

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7598

BILL NUMBER: SB 487

NOTE PREPARED: Jan 13, 2009

BILL AMENDED:

SUBJECT: Underground Plant Protection.

FIRST AUTHOR: Sen. Charbonneau

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill requires the operator of an underground facility to join the Indiana Underground Plant Protection Service (IUPPS) or its successor organization. It requires an operator to provide information concerning the locations of its underground facilities to the IUPPS. It requires notice of an excavation or demolition to be provided to the IUPPS at least three days before work commences. (Current law requires notice of at least two days.)

The bill provides that a person who: (1) causes damage to an underground facility; (2) is required to provide notice of an excavation or demolition to the IUPPS; and (3) recklessly, knowingly, or intentionally fails to provide the notice; commits a Class D felony. It provides that a person who knowingly fails to observe certain precautions before or during an excavation or demolition commits a Class D felony.

It also deletes obsolete provisions requiring operators to record underground facility locations with county recorders. It makes conforming amendments. It repeals an obsolete provision concerning the responsibilities of IUPPS.

Effective Date: July 1, 2009.

Explanation of State Expenditures: The bill provides that a person who:

(1) causes damage to an underground facility;
(2) is required to provide notice of an excavation or demolition to the IUPPS; and
(3) recklessly, knowingly, or intentionally fails to provide the notice; commits a Class D felony. It also provides that a person who knowingly fails to observe certain precautions before or during an excavation or demolition commits a Class D felony.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$20,287 in FY 2008. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$69,223. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: DOC.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association, DOC.

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