

# House Bill 3181

Sponsored by Representative LEIF

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires Oregon Utility Notification Center to adopt rules requiring paint used for marking underground facilities to be temporary marking paint or other industry-accepted low-impact marking and requiring operators to remove markings that continue to be visible on private property after reasonable period has passed since excavation is complete.

Provides that operators that do not remove markings in compliance with rules are responsible to private property owners for all costs associated with damages caused to private property in process of removing markings.

## A BILL FOR AN ACT

1  
2 Relating to underground facilities; amending ORS 757.552 and 757.557.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 757.552 is amended to read:

5 757.552. (1) It is the function of the board of directors to operate the Oregon Utility Notification  
6 Center, through which a person shall notify operators of underground facilities of proposed exca-  
7 vations and request that the underground facilities be marked.

8 (2) The board of directors shall:

9 (a) Utilize a competitive process to contract with any qualified person to provide the notification  
10 required under subsection (1) of this section.

11 (b) Subject to subsection (3) of this section, establish rates, on a per call basis, under which  
12 subscribers shall pay to fund all of the activities of the Oregon Utility Notification Center.

13 (c) Adopt rules according to ORS chapter 183 that regulate the notification and marking of  
14 underground facilities to prevent damage to underground facilities. The rules[,] **shall:**

15 (A) Insofar as is practicable, [*shall*] be consistent with the Oregon Utilities Coordinating  
16 Council Standards Manual of March 31, 1995;

17 (B) **Require that the paint used for marking underground facilities be temporary marking**  
18 **paint or other industry-accepted low-impact marking; and**

19 (C) **Require operators to remove markings if the markings continue to be visible after a**  
20 **reasonable period has passed since the excavation for which the marking was requested is**  
21 **complete.**

22 (3) The Oregon Utility Notification Center shall have all of the powers of a state agency. Except  
23 as provided in subsection (2) of this section, the provisions of ORS 279.835 to 279.855 and 283.085  
24 to 283.092 and ORS chapters 240, 276, 279A, 279B, 279C, 282, 283, 291, 292 and 293 do not apply to  
25 the Oregon Utility Notification Center.

26 (4) Notwithstanding subsection (2)(b) of this section, the board of directors shall not establish  
27 rates or other charges that require payments from any subscriber who receives fewer than 50 tele-  
28 phone calls in the calendar year or that result in annual payments of more than \$500 for any of the

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.  
New sections are in **boldfaced** type.

1 following subscribers:

2 (a) Cities with a population under 15,000;

3 (b) Telecommunications utilities serving fewer than 50,000 access lines and regulated by the  
4 Public Utility Commission under ORS chapter 759;

5 (c) Cable system operators serving fewer than 15,000 customers;

6 (d) Utilities, special districts, people's utility districts or authorities providing electricity, water  
7 or sanitary sewer service to fewer than 15,000 residential customers; and

8 (e) Telecommunications cooperatives.

9 **SECTION 2.** ORS 757.557 is amended to read:

10 757.557. (1) Every operator of underground facilities shall subscribe to the Oregon Utility No-  
11 tification Center.

12 (2) Any person intending to excavate shall notify the Oregon Utility Notification Center at least  
13 two but not more than 10 business days before commencing an excavation. The board of directors  
14 shall, by rule, provide an exception to the requirement of advance notice for excavators in cases  
15 that involve an immediate danger to life or property, or a customer service outage. The board may  
16 adopt additional exceptions as the board, in its discretion, determines necessary.

17 (3) Nonsubscribing operators of underground facilities shall be responsible to all injured parties  
18 for all costs associated with damages to such facilities, loss of product or service or damages that  
19 occur as a result of excavation where the facilities damaged are under the control of the  
20 nonsubscribing operator and proper notice was given to the Oregon Utility Notification Center.

21 **(4) An operator of underground facilities that does not comply with rules adopted under**  
22 **ORS 757.552 (2)(c)(C) shall be responsible to private property owners for all costs associated**  
23 **with damages caused to private property in the process of removing the markings that the**  
24 **operator failed to remove.**

25 [(4)] (5) The provisions of this section shall not apply to operators of underground facilities that  
26 are located entirely on private property and that provide services exclusively for the use of resi-  
27 dents or owners of the property.

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