

BILL ANALYSIS

H.B. 2535
By: Bell
Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

It is industry knowledge that some operators of underground facilities are not complying with state law requiring the operators to mark the location of underground facilities in a timely manner after receiving notification of excavation plans, which can cause unnecessary delays in excavation and construction projects. Furthermore, some industry observers have reported that it can take months for the utility provider to relocate the underground utility. These issues can result in inefficient use of employees and time, delayed construction projects, and hazardous conditions on the roadway. The industry observers also report that there have been cases of an operator suing an excavator who damages unmarked underground facilities and that insurance companies are often settling these cases in a manner favorable to the operators even though the excavators assert that the operators have violated the law. The industry observers believe these lawsuits are frivolous and should be stopped. H.B. 2535 seeks to address these issues.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 2535 amends the Utilities Code to establish that an operator of a line, cable, pipeline system, conduit, or structure that is located partially or totally underground and that is used to produce, store, convey, transmit, or distribute telecommunications, electricity, gas, water, sewage, steam, or liquids is liable for damages incurred by an excavator as a result of an excavation that encounters the operator's underground facilities under the following conditions: the excavator reasonably relied on the operator to mark the approximate location of the underground facility as provided by statutory requirements relating to excavation, the operator fails to mark the approximate location of the underground facility encountered or does not accurately mark that approximate location, the damages to the excavator would not have occurred if the excavation had not encountered the underground facility, and the damages to the excavator are damages that would not have occurred if the approximate location of the underground facility had been accurately marked.

H.B. 2535 entitles the prevailing party in any suit for damages to an excavator or an operator that occurred in relation to an applicable excavation to recover reasonable attorney's fees in addition to any award of damages. The bill's provisions apply only in relation to an excavation that begins on or after October 1, 2015.

EFFECTIVE DATE

September 1, 2015.