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Representatives Robb Blasdel, Johnson

Cosponsors: Representatives Daniels, Abrams, Barhorst, Brennan, Claggett, Click, Deeter, Dovilla, Fischer, Ghanbari, Hiner, Holmes, Hoops, Kishman, Klopfenstein, LaRe, Mathews, A., Mathews, T., Miller, J., Newman, Odioso, Peterson, Plummer, Rader, Sigrist, Swearingen, Williams, Willis, Young

То	amend sections 153.64	4, 3781.25,	3781.26,	1
	3781.27, 3781.271, 37	781.28, and	3781.29 of the	2
	Revised Code to modif	v excavation	on requirements.	3

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 153.64, 3781.25, 3781.26,	4
3781.27, 3781.271, 3781.28, and 3781.29 of the Revised Code be	5
amended to read as follows:	6
Sec. 153.64. (A) As used in this section:	7
(1) "Public improvement" means any construction,	8
reconstruction, improvement, enlargement, alteration, or repair	9
of a building, highway, drainage system, water system, road,	10
street, alley, sewer, ditch, sewage disposal plant, water works,	11
and all other structures or works of any nature by a public	12
authority.	13
(2) "Public authority" includes the following:	14
(a) The state, or a county, township, municipal	15
corporation, school district, or other political subdivision;	16

construction activities;

(b) Any public agency, authority, board, commission,	17
instrumentality, or special district of or in the state or a	18
county, township, municipal corporation, school district, or	19
other political subdivision;	20
(c) A designer as defined in section 3781.25 of the	21
Revised Code who is acting on behalf of any entity described in	22
division (A)(2)(a) or (b) of this section.	23
division (A) (2) (a) or (b) or this section.	23
(3) "Underground utility facilities" includes any item	24
buried or placed below ground or submerged under water for use	25
in connection with the storage or conveyance of water or sewage;	26
or electronic, telephonic, or telegraphic communications;	27
electricity; petroleum products; manufactured, mixed, or natural	28
gas; synthetic or liquified natural gas; propane gas; or other	29
substances. "Underground utility facilities" includes, but is	30
not limited to, all operational underground pipes, sewers,	31
tubing, conduits, cables, valves, lines, wires, manholes, and	32
attachments, whether owned by any public or private or profit or	33
nonprofit person, firm, partnership, company, corporation, joint	34
stock association, joint venture, or voluntary association,	35
wherever organized or incorporated, except for a private septic	36
system in a single- or multi-family dwelling utilized only for	37
that dwelling and not connected to any other system.	38
(4) "Protection service" means a notification center not	39
an owner of an underground utility facility that complies with	40
the following:	41
(a) It exists for the purpose of receiving notice from	42
public authorities and from other persons that plan to prepare	43
plans and specifications for, or engage in, public improvements	44
involving digging, blasting, excavating, or other underground	45

(b) It distributes the information described in division	47
(A) (4) (a) of this section to its members and participants;	48
(c) It has registered by March 14, 1989, with the	49
secretary of state and the public utilities commission under	50
former division (F) of this section as it existed on that date.	51
(5) "Construction area" means the area delineated on the	52
plans and specifications for the public improvement within which	53
the work provided for in the contract will be performed.	54
(6) "Interstate gas pipeline" means an interstate gas	55
pipeline subject to the "Natural Gas Pipeline Safety Act of	56
1968," 49 U.S.C. 1671, as amended.	57
(7) "Interstate hazardous liquids pipeline" means an	58
interstate hazardous liquids pipeline subject to the "Hazardous	59
Liquid Pipeline Safety Act of 1979," 49 U.S.C. 2002, as amended.	60
(B)(1) In any public improvement which may involve	61
underground utility facilities, the public authority, prior to	62
preparing plans and specifications, shall contact a protection	63
service and any owners of underground utility facilities that	64
are not members of a protection service for the existence and	65
location of all underground utility facilities within the	66
construction area.	67
(2) If requested by the public authority, each owner of	68
underground utility facilities within the construction area,	69
other than real property owners listed in divisions (C)(1) to	70
(4) of section 3781.25 of the Revised Code, shall do one of the	71
following within ten days of receiving notice from the public	72
authority or a protection service:	73
(a) Mark the location of the underground utility	74
facilities, other than those facilities serving single-family or	75

two-, three-, or four-unit dwellings, within the construction	76
area in accordance with the marking standards described in	77
division (C) of section 3781.29 of the Revised Code;	78
(b) Provide digital or paper drawings, or both, that meet	79
both of the following requirements:	80
(i) They are drawn to scale and include locatable items.	81
Locatable items may include poles, pedestals, back of curb,	82
sidewalk, edge of pavement, centerline of ditch, property lines,	83
and other similar items.	84
(ii) They depict the location of the underground utility	85
facilities.	86
(3) If the public improvement is within six hundred sixty	87
feet of the center point of any interstate hazardous liquid	88
pipeline or interstate gas pipeline, the pipeline operator shall	89
provide to the public authority all of the following:	90
(a) A written notice of any special notification	91
requirements;	92
(b) The location and description of any right-of-way	93
associated with the pipeline as well as pipeline location	94
information, such as providing documents reflecting the actual	95
location of the pipeline, marking facilities on design drawings,	96
and providing maps;	97
(c) Contact information for the primary contact person for	98
the project area.	99
Compliance with divisions (B)(2) and (3) of this section	100
does not relieve an owner of underground utility facilities from	101
compliance with the marking requirements of section 3781.29 of	102
the Revised Code.	103

(4) The public authority shall include, in the plans and	104
specifications for such improvement, the identity and location	105
of the existing underground utility facilities located in the	106
construction area as provided to the public authority by the	107
owner of the underground utility facility and the name, address,	108
and telephone number of each owner of any underground utility	109
facilities in the construction area that does not subscribe to a	110
protection service.	111
(a) If the public authority is notified that the	112
improvement is within six hundred sixty feet of the center point	113
of any interstate hazardous liquid pipeline or interstate gas	114
pipeline, the public authority shall also include in the plans	115
and specifications for the project all of the following:	116
(i) Any special notification requirements;	117
(ii) The name and contact information of the primary	118
contact person for each pipeline operator who has provided	119
notice to the public authority under division (B)(3) of this	120
section;	121
(iii) Notice stating that the public authority has	122
utilized reasonable means to contact the pipeline operator to	123
verify the location of the pipeline and pipeline right-of-way;	124
(iv) Notice that the public authority has reviewed, or has	125
attempted to review, preliminary information about the public	126
improvement with the pipeline operator and incorporated the	127
requested adjustments into the plans.	128
(b) For purposes of division (B)(4)(a)(iii) of this	129
section, a public authority who provides notice to the	130
protection service in accordance with division (B)(1) of this	131
section is deemed to have utilized reasonable means to contact	132

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the operator of the pipeline.

- (5) Any anticipated temporary or permanent relocation of 134 underground utility facilities deemed necessary by the public 135 authority shall be negotiated or arranged by the public 136 authority with the owners of the underground utility facilities 137 prior to the start of construction. If a temporary or permanent 138 relocation of utility facilities is necessary, the owner of the 139 underground utility facility shall be given a reasonable time to 140 move such utility facilities unless the contractor to whom the 141 142 contract for a public improvement is awarded or its subcontractor agrees with the owner of the underground utility 143 facility to coordinate relocation with construction operations. 144
- (6) The public authority, within ten calendar days after award of a contract for a public improvement, shall notify in writing all owners of underground utility facilities known to be located in the construction area of the public improvement of the name and address of the contractor to whom the contract for the public improvement was awarded. Where notice is given in writing by certified mail, the return receipt, signed by any person to whom the notice is delivered, shall be conclusive proof of notice.
- (C) The contractor to whom a contract for a public 154 improvement is awarded or its subcontractor, at least two 155 working days, excluding Saturdays, Sundays, and legal holidays, 156 but no more than ten working days, not including the day of the 157 notification, but not more than sixteen calendar days prior to 158 commencing construction operations in the construction area 159 which may involve underground utility facilities, shall cause 160 notice to be given to a—the protection service and the owners of 161 underground utility facilities shown on the plans and 162

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specifications who are not members of a protection service. The	163
owner of the underground utility facility, within forty-eight	164
hours, excluding Saturdays, Sundays, and legal holidays, after	165
notice is receivedat least two working days, not including the	166
day of the notification, shall stake, mark, or otherwise	167
designate the location of the underground utility facilities in	168
the construction area in such a manner as to indicate their	169
course together with the approximate depth at which they were	170
installed.	171

(D) If the public authority fails to comply with the requirements of division (B) of this section, the contractor to whom the work is awarded or its subcontractor complies with the requirements of division (C) of this section, and the contractor or its subcontractor encounters underground utility facilities in the construction area that would have been shown on the plans and specifications for such improvement had a protection service or owner of the underground utility facility who is not a member of a protection service whose name, address, and telephone number is provided by the public authority been contacted, then the contractor, upon notification to the public authority, is entitled to an increase to the contract price for itself or its subcontractor for any additional work that must be undertaken or additional time that will be required and is entitled to an extension of the completion date of the contract for the period of time of any delays to the construction of the public improvement.

In the event of a dispute as to the application of this section, procedures may be commenced under the applicable terms of the construction contract, or if the contract contains no provision for final resolution of the dispute, pursuant to the procedures for arbitration in Chapter 2711. of the Revised Code.

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This section does not affect rights between the contractors and the public authority for any increase in contract price or additional time to perform the contract when the public authority complies with division (B) of this section.

Any public authority who complies with the requirements of 198 division (B) of this section and any contractor or its 199 subcontractor who complies with the requirements of division (C) 200 of this section shall not be responsible to the owner of the 201 underground utility facility if underground utility lines are 202 203 encountered not as marked in accordance with the provisions of division (C) of this section by the owner of the underground 204 utility facility, unless the contractor or its subcontractor has 205 actual notice of the underground utility facility. Except as 206 noted in this division, this section does not affect rights 207 between the contractor or its subcontractor and the owner of the 208 underground utility facility for failure to mark or erroneously 209 marking utility lines. The public authority shall not make as a 210 requirement of any contract for public improvement any change in 211 responsibilities between the public authority and the owners of 212 the underground utility facilities in connection with damage, 213 injury, or loss to any property in connection with underground 214 utility facilities. 215

The contractor or its subcontractor shall alert 216 immediately the occupants of nearby premises as to any emergency 217 that the contractor or subcontractor may create or discover at 218 or near such premises. The contractor or its subcontractor shall 219 report immediately to the owner or operator of the underground 220 facility any break or leak on its lines or any dent, gouge, 221 groove, or other damage to such lines or to their coating or 222 cathodic protection, made or discovered in the course of their 223 excavation. 224

- (E) This section does not affect rights between the public 225 authority and the owners of the underground utility facilities 226 for responsibility for costs involving removal, relocation, or 227 protection of existing underground utility facilities, or for 228 costs for delays occasioned thereby. 229
- **Sec. 3781.25.** As used in sections 3781.25 to 3781.38 of 230 the Revised Code:
- (A) "Protection service" means a notification center, but 232 not an owner of an individual utility, that exists for the 233 purpose of receiving notice from persons that prepare plans and 234 specifications for or that engage in excavation work, that 235 distributes this information to its members and participants, 236 and that has registered by March 14, 1989, with the secretary of 237 state and the public utilities commission of Ohio under former 238 division (F) of section 153.64 of the Revised Code as it existed 239 on that date. 240
- (B) "Underground utility facility" includes any item 241 buried or placed below ground or submerged under water for use 242 243 in connection with the storage or conveyance of water or sewage; electronic, or telephonic communications; television signals; 244 245 electricity; crude oil; petroleum products; artificial or liquefied petroleum; manufactured, mixed, or natural gas; 246 synthetic or liquefied natural gas; propane gas; coal; steam; 247 hot water; or other substances. "Underground utility facility" 248 includes all operational underground pipes, sewers, tubing, 249 conduits, cables, valves, lines, wires, worker access holes, and 250 attachments, owned by any person, firm, or company. "Underground 251 utility facility" does not include a private septic system in a 252 one-family or multi-family dwelling utilized only for that 253 dwelling and not connected to any other system. 254

(C) "Utility" means any owner or operator, or an agent of	255
an owner or operator, of an underground utility facility,	256
including any public authority, that owns or operates an	257
underground utility facility. "Utility" does not include the	258
owners of the following types of real property with respect to	259
any underground utility facility located on that property:	260
(1) The owner of a single-family or two-, three-, or four-	261
unit residential dwelling;	262
(2) The owner of an apartment complex;	263
(3) The owner of a commercial or industrial building or	264
complex of buildings, including but not limited to, factories	265
and shopping centers;	266
(4) The owner of a farm;	267
(5) The owner of an exempt domestic well as defined in	268
section 1509.01 of the Revised Code.	269
(D) "Approximate location" means the immediate area within	270
the perimeter of a proposed excavation site where the	271
underground utility facilities are located.	272
(E) "Tolerance zone" means the site of the underground	273
utility facility including the width of the underground utility	274
facility plus eighteen inches on each side of the facility.	275
(F) "Working days" excludes Saturdays, Sundays, begin at	276
midnight, end at eleven fifty-nine p.m. on the same date, and	277
<pre>exclude weekends and legal holidays as defined in section 1.14</pre>	278
of the Revised Code and "hours" excludes hours on Saturdays,	279
Sundays, weekends and legal holidays.	280
(G) "Designer" means an engineer, architect, landscape	281
architect, contractor, surveyor, or other person who develops	282

plans or designs for real property improvement or any other	283
activity that will involve excavation.	284
(H) "Developer" means the person for whom the excavation	285
is made and who will own or be the lessee of any improvement	286
that is the object of the excavation.	287
(I) "Excavation" means the use of hand tools, powered	288
equipment, or explosives to move earth, rock, or other materials	289
in order to penetrate or bore or drill into the earth, or to	290
demolish any structure whether or not it is intended that the	291
demolition will disturb the earth. "Excavation" includes such	292
agricultural operations as the installation of drain tile, but	293
excludes agricultural operations such as tilling that do not	294
penetrate the earth to a depth of more than twelve inches.	295
"Excavation" excludes any activity by a governmental entity	296
which does not penetrate the earth to a depth of more than-	297
twelve inches. "Excavation" excludes eoal mining and reclamation	298
operations regulated under Chapter Chapters 1513. and 1514. of	299
the Revised Code and rules adopted under it. "Excavation"	300
excludes all of the following activities when performed in the	301
<pre>public right-of-way:</pre>	302
(1) Milling and grinding of asphalt road surfaces up to	303
six inches without penetrating the earth or sub-base, except for	304
pulverizing activities, activities at signalized intersections,	305
and activities where signal or environmental sensors may be	306
<pre>present;</pre>	307
(2) Utility wood pole inspection utilizing hand tools to	308
excavate to a depth that does not penetrate the earth more than	309
twelve inches and working on the clear side of poles, greater	310
than ninety degrees from any risers;	311

(3) Tilling for sowing of grass and wildflower coverings	312
to a depth that does not penetrate the earth more than four	313
inches for erosion control or beautification purposes;	314
(4) Placement of temporary signage, without penetrating	315
the earth more than four inches;	316
(5) Localized pavement repairs on all areas outside	317
municipal corporations without penetrating the earth to a depth	318
greater than twelve inches.	319
(J) "Excavation site" means the area within which	320
excavation will be performed.	321
(K) "Excavator" means the person or persons responsible	322
for making the actual excavation.	323
(L) "Interstate gas pipeline" means an interstate gas	324
pipeline subject to the "Natural Gas Pipeline Safety Act of	325
1968," 82 Stat. 720, 49 U.S.C. 1671, as amended.	326
(M) "Interstate hazardous liquids pipeline" means an	327
interstate hazardous liquids pipeline subject to the "Hazardous	328
Liquid Pipeline Safety Act of 1979," 93 Stat. 1003, 49 U.S.C.	329
2002, as amended.	330
(N) "Special notification requirements" means requirements	331
for notice to an owner of an interstate hazardous liquids	332
pipeline or an interstate gas pipeline that must be made prior	333
to commencing excavation and pursuant to the owner's public	334
safety program adopted under federal law.	335
(O) "Commercial excavator" means any excavator, excluding	336
a utility as defined in this section, that satisfies both of the	337
following:	338
(1) For compensation, performs, directs, supervises, or is	339

responsible for the excavation, construction, improvement,	340
renovation, repair, or maintenance on a construction project and	341
holds out or represents oneself as qualified or permitted to act	342
as such;	343
(2) Employs tradespersons who actually perform excavation,	344
construction, improvement, renovation, repair, or maintenance on	345
a construction project.	346
(P) "Person" has the same meaning as in section 1.59 of	347
the Revised Code and also includes a public authority.	348
(Q) "Positive response system" means an automated system	349
facilitated by a protection service allowing a utility to	350
communicate to an excavator the presence or absence of any	351
conflict between the existing underground utility facilities and	352
the proposed excavation site.	353
(R) "One-call notification system" means the software or	354
communications system used by a protection system to notify its	355
membership of proposed excavation sites.	356
(S) "Project" means any undertaking by a private party of	357
an improvement requiring excavation.	358
(T) "Public authority" has the same meaning as in section	359
153.64 of the Revised Code.	360
(U) "Improvement" means any construction, reconstruction,	361
improvement, enlargement, alteration, or repair of a building,	362
highway, drainage system, water system, road, street, alley,	363
sewer, ditch, sewage disposal plant, water works, and all other	364
structures or works of any nature.	365
(V) "Emergency" means an unexpected occurrence causing a	366
disruption or damage to an underground utility facility that	367

requires immediate repair or a situation that creates a clear	368
and imminent danger that demands immediate action to prevent or	369
mitigate loss of or damage to life, health, property, or	370
essential public services.	371
(W) "Nondestructive manner" means using low-impact, low-	372
risk technologies such as hand tools, or hydro or air vacuum	373
excavation equipment.	374
(X) "Cable service provider" has the same meaning as in	375
section 1332.01 of the Revised Code.	376
(Y) "Electric cooperative" and "electric utility" have the	377
same meanings as in section 4928.01 of the Revised Code.	378
Sec. 3781.26. (A) Each utility that owns or operates	379
underground utility facilities shall participate in and register	380
the location of its underground utility facilities with a	381
protection service that serves the area where the facilities are	382
located. A utility may elect to participate in the service on a	383
limited basis and if it does so, it shall register the location-	384
of its underground utility facilities by identifying the	385
municipal corporations, and outside the limits of a municipal	386
corporation, the townships by county and, where applicable, the	387
immediate geographic area in which it has facilities. The	388
service shall establish reasonable fees for limited basis	389
participants.	390
(B) Protection services, utilities, commercial excavators,	391
excavation equipment dealers, the public utilities commission of	392
Ohio, the board of building standards, local law enforcement	393
agencies, and fire departments should publicize the importance	394
of ascertaining the location of underground utility facilities	395

before excavating and the use of protection services to

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ascertain that information.

- (C) A protection service shall maintain records of 398 notifications received from developers, designers, and 399 excavators, and of its notifications made to utilities, 400 developers, designers, and excavators, under sections 3781.27 401 and 3781.28 of the Revised Code. The records of a protection 402 service shall identify by reference number, the notifications it 403 received regarding a proposed excavation site, the notifications 404 it provided regarding a proposed excavation site, and the date 405 and time of each notification. 406
- (D) Each utility fully participating in a protection service pursuant to this section shall also participate in its affiliated positive response system. Each utility participating in a protection service on a limited basis shall directly communicate to the excavator the presence or absence of any conflict between the existing underground utility facilities and the proposed excavation site.
- Sec. 3781.27. (A) In order to ascertain the name of each utility with underground utility facilities located at the proposed excavation site and the types and tolerance zones of those facilities based on current records of the utility, any developer who is planning a project that will require excavation or the designer employed by the developer for the project shall notify a protection service of the location of the proposed excavation site.
- (B) Except in the case of limited basis participants, the

 The protection service shall provide notice of the proposed

 excavation to each participant in the service that has

 underground utility facilities in the area of the proposed

 excavation site. Except as provided in section 3781.271 of the

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Revised Code, in the case of limited basis participants, the	427
protection service shall notify the developer or the designer	428
employed by the developer of the name of each limited basis-	429
participant with underground utility facilities within the	430
municipal corporation or township and county of the proposed	431
excavation site, and the developer or designer shall contact	432
that utility.	433
(C)(1) Each utility that has any underground utility	434
facilities in the area of the proposed excavation site shall	435
notify the developer or the designer employed by the developer	436
of the locations and description of the utility's underground	437
utility facilities located at the proposed excavation site in	438
accordance with division (C)(2) of this section. The utility	439
shall make this notification within ten working days of	440
receiving a notice under division (B) of this section or by a	441
later date acceptable to the developer or designer and utility.	442
If the proposed project is within six hundred sixty feet of the	443
center point of an interstate hazardous liquid pipeline or an	444
interstate gas pipeline, the utility shall provide written	445
notice to the developer or designer of any special notification	446
requirements and identify its primary contact person for the	447
project area.	448
(2) If requested by the developer or the designer employed	449
by the developer, each utility shall do one of the following in	450
order to comply with the notification requirements of division	451
(C)(1) of this section:	452
(a) Mark the location of the underground utility	453
facilities, other than those facilities serving single-family or	454
two-, three-, or four-unit dwellings, at the proposed excavation	455

site in accordance with the marking standards described in

division (C) of section 3781.29 of the Revised Code;	457
(b) Provide digital or paper drawings, or both, that meet	458
both of the following requirements:	459
(i) They are drawn to scale and include locatable items.	460
Locatable items may include poles, pedestals, back of curb,	461
sidewalk, edge of pavement, centerline of ditch, property lines,	462
and other similar items.	463
(ii) They depict the location of the underground utility	464
facilities.	465
(3) In the case of an interstate hazardous pipeline and an	466
interstate gas pipeline, the utility shall also provide the	467
location and description of any right-of-way associated with the	468
underground utility facilities as well as pipeline location	469
information, such as providing documents reflecting the actual	470
location of the pipeline, marking facilities on design drawings,	471
and providing maps.	472
Compliance with divisions (C)(2) and (3) of this section	473
does not relieve a utility from compliance with the marking	474
requirements of section 3781.29 of the Revised Code.	475
(D) The utility shall determine if any relocation,	476
support, or removal, or protective steps beyond those described	477
in divisions (A)(1) to (5) of section 3781.30 of the Revised	478
Code are required in order to prevent disturbance or	479
interference with the underground utility facilities during	480
excavation. The utility shall determine whether it will permit	481
the developer or the designer employed by the developer to make	482
those adjustments, and, if the adjustments are to be made by the	483
utility, a reasonable amount of time necessary to make those	484
adjustments.	485

(E)(1) Based on the information provided pursuant to	486
division (C) of this section, the developer or the designer	487
employed by the developer shall indicate the approximate	488
locations of underground utility facilities either on or with	489
the plans prepared for the project. The developer or designer	490
shall include with the plans the names, addresses, and telephone	491
numbers of utilities with underground facilities at the	492
excavation site, indicating which utilities are limited basis	493
participants; the name and telephone number of any appropriate	494
protection service; and any required adjustments as described in	495
division (D) of this section, including the reasonable time	496
necessary for the utility to make those adjustments. In the case	497
of an interstate hazardous liquid pipeline or an interstate gas	498
pipeline, the developer or designer also shall include all of	499
the following:	500
(a) Any special notification requirements;	501
(b) The name and contact information of the primary	502
contact person for each pipeline operator who has provided	503
notice to the developer or designer under division (C)(1) of	504
this section;	505
(c) Notice stating that the developer or designer has	506
utilized reasonable means to contact the pipeline operator to	507
verify the location of the pipeline and pipeline rights-of-way.	508
Developers and designers who provide notice to the protection	509
service in accordance with division (A) of this section are	510
deemed to have complied with the notification requirement under	511
this division.	512
(d) Notice that the developer or designer has reviewed, or	513
attempted to review, preliminary information about the proposed	514

development with the pipeline operator and incorporated

requested adjustments into the plans.	516
(2)(a) Except as otherwise provided in division (E)(2)(b)	517
of this section, the developer or designer shall provide the	518
plans to the commercial excavator prior to entering into a	519
contract that involves such excavation. If the developer does	520
not prepare written plans or have any written plans prepared,	521
the developer shall otherwise provide the approximate locations,	522
identifying information on the utilities, information on	523
required adjustments, and any special notification requirements	524
to the commercial excavator before excavation begins.	525
(b) When the developer is a utility, the utility shall	526
provide either the plans or the approximate locations,	527
identifying information on the utilities, information on	528
required adjustments, and any special notification requirements	529
to the excavator before excavation begins.	530
(3) The developer or designer shall design the project	531
taking into account the approximate location of existing	532
underground utility facilities in order to prevent, as far as is	533
practicable, disturbance or interference with those facilities.	534
(4) When a project includes installation of new	535
underground utility facilities, the developer or designer shall	536
attempt to design the installation so that at least a twelve-	537
inch clearance is provided between the facilities. No facility	538
shall be installed with less than a twelve-inch clearance unless	539
the owners of existing facilities are notified, in writing,	540
prior to installation.	541
(F)(1) This section does not apply in the case of a	542
utility making emergency repair to its own underground utility	543
facility.	544

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(2) This section does not apply in the case of the owner	545
of the types of real property identified in divisions (C)(1) to	546
(4) of section 3781.25 of the Revised Code, unless the owner	547
employs a designer to make written plans for work that will	548
involve excavation. If the owner employs a designer, the	549
designer shall contact a protection service and utilities that	550
are limited basis participants in accordance with divisions (A)	551
and (B) of this section, and shall include in or with the plans	552
the information required under division (E) of this section. The	553
owner shall provide that information to the excavator.	554
(G) A public authority, as defined in section 153.64 of	555
the Revised Code, may withhold approval to a project until the	556
requirements of this section have been satisfied by the	557
developer and utility, as applicable. A public authority may	558
rely solely upon the notice submitted under division (E) of this	559
section when determining whether the requirements of this	560
section have been satisfied for purposes of granting final	561
approval of such development. A public authority is immune from	562
liability related to the approval or construction of such	563
development when the approval is based upon information as	564
provided in this division.	565
Sec. 3781.271. Beginning on July 1, 2013, each protection	566
service shall reasonably modify its one-call notification system	567
so as to permit the reasonable identification of the location of	568
a proposed excavation site—in a manner in which the protection—	569
service may then notify any potentially affected limited basis	570
participants. Each member of a protection service, including	571
limited basis participants, shall be responsible for providing	572

current contact information to the protection service.

Sec. 3781.28. (A) Except as otherwise provided in

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divisions (C), (D), (E), and (F) of this section, $\frac{\text{at least}}{\text{constant}}$	575
forty-eight hours but not more than ten working days before	576
commencing excavation, at least two working days, not including	577
the day of the notification, but not more than sixteen calendar	578
days before commencing excavation, the excavator shall notify a-	579
the protection service of the location of the excavation site	580
and the date on which excavation is planned to commence.	581
(B) On receipt of notice under division (A) of this	582
section, the protection service shall provide to each utility	583
with underground utility facilities located at the excavation	584
site, notice of the proposed excavation.	585
(C) In the case of an interstate hazardous liquids	586
pipeline or interstate gas pipeline, the excavator shall comply	587
with the special notice requirements of the public safety	588
program of the owner of the pipeline as indicated in the plans	589
or otherwise provided to the excavator in accordance with	590
division (E) or (F)(2) of section 3781.27 of the Revised Code.	591
(D) If it has been determined pursuant to division (D) of	592
section 3781.27 of the Revised Code that relocation, support,	593
removal, or protective steps are necessary, the excavator shall	594
provide earlier notice to the utility in order to provide the	595
utility with reasonable time to coordinate making the	596
adjustments with actual excavation.	597
(E) If an excavation will cover a large area and will	598

progress from one area to the next over a period of time, the

excavator shall provide written notice of excavation with

projected timelines for segments of the excavation as the

Under such circumstances, the utility and excavator shall

excavation progresses in order to coordinate the marking of

underground utility facilities with actual excavation schedules.

protection service.

determine a mutually agreed upon marking schedule based on the	605
project schedule. Once such a schedule is established, the	606
marking and notification requirements set forth in division (A)	607
(1) of section 3781.29 of the Revised Code shall not apply.	608
(F)(1) In the case of a utility that is making an	609
emergency repair to its own underground utility system or a	610
governmental entity making an underground emergency repair to	611
traffic control devices, as defined in section 4511.01 of the	612
Revised Code, used on any street or highway under the entity's	613
jurisdiction, the utility or governmental entity shall notify a	614
protection service and each limited basis participant of the	615
excavation site. This notice need not occur before commencing	616
excavation.	617
(2) In the case of an excavation at the site of real	618
property of the type described in divisions (C)(1) to (4) of	619
section 3781.25 of the Revised Code:	620
(a) If the owner of the property is the excavator, this	621
section does not apply unless the excavation is planned for an	622
area where a utility easement is located, a public right-of-way,	623
or where utility facilities are known to serve the property.	624
(b) If the owner of the property employs an excavator, the	625
excavator shall comply with the requirements of this section. If	626
the owner did not employ a designer to make written plans, the	627
excavator shall provide the notice required under this section	628
to a protection service—and to each utility that is a limited—	629
basis participant in a protection service that has underground-	630
utility facilities within the municipal corporation or township-	631
and county of the excavation site, as indicated by the	632

Sec. 3781.29. (A)(1) Except as otherwise provided in	634
division (A)(2) of this section, within forty-eight hours at	635
least two working days, not including the day of the	636
notification, of receiving notice under section 3781.28 of the	637
Revised Code, each utility shall review the status of its	638
facilities within the excavation site, locate and mark its	639
underground utility facilities at the excavation site in such a	640
manner as to indicate their course, and report the appropriate	641
information to the protection service for its positive response	642
system. If a utility does not mark its underground utility	643
facilities or contact the excavator within that time, the	644
utility is deemed to have given notice that it does not have any	645
facilities at the excavation site. If the utility cannot	646
accurately mark the facilities, the utility shall mark them to	647
the best of its ability, notify the excavator using the positive	648
response system that the markings may not be accurate, and	649
provide additional guidance to the excavator in locating the	650
facilities as needed during the excavation.	651

- (2) In the case of an interstate hazardous liquids pipeline or an interstate gas pipeline, the owner of the pipeline shall locate and mark its pipeline within the time frame established in the public safety program of the owner.
- (B) Unless a facility actually is uncovered or probed by the utility or excavator, any indications of the depth of the facility shall be treated as estimates only. (C) (1) Except as provided in division (C) (2) of this section, a utility shall mark its underground facilities using the following color codes:

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Sub. H. B. No. 227 As Passed by the House

	Facility		
В	Electric power transmission and distribution	Safety red	
С	Gas transmission and distribution	High visibility safety yellow	
D	Oil transmission and distribution	High visibility safety yellow	
E	Dangerous materials, product lines, and steam lines	High visibility safety yellow	
F	Telephone systems	Safety alert orange	
G	Police and fire communications	Safety alert orange	
Н	Cable television	Safety alert orange	
I	Water systems	Safety precaution blue	
J	Slurry systems	Safety precaution purple	
K	Sewer lines	Safety green.	
(2)	All underground facilities sha	all be marked in	662
accordanc	e with the Ohio universal mark:	ing standards that are on	663
file with the Ohio utilities protection service. Industry			664
representatives serving on Ohio damage prevention councils shall		665	
review the marking standards every two years.			666
(D)	Except as otherwise provided i	n divisions (E) and (F)	667
of this s	ection, prior to notifying a pr	rotection service of the	668

proposed excavation, an excavator shall define and premark the	669
approximate location. Proposed construction or excavation	670
markings shall be made in white through the use of an industry-	671
recognized method such as chalk-based paint, flags, stakes, or	672
other method applicable to the specific site and when possible	673
shall indicate the excavator's identity by name, abbreviation,	674
or initial.	675
(E)(1) Before beginning an emergency excavation, or as	676
soon as possible thereafter, an excavator shall make every	677
effort to notify a protection service of the excavation. In	678
providing notification, the excavator shall provide, at a	679
minimum:	680
(a) The name of the individual notifying the protection	681
service;	682
(b) The name, address, any electronic mail address, and	683
telephone numbers of the excavator;	684
(c) The specific location of the excavation site;	685
(d) A description of the excavation.	686
(2) Upon receiving the information set forth in division	687
(E)(1) of this section, the protection service shall provide the	688
excavator with a reference number and a list of utilities that	689
the protection service intends to notify. The protection service	690
shall immediately notify each utility that according to the	691
registration information provided under section 3781.26 of the	692
Revised Code has facilities located within the designated area	693
of the emergency excavation.	694
(3) Any utility notified of an emergency excavation may	695
inspect all of its underground utility facilities located at the	696

emergency excavation site and may take any otherwise lawful

As Passed by the House	
action it considers necessary to prevent disturbance to or	698
interference with its facilities during excavation.	699
(F) An excavator is not required to premark the	700
approximate location of an excavation as provided in division	701
(D) of this section in any of the following situations:	702
(1) The utility can determine the precise location,	703
direction, size, and length of the proposed excavation site by	704
referring to the notification provided by the protection service	705
pursuant to sections 3781.27 and 3781.28 of the Revised Code.	706
(2) The excavator and the affected utility have had an on-	707
site, preconstruction meeting for the purpose of premarking the	708
excavation site.	709
(3) The excavation involves replacing a pole that is	710
within five feet of the location of an existing pole.	711
(4) Premarking by the excavator would clearly interfere	712
with pedestrian or vehicular traffic control.	713
Section 2. That existing sections 153.64, 3781.25,	714
3781.26, 3781.27, 3781.271, 3781.28, and 3781.29 of the Revised	715

Sub. H. B. No. 227

Code are hereby repealed.

Page 26