operator shall contact the excavator prior to the dig start date and time provided on the notice to schedule a date and time for the underground utility facility owner or operator to be present when excavation will occur near the critical underground utility facility. Provides for the following: a positive response system; a planning design notification; and a joint meet notification. Requires geographic information system data to be provided to the One-Call Notice system. Makes changes in provisions concerning: required activities; emergency excavation or demolition; damage or dislocation; liability or financial responsibility; negligence; record of notice and marking of facilities; penalties, liability, and fund; emergency telephone system outages and reimbursement; noncompliance and enforcement action time frames; mandamus or injunction; and home rule. Provides that if any previously unmarked underground utility facility is exposed during excavation or demolition, emergency or nonemergency, the excavator responsible for excavation or demotion operations shall immediately notify the One-Call Notice System. Repeals the definition of "person" and a provision concerning notice of preconstruction conference. Makes technical and other changes.

LRB103 05762 AMQ 50782 b

1 AN ACT concerning utilities.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Underground Utility Facilities
5 Damage Prevention Act is amended by changing Sections 1, 2,
6 2.1.3, 2.1.4, 2.1.5, 2.1.9, 2.2, 2.3, 2.4, 2.5, 2.6, 2.7, 2.8,
7 2.9, 2.10, 2.11, 3, 4, 5, 6, 7, 8, 9, 10, 11, 11.3, 11.5, 12,
8 13, and 14 and by adding Sections 2.1.1, 2.1.2, 2.1.7, 2.1.8,
9 2.1.11, 2.1.12, 2.12, 2.13, 2.14, 2.15, 2.16, 2.17, 2.18,
10 2.19, 4.1, 5.1, 5.2, 5.3, 5.4, and 7.5 as follows:

11 (220 ILCS 50/1) (from Ch. 111 2/3, par. 1601)

12 Sec. 1. This Act shall be known and may be cited as the
13 Illinois Underground Utility Facilities Damage Prevention Act,
14 and for the purposes of participating in the State of Illinois
15 Joint Purchasing Program, the ~~State-Wide~~ One-Call Notice
16 System, commonly referred to as "JULIE, Inc.", shall be
17 considered as created by this Act.

18 (Source: P.A. 96-714, eff. 1-1-10.)

19 (220 ILCS 50/2) (from Ch. 111 2/3, par. 1602)

20 Sec. 2. Definitions. As used in this Act, unless the
21 context clearly otherwise requires, the terms specified in
22 Sections 2.1.1 ~~2.1~~ through 2.19 ~~2.11~~ have the meanings

1 ascribed to them in those Sections.

2 (Source: P.A. 94-623, eff. 8-18-05.)

3 (220 ILCS 50/2.1.1 new)

4 Sec. 2.1.1. Excavator. "Excavator" means any person or
5 legal entity, public or private, that engages in excavation or
6 demolition work.

7 (220 ILCS 50/2.1.2 new)

8 Sec. 2.1.2. Pre-mark. "Pre-mark" means the use of white
9 paint, stakes, or flags to delineate the work area at the site
10 of the proposed excavation or demolition area. If visible, an
11 existing above ground fixed structure may be considered a
12 pre-mark. A verbal pre-mark is adequate when the scope
13 requested to be marked is narrow and explicit enough to
14 prevent marking a large area beyond the actual area of
15 excavation or demolition. If utilized, physical pre-marking
16 for the area of the planned excavation or demolition shall be
17 accomplished prior to notifying the One-Call Notice System.

18 (220 ILCS 50/2.1.3)

19 Sec. 2.1.3. No show request. "No show request" means a
20 notice initiated by an excavator through the ~~State-Wide~~
21 One-Call Notice System to the owners or operators of
22 underground utility facilities notified in the prior locate
23 request that such facility owners or operators, as identified

1 by the excavator and confirmed, when implemented, through the
2 positive response system, in accordance with subsection (a) of
3 Section 5.1, either failed to mark their facilities or to
4 communicate their non-involvement with the excavation prior to
5 the ~~requested~~ dig start date and time on the locate request.

6 (Source: P.A. 96-714, eff. 1-1-10.)

7 (220 ILCS 50/2.1.4)

8 Sec. 2.1.4. Incomplete request. "Incomplete request"
9 means a notice initiated by an excavator through the
10 ~~State-Wide~~ One-Call Notice System to the owners or operators
11 of underground utility facilities notified in a prior locate
12 request that such facility owners or operators, as identified
13 by the excavator and, when implemented, confirmed by the
14 positive response system, in accordance with subsection (a) of
15 Section 5.1 ~~person excavating,~~ did not completely mark the
16 entire extent or the entire segment of the proposed
17 excavation, as identified on ~~by the excavator in the~~ locate
18 request or as previously documented and mutually agreed upon
19 ~~prior notice.~~

20 (Source: P.A. 96-714, eff. 1-1-10.)

21 (220 ILCS 50/2.1.5)

22 Sec. 2.1.5. Re-mark request. "Re-mark request" means a
23 notice initiated by an excavator through the ~~State-Wide~~
24 One-Call Notice System to the owners or operators of

1 underground utility facilities notified in the initial locate
2 request requesting underground utility facility owners or
3 operators to re-mark all or part of the work area identified in
4 the initial locate request, because underground utility
5 facility markings are becoming or have become
6 indistinguishable due to factors, including, but not limited
7 to, weather, fading, construction activity, or vandalism. Only
8 the affected areas where excavation or demolition is to
9 continue shall be requested to be re-marked.

10 (Source: P.A. 96-714, eff. 1-1-10.)

11 (220 ILCS 50/2.1.7 new)

12 Sec. 2.1.7. Normal notice request. "Normal notice request"
13 means a request for locates that provides no less than 2 days,
14 but no more than 10 days, advance notice of a planned
15 excavation or demolition. Excavation or demolition on a normal
16 notice request shall begin within 10 days of the valid dig
17 start date and time and is valid for 25 days from the date of
18 the initial request unless a subsequent request for extension,
19 as described in subsection (g) of Section 4, is made. Normal
20 notice requests shall be limited to one-fourth contiguous mile
21 within a municipality and one contiguous mile within any
22 unincorporated area, which includes townships. Requests are
23 valid for a single street with an exception for intersecting
24 roads of 250 feet in all directions. Any excavation continuing
25 on a side street shall require an additional request.

1 (220 ILCS 50/2.1.8 new)

2 Sec. 2.1.8. One-Call Notice System. "One-Call Notice
3 System" means "JULIE, Inc." for all excavation or demolition
4 performed and includes all underground utility facilities
5 owned outside the jurisdiction of the city limits of Chicago.

6 (220 ILCS 50/2.1.9)

7 Sec. 2.1.9. JULIE Excavation Safety Resource ~~Excavator~~
8 ~~Handbook~~. "JULIE Excavation Safety Resource ~~Excavator~~
9 ~~Handbook~~" means the materials handbook periodically updated
10 and published by the ~~State-Wide~~ One-Call Notice System that
11 provides information for excavators and underground utility
12 facility owners and operators on the use and services of the
13 ~~State-Wide~~ One-Call Notice System.

14 (Source: P.A. 96-714, eff. 1-1-10.)

15 (220 ILCS 50/2.1.11 new)

16 Sec. 2.1.11. Project owner. "Project owner" means the
17 person or legal entity, public or private, or planning
18 entities that are financially responsible for the undertaking
19 of a project that involves excavation or demolition.

20 (220 ILCS 50/2.1.12 new)

21 Sec. 2.1.12. Service lateral. "Service lateral" means an
22 underground facility located in a public right-of-way or

1 utility easement that connects an end users' building or
2 property to a facility owner's or operator's underground
3 utility facility.

4 (220 ILCS 50/2.2) (from Ch. 111 2/3, par. 1602.2)

5 Sec. 2.2. Underground utility facilities. "Underground
6 utility facilities" or "facilities" means and includes wires,
7 ducts, fiber optic cable, conduits, pipes, sewers, and cables
8 and their connected appurtenances installed or existing
9 beneath the surface of the ground and either owned, operated,
10 or controlled by:

11 (1) a public utility as defined in the Public
12 Utilities Act;

13 (2) a municipally owned or mutually owned utility
14 providing a similar utility service;

15 (3) a pipeline entity transporting gases, crude oil,
16 petroleum products, or other hydrocarbon materials within
17 the State;

18 (4) a telecommunications carrier as defined in the
19 Universal Telephone Service Protection Law of 1985, or by
20 a company described in Section 1 of the Telephone Company
21 Act;

22 (5) a community antenna television system, as defined
23 in the Illinois Municipal Code or the Counties Code;

24 (6) a holder or broadband service, as those terms are
25 ~~that term is~~ defined in the Cable and Video Competition

1 Law of 2007;

2 (7) any other entity owning or operating underground
3 facilities that transport generated electrical power to
4 other utility owners or operators or transport generated
5 electrical power within the internal electric grid of a
6 wind turbine generation farm, solar farm, or solar
7 installation; and

8 (8) an electric cooperative as defined in the Public
9 Utilities Act; and -

10 (9) any other active member of the One-Call Notice
11 System.

12 (Source: P.A. 100-863, eff. 8-14-18.)

13 (220 ILCS 50/2.3) (from Ch. 111 2/3, par. 1602.3)

14 Sec. 2.3. Excavation.

15 (a) "Excavation" means any operation in which earth, rock,
16 or other material in or on the ground is moved, removed, or
17 otherwise displaced by means of any tools, power equipment or
18 explosives, and includes, without limitation, grading,
19 trenching, digging, ditching, drilling, augering, boring,
20 tunneling, scraping, cable or pipe plowing, saw cutting or
21 roadway surface milling when penetrating into the base or
22 subbase of a paved surface, and driving, but does not include:

23 (1) farm tillage operations; ~~or~~

24 (2) railroad right-of-way maintenance; ~~or operations~~

25 or

1 (3) coal mining operations regulated under the Federal
2 Surface Mining Control and Reclamation Act of 1977 or any
3 State law or rules or regulations adopted under the
4 federal statute; ~~or~~

5 (4) land surveying operations as defined in the
6 Illinois Professional Land Surveyor Act of 1989 when not
7 using power equipment, and when prior to manually driving
8 any pin or rod under this subsection, the intended
9 location for the pin or rod is hand probed using a
10 round-tipped probe rod to the depth of the intended pin or
11 rod; ~~or~~

12 (5) roadway surface milling; ~~or~~

13 (6) manually inserting, without the use of power
14 equipment, a temporary round-tipped ground or probe rod as
15 part of underground utility facility locating;

16 (7) manually inserting, without the use of power
17 equipment, a temporary round-tipped probe rod for bar
18 holing to determine the area of a leaking underground
19 hazardous gas or liquid facility; or

20 (8) manually inserting, without the use of power
21 equipment, a round-tipped ground rod for the purpose of
22 grounding utility equipment when an emergency exists and
23 no other ground source is available.

24 (b) An exclusion to this Section in no way prohibits a
25 request from being made for the marking of underground utility
26 facilities.

1 (c) Any exception to excavation contained within this
2 Section is not intended to remove liability that may be
3 imposed against an individual or entity because of damage
4 caused to an underground utility facility.

5 (Source: P.A. 94-623, eff. 8-18-05.)

6 (220 ILCS 50/2.4) (from Ch. 111 2/3, par. 1602.4)

7 Sec. 2.4. Demolition. "Demolition" means the wrecking,
8 razing, rending, moving, or removing of a structure by means
9 of any power tool, power equipment (exclusive of
10 transportation equipment), or explosives.

11 (Source: P.A. 86-674.)

12 (220 ILCS 50/2.5) (from Ch. 111 2/3, par. 1602.5)

13 Sec. 2.5. Damage. "Damage" means the contact or
14 dislocation of any underground utility facility ~~or CATS~~
15 ~~facility~~ during excavation or demolition which necessitates
16 immediate or subsequent repair by the owner or operator of
17 such underground utility facility due to any partial or
18 complete destruction of the underground utility facility,
19 including, but not limited to, the protective coating, lateral
20 support, cathodic protection, or housing for the line or
21 device of the underground utility facility.

22 (Source: P.A. 86-674.)

23 (220 ILCS 50/2.6)

1 Sec. 2.6. Emergency locate request. "Emergency locate
2 request" means a locate request for any condition constituting
3 an imminent danger to life, health, or property, or a utility
4 service outage, and which requires repair or action before the
5 expiration of 2 days ~~48 hours~~.

6 (Source: P.A. 96-714, eff. 1-1-10.)

7 (220 ILCS 50/2.7)

8 Sec. 2.7. Tolerance zone. "Tolerance zone" means:

9 (1) if the diameter of the underground utility
10 facility is indicated, the distance of one-half of the
11 known diameter plus one and one-half feet on either side
12 of the designated center line of the underground utility
13 facility marking;

14 (2) if the diameter of the underground utility
15 facility is not indicated, one and one-half feet on either
16 side of the outside edge of the underground utility
17 facility marking; or

18 (3) for subaqueous underground utility facilities, a
19 distance of 30 feet on either side of the indicated
20 underground utility facility. For purposes of this
21 Section, "subaqueous" means an underground utility
22 facility located under a lake, river, or navigable
23 waterway.

24 The underground utility facility markings provided shall
25 not indicate that the width of the marked underground utility

1 facility is any greater than the actual width of the
2 underground utility facility.

3 The tolerance zone shall also apply to visible utility
4 structures, including, but not limited to, poles with overhead
5 to underground transitions, pedestals, transformers, meters,
6 hydrants, and valve boxes. There shall be an one and one-half
7 foot tolerance zone entirely around such facilities ~~the~~
8 ~~approximate location of underground utility facilities or CATS~~
9 ~~facilities defined as a strip of land at least 3 feet wide, but~~
10 ~~not wider than the width of the underground facility or CATS~~
11 ~~facility plus 1-1/2 feet on either side of such facility based~~
12 ~~upon the markings made by the owner or operator of the~~
13 ~~facility.~~

14 Excavation within the tolerance zone requires extra care
15 and precaution, including, but not limited to, as set forth in
16 Section 4.

17 (Source: P.A. 92-179, eff. 7-1-02.)

18 (220 ILCS 50/2.8)

19 Sec. 2.8. Approximate location. "Approximate location"
20 means the location of the marked underground utility facility
21 that lies entirely within the tolerance zone ~~a strip of land at~~
22 ~~least 3 feet wide, but not wider than the width of the~~
23 ~~underground facility or CATS facility plus 1.5 feet on either~~
24 ~~side of the facility.~~

25 (Source: P.A. 92-179, eff. 7-1-02.)

1 (220 ILCS 50/2.9)

2 Sec. 2.9. Day or days. "Day" or "days" ~~"Forty eight hours"~~
3 means any day, ~~2 business days beginning at 8 a.m. and ending~~
4 ~~at 4 p.m. (exclusive of Saturdays, Sundays, and holidays,~~
5 beginning at 12:00 a.m. and ending at 11:59 p.m., recognized
6 by the ~~State Wide~~ One-Call Notice System, including the day of
7 the actual notice. ~~or the municipal one call notice system).~~
8 ~~All requests for locates received after 4 p.m. will be~~
9 ~~processed as if received at 8 a.m. the next business day.~~

10 (Source: P.A. 94-623, eff. 8-18-05.)

11 (220 ILCS 50/2.10)

12 Sec. 2.10. Open cut utility locate. "Open cut utility
13 locate" means a method of locating underground utility
14 facilities that requires excavation by the owner, operator, or
15 agent of the underground utility facility.

16 (Source: P.A. 94-623, eff. 8-18-05.)

17 (220 ILCS 50/2.11)

18 Sec. 2.11. Roadway surface milling. "Roadway surface
19 milling" means the removal of a uniform pavement section by
20 rotomilling, grinding, saw cutting, or other means that does
21 not penetrate into ~~including~~ the roadway base or subbase.

22 (Source: P.A. 94-623, eff. 8-18-05.)

1 (220 ILCS 50/2.12 new)

2 Sec. 2.12. Damage notification. "Damage notification"
3 means notification through the One-Call Notice System to the
4 underground utility facility owner or operator that damage to
5 an underground utility facility has occurred in the area of
6 the excavation or demolition.

7 (220 ILCS 50/2.13 new)

8 Sec. 2.13. Exposed notification. "Exposed notification"
9 means notification through the One-Call Notice System to the
10 underground utility facility owner or operator that a
11 previously unmarked underground utility facility has been
12 exposed, but not damaged, in the area of the excavation or
13 demolition.

14 (220 ILCS 50/2.14 new)

15 Sec. 2.14. Large project. "Large project" means a single
16 excavation that exceeds 25 days, as defined in Section 2.9,
17 consists of geographical boundaries that exceed a normal
18 notice request, or involves a series of repetitive,
19 related-scope, short-term excavations.

20 (220 ILCS 50/2.15 new)

21 Sec. 2.15. Planning design notification. "Planning design
22 notification" means the process prior to the excavation phase
23 of a project where information is gathered and decisions are

1 made regarding the route or location of a proposed excavation.
2 The use of the information that is obtainable pursuant to this
3 Section is intended to minimize delays of construction
4 projects not for excavation or bidding purposes. The
5 underground utility facilities owner or operator may indicate
6 any portion of the information that is proprietary and require
7 the planner designer to protect the proprietary information.

8 (220 ILCS 50/2.16 new)

9 Sec. 2.16. Joint meet notification. "Joint meet
10 notification" means a notice of a meeting held prior to the
11 excavation phase to discuss projects that cannot be adequately
12 communicated within a normal notice request. The meeting is
13 intended to allow the exchange of maps, plans, or schedules.
14 It is not a locating session and shall be held at or near the
15 excavation site. Joint meet notifications are not to be used
16 in lieu of valid normal notice requests and are required for,
17 but not limited to, large projects as defined in Section 2.14.

18 (220 ILCS 50/2.17 new)

19 Sec. 2.17. Locatable service laterals. "Locatable service
20 laterals" applies to underground facilities installed after
21 December 31, 2024. Any person or legal entity, public or
22 private, who, after December 31, 2024, installs a
23 nonconductive service lateral shall ensure the installation is
24 locatable by electromagnetic means or other equally effective

1 means for marking the location of the service lateral. The
2 requirement shall not apply to minor repairs to, or partial
3 replacements of, service laterals installed prior to December
4 31, 2024.

5 (220 ILCS 50/2.18 new)

6 Sec. 2.18. Positive response system. "Positive response
7 system" means an automated system facilitated by the One-Call
8 Notice System allowing an underground utility facility owner
9 or operator to communicate to an excavator the presence,
10 absence, or response status of any conflict between the
11 existing underground utility facilities in the area of
12 excavation or demolition.

13 (220 ILCS 50/2.19 new)

14 Sec. 2.19. Geographic information system data. "Geographic
15 information system data" means data to be applied to the
16 One-Call Notice System software to facilitate a more clearly
17 defined notification area for excavation notices sent to the
18 system members. "Geographic information system data" includes,
19 but is not limited to:

20 (1) address points with site addresses;

21 (2) parcels with site addresses;

22 (3) road center lines with names and address range;

23 (4) city limits with names;

24 (5) political townships with names;

- 1 (6) railroads with names;
2 (7) streams with names; and
3 (8) water bodies with names.

4 (220 ILCS 50/3) (from Ch. 111 2/3, par. 1603)

5 Sec. 3. One-Call Notice System Membership. The owners or
6 operators of underground utility facilities are required to be
7 members of the One-Call Notice System ~~or CATS facilities that~~
8 ~~are not currently participants in the State Wide One Call~~
9 ~~Notice System shall, within 6 months of the effective date of~~
10 ~~this Act, join the State Wide One Call Notice System. This~~
11 ~~Section shall not apply to utilities operating facilities or~~
12 ~~CATS facilities exclusively within the boundaries of a~~
13 ~~municipality with a population of at least one million~~
14 ~~persons.~~

15 (Source: P.A. 86-674.)

16 (220 ILCS 50/4) (from Ch. 111 2/3, par. 1604)

17 Sec. 4. Required activities. Every excavator ~~person~~ who
18 engages in nonemergency excavation or demolition shall:

19 (a) take reasonable action to inform oneself ~~himself~~ of
20 the location of any underground utility facilities in and near
21 the area for which such operation is to be conducted;

22 (b) plan the excavation or demolition to avoid or minimize
23 interference with underground utility facilities within the
24 tolerance zone by utilizing such precautions that include, but

1 are not limited to, hand excavation, vacuum excavation methods
2 to the depth of the proposed excavation or demolition, and
3 visually inspecting the excavation while in progress until
4 clear of the approximate location of the existing marked
5 underground utility facility;

6 (c) pre-mark in accordance with Section 2.1.2 ~~if~~
7 ~~practical, use white paint, flags, stakes, or both, to outline~~
8 ~~the dig site~~;

9 (d) provide notice not less than 2 days ~~48 hours~~ but no
10 more than 10 days ~~14 calendar days~~ in advance of the start of
11 the excavation or demolition to the owners or operators of the
12 underground utility facilities at or in ~~and~~ near the
13 excavation or demolition area through the ~~State-Wide~~ One-Call
14 Notice System ~~or, in the case of nonemergency excavation or~~
15 ~~demolition within the boundaries of a municipality of at least~~
16 ~~one million persons which operates its own one call notice~~
17 ~~system, through the one call notice system which operates in~~
18 ~~that municipality.~~ The excavator shall start the excavation or
19 demolition before the expiration of 10 days after the valid
20 dig start date and time on the notice. At a minimum, the notice
21 required under this subsection (d) shall provide:

22 (1) the person's name, address, phone number at which
23 a person can be reached, and if available, a fax number and
24 email address, ~~if available~~;

25 (2) the start date, or if applicable, the specified
26 start time, whichever is later, ~~and time~~ of the planned

1 excavation or demolition;

2 (3) the county and city or the county and township all
3 counties, cities, or townships, or any combination
4 thereof, where the proposed excavation or demolition shall
5 take place;

6 (4) the address or location at which the excavation or
7 demolition shall take place;

8 (5) the type ~~and extent~~ of the work, extent, and
9 description of the area where excavation or demolition is
10 to occur ~~involved; and~~

11 (6) the section or quarter sections when the
12 information in items (1) through (5) of this subsection
13 (d) does not allow the ~~State-Wide~~ One-Call Notice System
14 to determine the appropriate excavation or demolition
15 site. This item (6) does not apply to residential property
16 owners;

17 (7) an indication of whether directional boring or
18 horizontal directional drilling will be used;

19 (8) an indication of whether the excavation will
20 exceed 7 feet in depth;

21 (9) an indication of how the proposed excavation or
22 demolition has been pre-marked as defined in Section
23 2.1.2;

24 (10) the identity of the project owner; and

25 (11) the latitude and longitude of the relevant area,
26 if available.

1 The information specified in paragraphs (1) through (9)
2 are still required when providing the latitude and longitude;

3 (e) provide, during and following excavation or
4 demolition, such support for existing underground utility
5 facilities in and near the excavation or demolition area as
6 may be reasonably necessary for the protection of such
7 underground utility facilities and known service laterals
8 unless otherwise agreed to by the owner or operator of the
9 underground utility ~~underground~~ facility or known service
10 laterals;

11 (f) backfill all excavations in such manner and with such
12 materials as may be reasonably necessary for the protection of
13 existing underground utility facilities in and near the
14 excavation or demolition area;

15 (g) ~~after February 29, 2004,~~ when the excavation or
16 demolition project will extend past the 25-day expiration ~~28~~
17 ~~calendar days from the~~ date of the original notice provided
18 under clause (d) or a subsequent extension notice, the
19 excavator shall provide a subsequent notice to the owners or
20 operators of the underground utility facilities in and near
21 the excavation or demolition area through the ~~State-Wide~~
22 One-Call Notice System ~~or, in the case of excavation or~~
23 ~~demolition within the boundaries of a municipality having a~~
24 ~~population of at least 1,000,000 inhabitants that operates its~~
25 ~~own one-call notice system, through the one-call notice system~~
26 ~~that operates in that municipality informing utility owners~~

1 ~~and operators~~ that additional time to complete the excavation
2 or demolition project will be required. The notice will
3 provide the excavator with an additional 25 ~~28~~ calendar days
4 ~~from the date of the subsequent notification~~ to continue or
5 complete the excavation or demolition project. An extension
6 may be requested no earlier than the 20th day from the initial
7 request or latest extension notice. The excavator may not
8 provide a subsequent notice under this Section for the purpose
9 of keeping a prior notice open or valid without continued
10 excavation occurring within the period of that subsequent
11 notice;

12 (h) exercise due care at all times to protect underground
13 utility facilities and known service laterals. If, after
14 proper notification through the ~~State-Wide~~ One-Call Notice
15 System and upon arrival at the site of the proposed
16 excavation, the excavator observes clear evidence of the
17 presence of an unmarked or incompletely marked underground
18 utility facility in the area of the proposed excavation, the
19 excavator shall provide subsequent notice through the One-Call
20 Notice System of the unmarked or incompletely marked
21 underground utility facility and shall not begin excavating
22 until all affected underground utility facilities have been
23 marked or 2 hours, whichever is shorter, unless a greater time
24 is indicated on the subsequent notice ~~after an additional call~~
25 ~~is made to the State-Wide One-Call Notice System for the area.~~
26 The owner or operator of the underground utility facility

1 shall respond within 2 hours unless a greater time is
2 indicated on the notice provided through the ~~of the~~
3 ~~excavator's call to the State Wide~~ One-Call Notice System; and

4 (i) when factors, including, but not limited to, weather,
5 construction activity, or vandalism, at the excavation site
6 have caused the underground utility facility markings to
7 become faded or indistinguishable, the excavator shall
8 pre-mark again in accordance with Section 2.1.2 and provide a
9 re-mark request ~~an additional notice~~ through the ~~State Wide~~
10 One-Call Notice System requesting that only the affected areas
11 where excavation or demolition is to continue be re-marked.
12 Underground utility facility ~~Facility~~ owners or operators must
13 respond to the notice to re-mark according to the requirements
14 of Section 10 of this Act.

15 Nothing in this Section prohibits the use of any method of
16 excavation if conducted in a manner that would avoid
17 interference with underground utility facilities.

18 (Source: P.A. 96-714, eff. 1-1-10.)

19 (220 ILCS 50/4.1 new)

20 Sec. 4.1. Watch and protect.

21 (a) If, upon notice from the One-Call Notice System, an
22 underground utility facility owner or operator determines
23 there is a critical underground utility facility within the
24 proposed excavation area and the underground utility facility
25 owner or operator desires to have an authorized representative

1 present during excavation near the critical underground
2 utility facility, the underground utility facility owner or
3 operator shall contact the excavator prior to the dig start
4 date and time provided on the notice to schedule a date and
5 time for the underground utility facility owner or operator to
6 be present when excavation will occur near the critical
7 underground utility facility.

8 (b) All excavators shall comply with the underground
9 utility facility owner's or operator's request to be present
10 during excavation near critical underground utility
11 facilities. In lieu of having an authorized representative
12 present, the underground utility facility owner or operator
13 may choose to conduct minimal excavation near the critical
14 underground utility facility to expose its location. However,
15 it is incumbent on the underground utility facility owner or
16 operator to comply with the excavator's schedule for when
17 excavation will occur near the critical underground utility
18 facility.

19 (c) During the course of a project, if excavation near
20 critical underground utility facilities stops by more than one
21 day and then recommences, the excavator shall establish direct
22 contact with the underground utility facility owner or
23 operator not less than one day prior to the excavation, each
24 time the excavation is to occur, to advise the underground
25 utility facility owner or operator of the excavation taking
26 place.

1 (d) Nothing in this Section shall prohibit an excavator
2 from excavating prudently and carefully near a critical
3 underground utility facility without the underground utility
4 facility owner or operator present if the underground utility
5 facility owner or operator waives the request to be present or
6 to complete a minimal excavation exposing the critical
7 underground utility facility or is unable to comply with the
8 excavator's schedule.

9 (220 ILCS 50/5.1 new)

10 Sec. 5.1. Positive response system.

11 (a) Beginning January 1, 2025, an excavator shall confirm
12 through the positive response system prior to excavation or
13 demolition that all underground utility facility owners or
14 operators that are identified on the notice have provided a
15 status update, responded, and marked or provided an all clear
16 notification.

17 (b) Beginning January 1, 2025, an underground utility
18 facility owner or operator shall respond through the positive
19 response system prior to the dig start date and time on the
20 notice with an appropriate system code. A minimal delay not to
21 exceed one hour in reporting a system code in response to an
22 emergency request shall not be a violation of this Section.

23 (c) If an underground utility facility owner or operator
24 fails to respond or provide a status update through the
25 positive response system by the dig start date and time on the

1 notice, or a later time as otherwise agreed upon and submitted
2 through the positive response system, the One-Call Notice
3 System shall transmit an additional notification to that
4 underground utility facility owner or operator and shall
5 continue to send out daily notifications until the positive
6 response system receives a response confirming compliance with
7 this Section.

8 (d) If an underground utility facility owner or operator
9 fails to respond or provide a status update to the positive
10 response system, the excavator may proceed after complying
11 with subsection (h) of Section 4, and the underground utility
12 facility owner or operator shall respond in accordance with
13 subsection (h) of Section 4.

14 (e) If all notified underground utility facility owners or
15 operators have responded as "marked" or "clear" prior to the
16 expiration of the dig start date and time on the notice, the
17 wait time shall be considered expired and no additional wait
18 time is required prior to commencing with the excavation or
19 demolition work listed on the notice.

20 (220 ILCS 50/5.2 new)

21 Sec. 5.2. Planning design notification.

22 (a) An underground utility facility owner or operator
23 shall have the following responsibilities:

24 (1) respond to a valid planning design notification
25 within 10 days or such date as shall be mutually agreed

1 upon between the underground utility facility owner or
2 operator and the designer or planner. The underground
3 utility facility owner or operator shall provide
4 information regarding the location, size, if greater than
5 2 inches in diameter, and type, which shall be generically
6 listed as communication, electric, gas, water, and, if
7 direct, buried or in conduit or duct package, of
8 underground utility facilities based on the best
9 information available to the underground utility facility
10 owner within the scope of the proposed project;

11 (2) respond to a planning design notification in one
12 of the following methods:

13 (A) provide digital or paper drawings or prints,
14 preferred format of KMZ file or shapefile, that are
15 drawn to scale, if available, providing the type and
16 size, as described in paragraph (1), of the
17 infrastructure, including visible utility structures,
18 which shall include, if available, measurements from
19 the back of the curb, sidewalk, edge of the pavement,
20 centerline of the ditch, property lines, and other
21 similar items;

22 (B) request the proposed plans or drawings from
23 the designer or planner and illustrate the location of
24 the underground utility facility owner's or operator's
25 underground utility facilities, drawn to scale, if
26 available, providing the type and size, as described

1 in paragraph (1), of the facilities, including visible
2 structures on such plans;

3 (C) locate and mark the underground utility
4 facility owner's or operator's underground utility
5 facilities within the scope of the proposed project,
6 as agreed to with the planner or designer;

7 (D) if the responding underground utility facility
8 owner or operator is unable to comply with
9 subparagraph (A) or (B), then the underground utility
10 facility owner or operator shall mark the underground
11 utility facilities within the scope of the proposed
12 project, as agreed to with the planner or designer; or

13 (E) if marking of the infrastructure is the
14 preferred or required response of the underground
15 utility facility owner or operator, the underground
16 utility facility owner or operator shall only mark
17 main line facilities or any service lines that would
18 otherwise be considered main line due to size or type,
19 as described in paragraph (1); and

20 (3) may charge a nominal fee to locate and mark the
21 proposed project, as described in subparagraph (C) or (D)
22 of paragraph (2);

23 (b) The planner or designer shall have the following
24 responsibilities:

25 (1) follow the guidelines set forth in CI/ASCE 38-02
26 Standard Guidelines for the Collection and Depiction of

1 Existing Subsurface Utility Data, as amended, when
2 preparing plans or drawings;

3 (2) illustrate on all appropriate documents the
4 position, size, and type, as defined in paragraph (1) of
5 subsection (a), of all known underground utility
6 facilities obtained in the planning design notification
7 process and include the valid planning design notification
8 number provided by the One-Call Notice System on any plans
9 or drawings; and

10 (3) make all reasonable efforts to prepare the plans
11 or drawings to minimize interference with known existing
12 and proposed underground utility facilities in the
13 proposed project area.

14 (c) A planning design notification shall include the
15 following information:

16 (1) name, address, telephone number, office and cell
17 phone, and, if available, email address of the designated
18 contact requesting the information;

19 (2) name, address, telephone number, office and cell
20 phone, and, if available, email address of the project
21 owner;

22 (3) the approximate date when the underground utility
23 facility information is required; and

24 (4) the specific area requiring underground utility
25 facility information by one or more of the following
26 means:

1 (A) the county and municipality or the county and
2 township involved in the proposed project;

3 (B) street names involved in the proposed project,
4 the north, south, east, and west boundaries of the
5 proposed project, or the section number or numbers
6 involved in the proposed project;

7 (C) latitude and longitude coordinates of the
8 outside edges of the proposed project;

9 (D) digital data such as, but not limited to,
10 shapefiles when technology and software allow;

11 (E) the type of work projected to take place
12 within the proposed project; and

13 (F) known site specific underground utility
14 facility information available to the project owner to
15 be delivered to qualified bidders of the proposed
16 project.

17 (220 ILCS 50/5.3 new)

18 Sec. 5.3. Joint meet notification.

19 (a) A Joint meet notification shall include the following
20 information:

21 (1) the excavator's name, address, phone number at
22 which the excavator can be reached, and, if available, a
23 fax number and email address;

24 (2) the county and municipality or the county and
25 township where the work will be performed;

1 (3) street names involved in the project, the north,
2 south, east, and west boundaries of the project, or the
3 section number or numbers involved in the project;

4 (4) the date, time and location where the joint meet
5 will take place. The location of the joint meet shall be
6 near the project site; and

7 (5) a minimum advance notice of the joint meet of 2
8 days, but no more than 90 days, prior to the planned start
9 of excavation or demolition.

10 (b) Upon the receipt of a joint meet notification, an
11 underground utility facility owner or operator shall attend
12 the joint meet at the specified time and location. If there is
13 a conflict between joint meet notifications, an excavator that
14 provided a joint meet notification may receive a communication
15 from a underground utility facility owner or operator
16 requesting an alternate meeting time or date.

17 (c) If a joint meet notification is provided as part of a
18 large project, the excavator shall notify the project owner
19 and the designer or planner when and where the joint meet is to
20 occur.

21 (d) Multiple joint meets shall be required in the case of a
22 large project that extends into multiple political
23 subdivisions. The excavator shall schedule, at a minimum, one
24 joint meet per political subdivision to accommodate travel
25 restrictions of responding underground utility facility owners
26 or operators.

1 (e) Prior to the meeting, the excavator shall physically
2 pre-mark the extent of the initial locate request for the
3 proposed excavation area or route if normal notice locate
4 requests are planned to be submitted with excavation beginning
5 after the minimum advance notice of 2 days after the joint
6 meet. The minimum advance notice for a large project is 5 days.

7 (f) Those participating at the joint meet shall agree to
8 the individual obligations consistent with the project. These
9 obligations may vary from project to project. It is not the
10 intent of this process to provide a specific set of standards
11 for all projects. It is intended that those participating at
12 the joint meet shall have the flexibility to make decisions
13 consistent with the project's parameters.

14 (g) The scope of the project shall be defined at the joint
15 meet and specific project details, including, but not limited
16 to, the number of phases and number of excavation crews and
17 subcontractors, to the extent possible, shall be provided.

18 (h) The size and number of normal notice locate requests
19 agreed to be submitted at one time at the joint meet shall be
20 documented in the meeting notes and made available to those
21 participating in the joint meet. However, any such agreement
22 reached shall not exceed the normal notice locate request
23 extent limits.

24 (i) If an underground utility facility owner or operator
25 fails to attend the joint meet and does not request an
26 alternate time or date to meet prior to commencement of

1 excavation, the excavator may proceed according to the
2 agreement reached with those attending the meeting.

3 (j) Within 90 days after the joint meet, the excavator
4 shall submit the normal notice locate requests consistent with
5 the agreements reached at the joint meet.

6 (k) The initial normal notice locate requests submitted
7 after the joint meet shall require a minimum of 2 days advance
8 notice and 5 days advance notice for large projects. All
9 remaining normal notice locate requests shall be submitted in
10 agreement with the joint meet schedule and provide a minimum
11 advance notice of 2 days. The excavator shall not submit
12 normal notice locate requests until after the joint meet.

13 (l) If the project start is delayed more than 90 days, or
14 the scope of the project changes after the joint meet has been
15 held and the locate schedule agreed to, a new joint meet
16 notification shall be required.

17 (m) In a situation where an excavator creates multiple
18 normal notice locate requests for a single project without a
19 joint meet being held, an affected underground utility
20 facility owner or operator may contact the excavator and
21 recommend the excavator follow the joint meet process to
22 assist in working out a locate schedule. A notified excavator
23 that fails to follow the joint meet process may realize delays
24 in marking of underground utility facilities on the project.
25 In accordance with paragraphs (1) through (5) of subsection
26 (e) of Section 10, a delay in marking is not in violation of

1 this Act.

2 (220 ILCS 50/5.4 new)

3 Sec. 5.4. Geographic information system data. As described
4 in Section 2.19, geographic information system data shall be
5 provided to the One-Call Notice System by any county or State
6 agency that has provided substantially similar data to any
7 other not-for-profit or agency utilizing such data for public
8 display of information or to be utilized by a not-for-profit
9 or agency in the interest of public safety. This data shall be
10 provided to the One-Call Notice System at a cost not to exceed
11 the actual cost of transmission of the data.

12 (220 ILCS 50/6) (from Ch. 111 2/3, par. 1606)

13 Sec. 6. Emergency excavation or demolition.

14 (a) Every excavator ~~person~~ who engages in emergency
15 excavation or demolition ~~outside of the boundaries of a~~
16 ~~municipality of at least one million persons which operates~~
17 ~~its own one call notice system~~ shall take all reasonable
18 precautions to avoid or minimize interference between the
19 emergency work and existing underground utility facilities in
20 and near the excavation or demolition area, ~~through the~~
21 ~~State Wide One-Call Notice System,~~ and shall notify, as far in
22 advance as possible, the owners or operators of such
23 underground utility facilities in and near the emergency
24 excavation or demolition area, through the ~~State Wide One-Call~~

1 Notice System. At a minimum, the notice required under this
2 subsection (a) shall provide:

3 (1) the person's name, address, and ~~(i)~~ phone number
4 at which a person with knowledge of the planned emergency
5 excavation or demolition can be reached and, if available,
6 a ~~(ii)~~ fax number and email address, if available;

7 (2) the start date and time of the planned emergency
8 excavation or demolition;

9 (3) the address or location at which the emergency
10 excavation or demolition will take place; ~~and~~

11 (4) the type of work, ~~and~~ extent, and description of
12 the area where emergency excavation or demolition is to
13 occur; and ~~of the work involved.~~

14 (5) the county and city or county and township where
15 the emergency excavation or demolition will take place.

16 (a-1) There is a minimum wait time of 2 hours ~~or the date~~
17 ~~and time requested on the notice, whichever is longer,~~ after
18 an emergency locate notification request is made through the
19 ~~State Wide~~ One-Call Notice System. If the conditions at the
20 site dictate an earlier start than the date and time on the
21 notice ~~required wait time,~~ it is the responsibility of the
22 excavator to demonstrate that site conditions warranted this
23 earlier start time.

24 (a-2) Upon notice by the excavator ~~person~~ engaged in
25 emergency excavation or demolition, the owner or operator of
26 an underground utility facility in or near the excavation or

1 demolition area shall communicate with the excavator ~~person~~
2 engaged in emergency excavation or demolition within 2 hours
3 or by the date and time requested on the notice, whichever is
4 longer by:

5 (1) marking the approximate location of underground
6 facilities;

7 (2) advising the excavator ~~person excavating~~ that
8 their underground utility facilities are not in conflict
9 with the emergency excavation; or

10 (3) notifying the excavator ~~person excavating~~ that the
11 underground utility facility owner or operator shall be
12 delayed in marking because of conditions as referenced in
13 subsection (g) of Section 11 of this Act.

14 (a-3) The notice by the underground utility facility owner
15 or operator to the excavator ~~person engaged in emergency~~
16 ~~excavation or demolition may~~ shall be provided utilizing the
17 positive response system, in accordance with Section 5.1, and
18 may also be provided by phone or phone message or by marking
19 the excavation or demolition area. The underground utility
20 facility owner or operator has discharged the underground
21 utility facility owner's or operator's obligation to provide
22 notice under this Section if the underground utility facility
23 owner or operator attempts to provide notice by positive
24 response or telephone but is unable to do so because the
25 excavator ~~person engaged in the emergency excavation or~~
26 ~~demolition~~ does not answer the ~~his or her~~ telephone or does not

1 have an answering machine, ~~or~~ answering service, or voicemail
2 to receive the telephone call or positive response, in
3 accordance with Section 5.1. If the underground utility
4 facility owner or operator attempts to provide additional
5 notice by telephone ~~or by facsimile~~ but receives a busy
6 signal, that attempt shall not discharge the underground
7 utility facility owner or operator from the obligation to
8 provide notice under this Section.

9 (b) (Blank). ~~Every person who engages in emergency~~
10 ~~excavation or demolition within the boundaries of a~~
11 ~~municipality of at least one million persons which operates~~
12 ~~its own one call notice system shall take all reasonable~~
13 ~~precautions to avoid or minimize interference between the~~
14 ~~emergency work and existing underground utility facilities in~~
15 ~~and near the excavation or demolition area, through the~~
16 ~~municipality's one call notice system, and shall notify, as~~
17 ~~far in advance as possible, the owners and operators of~~
18 ~~underground utility facilities in and near the emergency~~
19 ~~excavation or demolition area, through the municipality's~~
20 ~~one call notice system.~~

21 (c) The reinstallation of traffic control devices shall be
22 deemed an emergency for purposes of this Section.

23 (d) An open cut utility locate shall be deemed an
24 emergency for purposes of this Section.

25 (e) During emergency situations, as described in Section
26 2.6, where the owner or operator of an underground utility

1 facility has a widespread situation beyond the equipment or
2 personnel capabilities to facilitate a timely repair or
3 correction of the emergency, the underground utility facility
4 owner or operator may utilize a subcontractor to facilitate
5 the work without a separate emergency locate request by the
6 subcontractor. However, for the purposes of this Act, in such
7 a situation, the underground utility facility owner or
8 operator shall be responsible for the actions of the
9 subcontractor, unless the subcontractor has obtained the
10 subcontractor's own emergency notice.

11 (f) Emergency notices provided through a One-Call Notice
12 System shall expire 10 days after the date of the notice.

13 (Source: P.A. 96-714, eff. 1-1-10.)

14 (220 ILCS 50/7) (from Ch. 111 2/3, par. 1607)

15 Sec. 7. Damage or dislocation.

16 (a) In the event of any damage to or dislocation of any
17 underground utility facilities in connection with any
18 excavation or demolition, emergency or nonemergency, the
19 excavator ~~person~~ responsible for the excavation or demolition
20 operations shall immediately notify the affected utility and
21 the ~~State-Wide~~ One-Call Notice System and cease excavation in
22 the area of the damage when the damaged facility is a threat to
23 life or property or if otherwise required by law or, in the
24 case of damage or dislocation in connection with any
25 excavation or demolition within the boundaries of a

1 municipality having a population of at least 1,000,000
2 inhabitants that operates its own one-call notice system,
3 notify the affected utility and the one-call notice system
4 that operates in that municipality.

5 (b) The excavator ~~person~~ responsible for the excavation or
6 demolition shall not attempt to repair, clamp, or constrict
7 the damaged underground utility facility unless under the
8 supervision or advisement of the underground utility facility
9 owner or operator. At no time shall an excavator ~~a person~~ under
10 this Act be required by an underground ~~a~~ utility facility
11 owner or operator to attempt to repair, clamp, or constrict a
12 damaged underground utility facility. In the event of any
13 damage to any underground utility facility that results in the
14 escape of any flammable, toxic, or corrosive gas or liquid,
15 the excavator ~~person~~ responsible for the excavation or
16 demolition shall call 9-1-1 and notify authorities of the
17 damage.

18 (c) Owners and operators of underground utility facilities
19 that are damaged and the excavator involved shall work in a
20 cooperative and expeditious manner to repair the affected
21 utility.

22 (d) The underground utility facility owner or operator
23 shall provide to the One-Call Notice System a phone number
24 with a dedicated extension, if applicable, that can be
25 provided to the excavator allowing immediate notification by
26 the excavator to the underground utility facility owner or

1 operator of the potential damage.

2 (e) At a minimum, the notice required under this Section
3 shall provide:

4 (1) a reference to the original excavation or
5 demolition notice, if one exists;

6 (2) the type of underground utility facility damaged,
7 if known;

8 (3) the name of the affected underground utility
9 facility owner or operator, if known; and

10 (4) the location of the damaged underground utility
11 facility at the excavation or demolition site.

12 (Source: P.A. 96-714, eff. 1-1-10.)

13 (220 ILCS 50/7.5 new)

14 Sec. 7.5. Exposed facility.

15 (a) If any previously unmarked underground utility
16 facility is exposed during excavation or demolition, emergency
17 or nonemergency, the excavator responsible for the excavation
18 or demolition operations shall immediately notify the One-Call
19 Notice System.

20 (b) At a minimum, the notice required under this Section
21 shall provide:

22 (1) a reference to the original excavation or
23 demolition notice, if one exists;

24 (2) the type of exposed underground utility facility,
25 if known;

1 (3) the name of the affected underground utility
2 facility owner or operator, if known; and

3 (4) the location of the exposed underground utility
4 facility at the excavation or demolition site.

5 (220 ILCS 50/8) (from Ch. 111 2/3, par. 1608)

6 Sec. 8. Liability or financial responsibility.

7 (a) Nothing in this Act shall be deemed to affect or
8 determine the financial responsibility for any operation under
9 this Act or liability of any entity or individual ~~person~~ for
10 any damages that occur unless specifically stated otherwise.

11 (b) Nothing in this Act shall be deemed to provide for
12 liability or financial responsibility of the Department of
13 Transportation, its officers and employees concerning any
14 underground utility facility ~~or CATS facility~~ located on
15 highway right-of-way by permit issued under the provisions of
16 Section 9-113 of the Illinois Highway Code. It is not the
17 intent of this Act to change any remedies in law regarding the
18 duty of providing lateral support.

19 (c) Neither the ~~State-Wide~~ One-Call Notice System nor any
20 of its officers, agents, or employees shall be liable for
21 damages for injuries or death to persons or damage to property
22 caused by acts or omissions in the receipt, recording, or
23 transmission of locate requests or other information in the
24 performance of its duties as the ~~State-Wide~~ One-Call Notice
25 System, unless the act or omission was the result of willful

1 and wanton misconduct.

2 (d) Any residential property owner who fails to comply
3 with any provision of this Act and damages underground utility
4 facilities ~~or CATS facilities~~ while engaging in excavation or
5 demolition on such residential property shall not be subject
6 to a penalty under this Act, but shall be liable for the damage
7 caused to the owner or operator of the damaged underground
8 utility facilities ~~or CATS facilities~~.

9 (Source: P.A. 92-179, eff. 7-1-02.)

10 (220 ILCS 50/9) (from Ch. 111 2/3, par. 1609)

11 Sec. 9. Negligence.

12 (a) When it is shown by competent evidence in any action
13 for damages to underground utility facilities ~~or CATS~~
14 ~~facilities~~ that such damages resulted from excavation or
15 demolition and that the excavator ~~person~~ engaged in such
16 excavation or demolition failed to comply with the provisions
17 of this Act, that excavator ~~person~~ shall be deemed prima facie
18 guilty of negligence.

19 (b) When it is shown by competent evidence in any action
20 for damages to excavators ~~persons~~, material or equipment
21 brought by excavators ~~persons~~ undertaking excavation or
22 demolition acting in compliance with the provisions of this
23 Act that such damages resulted from the failure of owners and
24 operators of underground facilities ~~or CATS facilities~~ to
25 comply with the provisions of this Act, those owners and

1 operators shall be deemed prima facie guilty of negligence.

2 (Source: P.A. 86-674.)

3 (220 ILCS 50/10) (from Ch. 111 2/3, par. 1610)

4 Sec. 10. Record of notice; marking of facilities.

5 (a) Upon notice by the excavator ~~person engaged in~~
6 ~~excavation or demolition,~~ the entity ~~person~~ owning or
7 operating underground utility facilities in or near the
8 excavation or demolition area shall cause a written record to
9 be made of the notice and shall mark, by the dig the start date
10 and time on the notice, ~~within 48 hours of receipt of notice or~~
11 ~~by the requested date and time indicated on the notice,~~
12 ~~whichever is later,~~ the approximate locations of such
13 facilities so as to enable the excavator ~~person excavating or~~
14 ~~demolishing~~ to establish the location of the underground
15 utility facilities.

16 For subaqueous underground utility facilities, when the
17 underground utility facility owner or operator determines that
18 a proposed excavation or demolition is in proximity to or in
19 conflict with an underground utility facility located under a
20 lake, river, or navigable waterway, the underground utility
21 facility owner or operator shall identify the estimated
22 horizontal route of the underground utility facility, within
23 15 days or by a date and time mutually agreed to, using marking
24 buoys or other suitable devices, unless directed otherwise by
25 an agency having jurisdiction over the waters under which the

1 underground utility facility is located. For purposes of this
2 Section, "subaqueous" means an underground utility facility
3 located under a lake, river, or navigable waterway.

4 (b) Owners and operators of underground sewer facilities
5 ~~that are located outside the boundaries of a municipality~~
6 ~~having a population of at least 1,000,000 inhabitants~~ shall be
7 required to respond and mark the approximate location of those
8 sewer facilities when the excavator indicates, in the notice
9 required in Section 4, that the excavation or demolition
10 project will exceed a depth of 7 feet. "Depth", in this case,
11 is defined as the distance measured vertically from the
12 surface of the ground to the top of the sewer facility.

13 (c) Owners and operators of underground sewer facilities
14 ~~that are located outside the boundaries of a municipality~~
15 ~~having a population of at least 1,000,000 inhabitants~~ shall be
16 required at all times to mark ~~locate~~ the approximate location
17 of those sewer facilities when:

18 (1) directional boring is the indicated type of
19 excavation work being performed within the notice;

20 (2) the underground sewer facilities owned are
21 non-gravity, pressurized force mains; or

22 (3) the excavation indicated will occur in the
23 immediate proximity of known underground sewer facilities
24 that are less than 7 feet deep.

25 (d) Owners or operators of underground sewer facilities
26 ~~that are located outside the boundaries of a municipality~~

1 ~~having a population of at least 1,000,000 inhabitants~~ shall
2 not hold an excavator liable for damages that occur to sewer
3 facilities that were not required to be marked under this
4 Section, provided that prompt notice of known ~~the~~ damage is
5 made to the ~~State-Wide~~ One-Call Notice System and the utility
6 owner as required in Section 7.

7 (e) All entities ~~persons~~ subject to the requirements of
8 this Act shall plan and conduct their work consistent with
9 reasonable business practices.

10 (1) Conditions may exist making it unreasonable to
11 request that locations be marked by the dig start date and
12 time within 48 hours or by the requested date and time
13 indicated on the notice, whichever is later. In such
14 situations, the excavator and the underground utility
15 facility owner or operator shall interact in good faith to
16 establish a mutually agreeable date and time for the
17 completion of the locate request.

18 (2) It is unreasonable to request owners and operators
19 of underground utility facilities to locate all of their
20 facilities in an affected area upon short notice in
21 advance of a large ~~or extensive~~ nonemergency project. ~~or~~

22 (3) It is unreasonable to request extensive locates in
23 excess of a reasonable excavation or demolition work
24 schedule. ~~or~~

25 (4) It is unreasonable to request locates under
26 conditions where a repeat request is likely to be made

1 because of the passage of time or adverse job conditions.

2 (5) During periods where the locate request volume
3 exceeds the reasonable control measurements for an
4 underground utility facility owner or operator within a
5 political subdivision, the advance notice on the locate
6 request provided to the underground utility facility owner
7 or operator may result in additional advance notification
8 being required. If additional advance notification is
9 required, the underground utility facility owner or
10 operator shall be provided up to an additional 2 days
11 advance notification.

12 (f) Owners and operators of underground utility facilities
13 must reasonably anticipate seasonal fluctuations in the number
14 of locate requests and staff accordingly.

15 (1) Seasonal fluctuations that result in the locate
16 request volume exceeding reasonable control measurements
17 within a political subdivision shall not be considered
18 reasonable for the purposes of this Section.

19 (2) The official reasonable control measurements for
20 the locate request volume shall be provided by the
21 One-Call Notice System and shall be based on comparative
22 historical measurements for a given political subdivision.

23 (g) If an ~~a person owning or operating~~ underground utility
24 facility owner or operator ~~facilities~~ receives a notice under
25 this Section but does not own or operate any underground
26 utility facilities within the proposed excavation or

1 demolition area described in the notice, that underground
2 utility facility owner or operator ~~person, within 48 hours or~~
3 ~~by the requested date and time indicated on the notice,~~
4 ~~whichever is later,~~ by the dig start date and time on the
5 notice, after receipt of the notice, shall so notify the
6 excavator who initiated the notice in accordance with Section
7 5.1, and may be provided by phone or phone message or by
8 marking the excavation or demolition area ~~person engaged in~~
9 ~~excavation or demolition who initiated the notice, unless the~~
10 ~~person who initiated the notice expressly waives the right to~~
11 ~~be notified that no facilities are located within the~~
12 ~~excavation or demolition area.~~

13 (h) The notification by the owner or operator of
14 underground utility facilities to the excavator ~~person engaged~~
15 ~~in excavation or demolition may~~ shall be provided utilizing
16 the positive response system, in accordance with Section 5.1,
17 and may in addition be provided in any reasonable manner
18 including, but not limited to, notification in any one of the
19 following ways:

20 (1) by face-to-face communication;

21 (2) by phone or phone message;

22 (3) by facsimile or email;

23 (4) by posting in the excavation or demolition area;

24 or

25 (5) by marking the excavation or demolition area.

26 (i) The owner or operator of those facilities has

1 discharged the owner's or operator's obligation to provide
2 notice under this Section if the owner or operator attempts to
3 provide notice by one of the following ways:

4 (1) utilizing the positive response system, in
5 accordance with Section 5.1, if the excavator is
6 unable to access the positive response system;

7 ~~(2) telephone or by facsimile, if the person has~~
8 ~~supplied a facsimile number, but is unable to do so~~
9 because the excavator ~~person engaged in the excavation~~
10 ~~or demolition~~ does not answer the excavator's ~~his or~~
11 ~~her~~ telephone or does not have the ability to receive
12 telephone messages;

13 (3) facsimile, if the excavator has supplied a
14 facsimile number and does not have a facsimile machine
15 in operation to receive the facsimile transmission; or

16 (4) email, if the excavator has supplied an email
17 address and the message is electronically
18 undeliverable ~~an answering machine or answering~~
19 ~~service to receive the telephone call or does not have~~
20 ~~a facsimile machine in operation to receive the~~
21 ~~facsimile transmission.~~

22 If the underground utility facility owner or operator
23 attempts to provide additional notice by telephone or by
24 facsimile but receives a busy signal, that attempt shall not
25 serve to discharge the underground utility facility owner or
26 operator of the obligation to provide notice under this

1 Section.

2 ~~A person engaged in excavation or demolition may expressly~~
3 ~~waive the right to notification from the owner or operator of~~
4 ~~underground utility facilities that the owner or operator has~~
5 ~~no facilities located in the proposed excavation or demolition~~
6 ~~area. Waiver of notice is only permissible in the case of~~
7 ~~regular or nonemergency locate requests. The waiver must be~~
8 ~~made at the time of the notice to the State Wide One Call~~
9 ~~Notice System. A waiver made under this Section is not~~
10 ~~admissible as evidence in any criminal or civil action that~~
11 ~~may arise out of, or is in any way related to, the excavation~~
12 ~~or demolition that is the subject of the waiver.~~

13 (j) For the purposes of this Act, the following color
14 coding shall be used to mark the approximate location of
15 underground utility facilities by the underground utility
16 underground facility operators who may utilize a combination
17 of flags, stakes, or and paint as ~~when possible on non paved~~
18 ~~surfaces and when dig site and seasonal conditions warrant. If~~
19 ~~the approximate location of an underground utility facility is~~
20 ~~marked with stakes or other physical means, the following~~
21 ~~color coding shall be employed:~~

22 Underground Utility Facility Identification Color

23 Facility Owner or Agent Use Only

24

1	Electric Power, Distribution and	
2	Transmission	Safety Red
3	Municipal Electric Systems	Safety Red
4	Gas Distribution and Transmission.....	High Visibility Safety Yellow
5	Oil Distribution and Transmission.....	High Visibility Safety Yellow
6	<u>Communication Systems</u>	<u>Safety Alert Orange</u>
7	Telephone and Telegraph Systems	Safety Alert Orange
8	Community Antenna Television Systems ..	Safety Alert Orange
9	Water Systems.....	Safety Precaution Blue
10	Sewer Systems.....	Safety Green
11	Non-potable Water and Slurry Lines	Safety Purple
12		
13	Excavator Use Only	
14		
15	Temporary Survey	Safety Pink
16	Proposed Excavation.....	Safety White (Black
17		when snow is on the ground)

18 (Source: P.A. 96-714, eff. 1-1-10.)

19 (220 ILCS 50/11) (from Ch. 111 2/3, par. 1611)

20 Sec. 11. Penalties; liability; fund.

21 (a) Every excavator ~~person~~ who, while engaging in

1 excavation or demolition, willfully ~~wilfully~~ fails to comply
2 with the Act by failing to provide the notice to the owners or
3 operators of the underground facilities near the excavation or
4 demolition area through the ~~State-Wide~~ One-Call Notice System
5 as required by Section 4 or 6 of this Act shall be subject to a
6 penalty of up to \$5,000 for each separate offense and shall be
7 liable for the damage caused to the owners or operators of the
8 underground utility facility. Every excavator ~~person~~ who fails
9 to provide notice and willfully fails to comply with other
10 provisions of this Act shall be subject to additional
11 penalties of up to \$2,500 for each separate offense and shall
12 be liable for the damage caused to the owners or operators of
13 the underground utility facility.

14 (b) Every excavator ~~person~~ who has provided the notice to
15 the owners or operators of the underground utility facilities
16 in and near the excavation or demolition area through the
17 ~~State-Wide~~ One-Call Notice System as required by Section 4 or
18 6 of this Act, but otherwise willfully ~~wilfully~~ fails to
19 comply with this Act, shall be subject to a penalty of up to
20 \$2,500 for each separate offense and shall be liable for the
21 damage caused to the owners or operators of the underground
22 utility facility.

23 (c) Every excavator ~~person~~ who, while engaging in
24 excavation or demolition, has provided the notice to the
25 owners or operators of the underground utility facilities in
26 and near the excavation or demolition area through the

1 ~~State Wide~~ One-Call Notice System as required by Section 4 or
2 6 of this Act, but otherwise, while acting reasonably, damages
3 any underground utility facilities, shall not be subject to a
4 penalty, but shall be liable for the damage caused to the
5 owners or operators of the underground utility facility
6 provided the underground utility facility is properly marked
7 as provided in Section 10 of this Act.

8 (d) Every excavator person who provides notice to the
9 owners or operators of the underground utility facilities
10 through the ~~State Wide~~ One-Call Notice System as a no show,
11 incomplete, an emergency locate request and the locate request
12 is not a no show, incomplete, or an emergency locate request as
13 defined in Sections 2.1.3, 2.1.4, or ~~Section~~ 2.6 of this Act
14 shall be subject to a penalty of up to \$2,500 for each separate
15 offense.

16 (e) Owners and operators of underground utility facilities
17 who willfully fail to comply with this Act by a failure to
18 respond or mark the approximate location of an underground
19 utility facilities as required by ~~subsection (h) of Section 4,~~
20 subsection (c) (a) of Section 6, or subsection (a) of Section
21 10 of this Act after being notified of planned or emergency
22 excavation or demolition through the ~~State Wide~~ One-Call
23 Notice System, shall be subject to a penalty of up to \$2,500
24 ~~\$5,000~~ for each separate offense.

25 (1) Owners or operators of underground utility
26 facilities who fail to respond through the positive

1 response system to a locate request as required in
2 subsection (b) of Section 5.1 shall be subject to a
3 penalty of up to \$100 for each separate reported offense.

4 (2) Owners or operators of underground utility
5 facilities shall not be subject to a penalty where a delay
6 to respond through the positive response system is caused
7 by conditions beyond the reasonable control of such owners
8 or operators of underground utility facilities.

9 (3) The One-Call Notice System shall provide to the
10 Illinois Commerce Commission on a quarterly basis a
11 tabulation of underground utility facility owners or
12 operators that failed to provide a response to the
13 positive response system by the dig start date and time on
14 the notice.

15 (f) As provided in Section 3 of this Act, all owners or
16 operators of underground utility facilities who fail to join
17 the ~~State-Wide~~ One-Call Notice System by January 1, 2003 shall
18 be subject to a penalty of \$100 per day for each separate
19 offense. Every day an owner or operator fails to join the
20 ~~State-Wide~~ One-Call Notice System is a separate offense. ~~This~~
21 ~~subsection (f) does not apply to utilities operating~~
22 ~~facilities exclusively within the boundaries of a municipality~~
23 ~~with a population of at least 1,000,000 persons.~~

24 (g) No owner or operator of underground utility facilities
25 shall be subject to a penalty where a delay in marking or a
26 failure to mark or properly mark the location of an

1 underground utility facility is caused by conditions beyond
2 the reasonable control of such owner or operator.

3 (1) For the purposes of this Section, "reasonable
4 control" includes the underground utility facility owner's
5 or operator's ability to staff to an unknown or
6 potentially unknown locate request volume. Each
7 underground utility facility owner or operator shall staff
8 in a manner that such underground utility facility owner
9 or operator can respond in accordance with Section 4 and
10 Section 6 to locate request volume increases as determined
11 by the One-Call Notice System. The official reasonable
12 control measurements shall be determined as set forth in
13 paragraph (2) of subsection (e).

14 (2) If the One-Call Notice System and the underground
15 utility facility owners and operators are provided a
16 minimum of 90-day notice of a large project for a proposed
17 excavation or demolition project, the reasonable control
18 measurement shall factor the advance notice into the
19 official reasonable control measurements.

20 (h) Any entity that ~~person who~~ is neither an agent,
21 employee, or authorized locating contractor of the owner or
22 operator of the underground utility facility nor an excavator
23 involved in the excavation or demolition activity who removes,
24 alters, or otherwise damages markings, flags, or stakes used
25 to mark the location of an underground utility other than
26 during the course of the excavation for which the markings

1 were made or before completion of the project shall be subject
2 to a penalty up to \$1,000 for each separate offense.

3 (i) (Blank).

4 (j) The Illinois Commerce Commission shall have the power
5 and jurisdiction to, and shall, enforce the provisions of this
6 Act. The Illinois Commerce Commission may impose
7 administrative penalties as provided in this Section. The
8 Illinois Commerce Commission may promulgate rules and develop
9 enforcement policies, 83 Ill. Adm. Code 265, in the manner
10 provided by the Public Utilities Act in order to implement
11 compliance with this Act. When a penalty is warranted, the
12 following criteria shall be used in determining the magnitude
13 of the penalty:

14 (1) gravity of noncompliance;

15 (2) culpability of offender;

16 (3) history of noncompliance for the 18 months prior
17 to the date of the incident; however, when determining
18 noncompliance ~~non-compliance~~ the alleged violator's roles
19 as operator or owner and the entity ~~person~~ engaged in
20 excavating shall be treated separately;

21 (4) (blank) ~~ability to pay penalty~~;

22 (5) show of good faith of offender;

23 (6) (blank) ~~ability to continue business~~; and

24 (7) other special circumstances.

25 (k) There is hereby created in the State treasury a
26 special fund to be known as the Illinois Underground Utility

1 Facilities Damage Prevention Fund. All penalties recovered
2 Illinois Commerce Commission in any action under this Section
3 shall be paid into the Fund and shall be distributed annually
4 as a grant to the ~~State-Wide~~ One-Call Notice System operated
5 by JULIE to be used in safety and informational programs to
6 reduce the number of incidents of damage to underground
7 utility facilities in Illinois. The distribution shall be made
8 during January of each calendar year based on the balance in
9 the Illinois Underground Utility Facilities Damage Prevention
10 Fund as of December 31 of the previous calendar year. In all
11 such actions under this Section, the procedure and rules of
12 evidence shall conform with the Code of Civil Procedure, and
13 with rules of courts governing civil trials.

14 (1) The Illinois Commerce Commission shall establish an
15 Advisory Committee consisting of a representative from each of
16 the following: utility operator, ~~JULIE,~~ excavator,
17 municipality, ~~and the~~ general public and a nonmunicipal public
18 body. The Advisory Committee shall serve as a peer review
19 panel for any contested penalties resulting from the
20 enforcement of this Act.

21 The members of the Advisory Committee shall be immune,
22 individually and jointly, from civil liability for any act or
23 omission done or made in performance of their duties while
24 serving as members of such Advisory Committee, unless the act
25 or omission was the result of willful and wanton misconduct.

26 (m) If, after the Advisory Committee has considered a

1 particular contested penalty and performed its review
2 functions under this Act and the Illinois Commerce
3 Commission's rules, there remains a dispute as to whether the
4 Illinois Commerce Commission should impose a penalty under
5 this Act, the matter shall proceed in the manner set forth in
6 Article X of the Public Utilities Act, including the
7 provisions governing judicial review.

8 (Source: P.A. 96-714, eff. 1-1-10.)

9 (220 ILCS 50/11.3)

10 Sec. 11.3. Emergency telephone system outages;
11 reimbursement. Any excavator ~~person~~ who negligently damages an
12 underground utility facility ~~or CATS facility~~ causing an
13 emergency telephone system outage must reimburse the public
14 safety agency that provides personnel to answer calls or to
15 maintain or operate an emergency telephone system during the
16 outage for the agency's costs associated with answering calls
17 or maintaining or operating the system during the outage. For
18 the purposes of this Section, "public safety agency" means the
19 same as in Section 2.02 of the Emergency Telephone System Act.

20 (Source: P.A. 92-149, eff. 1-1-02.)

21 (220 ILCS 50/11.5)

22 Sec. 11.5. Limitation on liability.

23 (a) In joining the ~~State-Wide~~ One-Call Notice System, a
24 municipality's liability, under any membership agreement rules

1 and regulations, for the indemnification of (i) the entity
2 that is in charge of or managing the System or any officer,
3 agent, or employee of that entity or (ii) a member of the
4 System or any officer, agent, or employee of a member of the
5 System shall be limited to claims arising as a result of the
6 acts or omissions of the municipality or its officers, agents,
7 or employees or arising out of the operations of the
8 municipality's underground utility facilities.

9 (b) Subsection (a) shall not be construed to create any
10 additional liability for a municipality in relation to any
11 member of the System with which the municipality may have
12 entered into a franchise agreement. If a municipality's
13 liability for indemnification under a franchise agreement is
14 narrower than under this Section, the franchise agreement
15 controls.

16 (Source: P.A. 90-481, eff. 8-17-97.)

17 (220 ILCS 50/12) (from Ch. 111 2/3, par. 1612)

18 Sec. 12. Noncompliance and enforcement action time frames.
19 No action may be brought by the Illinois Commerce Commission
20 under Section 11 of this Act unless reported by the excavator
21 or the underground utility facility owner or operator
22 ~~commenced within 2 years after the date of violation of this~~
23 ~~Act.~~ The Illinois Commerce Commission shall provide notice of
24 investigation to the parties involved in the reported alleged
25 violation within 10 days of the receipt of the alleged

1 violation. In accordance with subsection (d) of 83 Ill. Adm.
2 Code 265.100, reports shall be submitted within 45 days after
3 the discovery of the violation. In any case, the report shall
4 not be accepted more than 2 years from the suspected date of
5 the violation. Reports filed after the 45 day requirement
6 shall be considered invalid and no action will be taken by the
7 Illinois Commerce Commission.

8 (Source: P.A. 86-674.)

9 (220 ILCS 50/13) (from Ch. 111 2/3, par. 1613)

10 Sec. 13. Mandamus or injunction. Where public safety or
11 the preservation of uninterrupted, necessary underground
12 utility facilities service ~~or community antenna television~~
13 ~~system service~~ is endangered by any excavator ~~person~~ engaging
14 in excavation or demolition in a negligent or unsafe manner
15 which has resulted in or is likely to result in damage to
16 underground utility facilities ~~or CATS facilities~~ or proposing
17 to use procedures for excavation or demolition which are
18 likely to result in damage to underground utility facilities
19 ~~or CATS facilities~~, or where the owner or operator of
20 underground utility facilities ~~or CATS facilities~~ endangers an
21 excavator by willfully failing to respond to a locate request,
22 the owner or operator of such underground utility facilities
23 or the excavator or the State's Attorney or the Illinois
24 Commerce Commission at the request of the owner or operator of
25 such underground utility facilities or the excavator may

1 commence an action in the circuit court for the county in which
2 the excavation or demolition is occurring or is to occur, or in
3 which the person complained of has his principal place of
4 business or resides, for the purpose of having such negligent
5 or unsafe excavation or demolition stopped and prevented or to
6 compel the marking of underground utilities facilities ~~or CATS~~
7 ~~facilities~~, either by mandamus or injunction.

8 (Source: P.A. 92-179, eff. 7-1-02.)

9 (220 ILCS 50/14) (from Ch. 111 2/3, par. 1614)

10 Sec. 14. Home rule. The regulation of underground utility
11 facilities ~~and CATS facilities~~ damage prevention, as provided
12 for in this Act, is an exclusive power and function of the
13 State. A home rule unit may not regulate underground utility
14 facilities ~~and CATS facilities~~ damage prevention, as provided
15 for in this Act. All units of local government, including home
16 rule units ~~that are not municipalities of more than 1,000,000~~
17 ~~persons~~, must comply with the provisions of this Act. To this
18 extent, this Section is a denial and limitation of home rule
19 powers and functions under subsection (h) of Section 6 of
20 Article VII of the Illinois Constitution. A home rule
21 municipality of more than 1,000,000 persons that operates its
22 own One-Call Notice System may regulate underground utility
23 facilities ~~and CATS facilities~~ damage prevention.

24 (Source: P.A. 99-121, eff. 7-23-15.)

1 (220 ILCS 50/2.1 rep.)

2 (220 ILCS 50/5 rep.)

3 Section 10. The Illinois Underground Utility Facilities
4 Damage Prevention Act is amended by repealing Sections 2.1 and
5 5.

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1 220 ILCS 50/2.1 rep.

2 220 ILCS 50/5 rep.