

As Reported by the Senate Public Utilities Committee

130th General Assembly

Regular Session

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Sub. S. B. No. 378

Senator Coley

Cosponsors: Senators Peterson, Hite

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A B I L L

To amend sections 3781.25 and 4905.26 and to enact 1
sections 3781.34, 3781.341, 3781.342, 3781.343, 2
3781.36, 3781.38, 4905.041, 4913.01, 4913.03, 3
4913.05, 4913.07, 4913.09, 4913.13, 4913.15, 4
4913.151, 4913.152, 4913.16, 4913.17, 4913.171, 5
4913.19, 4913.20, 4913.21, 4913.22, 4913.23, 6
4913.25, 4913.251, 4913.252, 4913.26, 4913.27, 7
4913.29, 4913.30, 4913.31, 4913.43, 4913.45, 8
4913.47, 4913.50, and 4913.52 of the Revised Code 9
regarding the enforcement of the law governing the 10
protection of underground utility facilities. 11

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

Section 1. That sections 3781.25 and 4905.26 be amended and 12
sections 3781.34, 3781.341, 3781.342, 3781.343, 3781.36, 3781.38, 13
4905.041, 4913.01, 4913.03, 4913.05, 4913.07, 4913.09, 4913.13, 14
4913.15, 4913.151, 4913.152, 4913.16, 4913.17, 4913.171, 4913.19, 15
4913.20, 4913.21, 4913.22, 4913.23, 4913.25, 4913.251, 4913.252, 16
4913.26, 4913.27, 4913.29, 4913.30, 4913.31, 4913.43, 4913.45, 17
4913.47, 4913.50, and 4913.52 of the Revised Code be enacted to 18
read as follows: 19

Sec. 3781.25. As used in sections 3781.25 to ~~3781.32~~ 3781.38 20
of the Revised Code: 21

(A) "Protection service" means a notification center, but not 22
an owner of an individual utility, that exists for the purpose of 23
receiving notice from persons that prepare plans and 24
specifications for or that engage in excavation work, that 25
distributes this information to its members and participants, and 26
that has registered by March 14, 1989, with the secretary of state 27
and the public utilities commission of Ohio under former division 28
(F) of section 153.64 of the Revised Code as it existed on that 29
date. 30

(B) "Underground utility facility" includes any item buried 31
or placed below ground or submerged under water for use in 32
connection with the storage or conveyance of water or sewage; 33
electronic, telephonic, or telegraphic communications; television 34
signals; electricity; crude oil; petroleum products; artificial or 35
liquefied petroleum; manufactured, mixed, or natural gas; 36
synthetic or liquefied natural gas; propane gas; coal; steam; hot 37
water; or other substances. "Underground utility facility" 38
includes all operational underground pipes, sewers, tubing, 39
conduits, cables, valves, lines, wires, worker access holes, and 40
attachments, owned by any person, firm, or company. "Underground 41
utility facility" does not include a private septic system in a 42
one-family or multi-family dwelling utilized only for that 43
dwelling and not connected to any other system. 44

(C) "Utility" means any owner or operator, or an agent of an 45
owner or operator, of an underground utility facility, including 46
any public authority, that owns or operates an underground utility 47
facility. "Utility" does not include the owners of the following 48
types of real property with respect to any underground utility 49
facility located on that property: 50

(1) The owner of a single-family or two-, three-, or four-unit residential dwelling;	51 52
(2) The owner of an apartment complex;	53
(3) The owner of a commercial or industrial building or complex of buildings, including but not limited to, factories and shopping centers;	54 55 56
(4) The owner of a farm;	57
<u>(5) The owner of an exempt domestic well as defined in section 1509.01 of the Revised Code.</u>	58 59
(D) "Approximate location" means the immediate area within the perimeter of a proposed excavation site where the underground utility facilities are located.	60 61 62
(E) "Tolerance zone" means the site of the underground utility facility including the width of the underground utility facility plus eighteen inches on each side of the facility.	63 64 65
(F) "Working days" excludes Saturdays, Sundays, and legal holidays as defined in section 1.14 of the Revised Code and "hours" excludes hours on Saturdays, Sundays, and legal holidays.	66 67 68
(G) "Designer" means an engineer, architect, landscape architect, contractor, surveyor, or other person who develops plans or designs for real property improvement or any other activity that will involve excavation.	69 70 71 72
(H) "Developer" means the person for whom the excavation is made and who will own or be the lessee of any improvement that is the object of the excavation.	73 74 75
(I) "Excavation" means the use of hand tools, powered equipment, or explosives to move earth, rock, or other materials in order to penetrate or bore or drill into the earth, or to demolish any structure whether or not it is intended that the demolition will disturb the earth. "Excavation" includes such	76 77 78 79 80

agricultural operations as the installation of drain tile, but 81
excludes agricultural operations such as tilling that do not 82
penetrate the earth to a depth of more than twelve inches. 83
"Excavation" excludes any activity by a governmental entity which 84
does not penetrate the earth to a depth of more than twelve 85
inches. "Excavation" excludes coal mining and reclamation 86
operations regulated under Chapter 1513. of the Revised Code and 87
rules adopted under it. 88

(J) "Excavation site" means the area within which excavation 89
will be performed. 90

(K) "Excavator" means the person or persons responsible for 91
making the actual excavation. 92

(L) "Interstate gas pipeline" means an interstate gas 93
pipeline subject to the "Natural Gas Pipeline Safety Act of 1968," 94
82 Stat. 720, 49 U.S.C. 1671, as amended. 95

(M) "Interstate hazardous liquids pipeline" means an 96
interstate hazardous liquids pipeline subject to the "Hazardous 97
Liquid Pipeline Safety Act of 1979," 93 Stat. 1003, 49 U.S.C. 98
2002, as amended. 99

(N) "Special notification requirements" means requirements 100
for notice to an owner of an interstate hazardous liquids pipeline 101
or an interstate gas pipeline that must be made prior to 102
commencing excavation and pursuant to the owner's public safety 103
program adopted under federal law. 104

(O) "Commercial excavator" means any excavator, excluding a 105
utility as defined in this section, that satisfies both of the 106
following: 107

(1) For compensation, performs, directs, supervises, or is 108
responsible for the excavation, construction, improvement, 109
renovation, repair, or maintenance on a construction project and 110
holds out or represents oneself as qualified or permitted to act 111

as such;	112
(2) Employs tradespersons who actually perform excavation,	113
construction, improvement, renovation, repair, or maintenance on a	114
construction project.	115
(P) "Person" has the same meaning as in section 1.59 of the	116
Revised Code and also includes a public authority.	117
(Q) "Positive response system" means an automated system	118
facilitated by a protection service allowing a utility to	119
communicate to an excavator the presence or absence of any	120
conflict between the existing underground utility facilities and	121
the proposed excavation site.	122
(R) "One-call notification system" means the software or	123
communications system used by a protection system to notify its	124
membership of proposed excavation sites.	125
(S) "Project" means any undertaking by a private party of an	126
improvement requiring excavation.	127
(T) "Public authority" has the same meaning as in section	128
153.64 of the Revised Code.	129
(U) "Improvement" means any construction, reconstruction,	130
improvement, enlargement, alteration, or repair of a building,	131
highway, drainage system, water system, road, street, alley,	132
sewer, ditch, sewage disposal plant, water works, and all other	133
structures or works of any nature.	134
(V) "Emergency" means an unexpected occurrence causing a	135
disruption or damage to an underground utility facility that	136
requires immediate repair or a situation that creates a clear and	137
imminent danger that demands immediate action to prevent or	138
mitigate loss of or damage to life, health, property, or essential	139
public services.	140
(W) "Nondestructive manner" means using low-impact, low-risk	141

technologies such as hand tools, or hydro or air vacuum excavation equipment. 142
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(X) "Cable service provider" has the same meaning as in section 1332.01 of the Revised Code. 144
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(Y) "Electric cooperative" and "electric utility" have the same meanings as in section 4928.01 of the Revised Code. 146
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Sec. 3781.34. (A) There is hereby created the underground technical committee. 148
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(B) The committee shall consist of four members from the stakeholder group of the commercial excavator industry and one member from each of the following stakeholder groups: 150
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(1) The natural gas transmission pipeline industry; 153

(2) The natural gas distribution industry; 154

(3) Electric utilities; 155

(4) Electric cooperatives; 156

(5) A statewide organization representing independent oil and gas producers; 157
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(6) The telephone industry; 159

(7) Cable service providers; 160

(8) Locators of underground utility facilities; 161

(9) Municipal corporations; 162

(10) The department of transportation; 163

(11) The general public; 164

(12) The hazardous liquids pipeline industry; 165

(13) Designers, developers, or surveyors. 166

(C) The governor shall appoint seven members, the president of the senate shall appoint five members, and the speaker of the 167
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house of representatives shall appoint five members. The governor, 169
president, and speaker shall coordinate their appointments to 170
ensure that the membership of the committee consists of persons 171
from each of the stakeholder groups as described in division (B) 172
of this section. 173

(D) The terms of office for members initially appointed shall 174
be staggered at two, three, and four years and determined by lot, 175
except that the stakeholder group of the commercial excavator 176
industry shall have only one member with an initial two-year term. 177
The term of office for each member subsequently appointed shall be 178
four years. 179

(E) Each member may be reappointed for an unlimited number of 180
times. 181

(F) If a vacancy occurs during a member's term of office, a 182
new member shall be appointed in the same manner as the original 183
appointment. 184

Sec. 3781.341. A member of the underground technical 185
committee who has a conflict of interest in a particular review 186
under section 4913.15 of the Revised Code shall declare the 187
conflict to the committee and recuse self from committee 188
discussions and voting regarding that review. 189

Sec. 3781.342. (A) The underground technical committee may 190
conduct meetings in person, by teleconference, or by video 191
conference. 192

(B) The committee shall establish a primary meeting location 193
that is open and accessible to the public. 194

(C) Before convening a meeting by teleconference or video 195
conference, the committee shall send, via electronic mail, 196
facsimile, or United States postal service, a copy of 197
meeting-related documents to each committee member. 198

(D) The minutes of each meeting shall specify who was attending by teleconference, who was attending by video conference, and who was physically present. Any vote taken in a meeting held by teleconference that is not unanimous shall be recorded as a roll call vote. 199
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Sec. 3781.343. A member of the underground technical committee is not subject to the disclosure requirements of sections 102.02 and 102.021 of the Revised Code by virtue of membership on the committee. 204
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Sec. 3781.36. (A) The underground technical committee shall do the following: 208
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(1) Coordinate with the public utilities commission in carrying out its duties under Chapter 4913. of the Revised Code; 210
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(2) Provide subject matter expertise when requested during inquiries conducted under section 4913.09 of the Revised Code; 212
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(3) Review reports in accordance with section 4913.15 of the Revised Code; 214
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(4) Make recommendations under sections 4913.15 and 4913.16 of the Revised Code; 216
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(5) Perform any additional duties as may be required under this chapter. 218
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(B) The committee shall meet as necessary to carry out its duties and meet the time-period requirements of division (B) of section 4913.15 of the Revised Code, but not less than once every three months. A majority of committee members constitutes a quorum. 220
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Sec. 3781.38. Every member of the underground technical committee shall be immune, individually and jointly, from civil 225
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liability for any act or omission done or made in performance of 227
the member's duties while serving as a member of the committee, 228
but only in the absence of willful misconduct. 229

Sec. 4905.041. (A) The public utilities commission has 230
exclusive jurisdiction to enforce, in accordance with Chapter 231
4913. of the Revised Code, section 153.64, divisions (A) and (B) 232
of section 3781.26, sections 3781.27 and 3781.28 to 3781.32, and 233
Chapter 4913. of the Revised Code. 234

(B) The commission's enforcement authority described in 235
division (A) of this section is limited to actions specifically 236
authorized by Chapter 4913. of the Revised Code. 237

(C) Nothing in this section or Chapter 4913. of the Revised 238
Code gives the commission or the underground technical committee, 239
created under section 3781.34 of the Revised Code, the authority 240
to determine the civil liability of any person for any compliance 241
failure as that term is defined in section 4913.01 of the Revised 242
Code. 243

Sec. 4905.26. Upon complaint in writing against any public 244
utility by any person, firm, or corporation, or upon the 245
initiative or complaint of the public utilities commission, that 246
any rate, fare, charge, toll, rental, schedule, classification, or 247
service, or any joint rate, fare, charge, toll, rental, schedule, 248
classification, or service rendered, charged, demanded, exacted, 249
or proposed to be rendered, charged, demanded, or exacted, is in 250
any respect unjust, unreasonable, unjustly discriminatory, 251
unjustly preferential, or in violation of law, or that any 252
regulation, measurement, or practice affecting or relating to any 253
service furnished by the public utility, or in connection with 254
such service, is, or will be, in any respect unreasonable, unjust, 255
insufficient, unjustly discriminatory, or unjustly preferential, 256

or that any service is, or will be, inadequate or cannot be 257
obtained, and, upon complaint of a public utility as to any matter 258
affecting its own product or service, if it appears that 259
reasonable grounds for complaint are stated, the commission shall 260
fix a time for hearing and shall notify complainants and the 261
public utility thereof. The notice shall be served not less than 262
fifteen days before hearing and shall state the matters complained 263
of. The commission may adjourn such hearing from time to time. 264

The parties to the complaint shall be entitled to be heard, 265
represented by counsel, and to have process to enforce the 266
attendance of witnesses. 267

This section does not apply to matters governed by Chapter 268
4913. of the Revised Code. 269

Sec. 4913.01. As used in this chapter: 270

(A) "Aggrieved person" means a person with duties and 271
obligations under sections 153.64, 3781.27, and 3781.28 to 3781.32 272
of the Revised Code and divisions (A) and (B) of section 3781.26 273
of the Revised Code and who is directly involved with or impacted 274
by the alleged compliance failure, as identified in the request 275
for inquiry, of another person with duties and obligations under 276
sections 153.64, 3781.27, and 3781.28 to 3781.32 of the Revised 277
Code and divisions (A) and (B) of section 3781.26 of the Revised 278
Code. 279

(B) "Compliance failure" means a failure to comply with any 280
provision of sections 153.64, 3781.27, and 3781.28 to 3781.32 of 281
the Revised Code and divisions (A) and (B) of section 3781.26 of 282
the Revised Code. 283

(C) "Designer," "developer," "excavation," "excavator," 284
"one-call notification system," "person," "protection service," 285
"underground utility facility", and "utility" have the same 286

meanings as in section 3781.25 of the Revised Code. 287

Sec. 4913.03. (A) Each utility, excavator, developer, and 288
designer who participates in the one-call notification system 289
shall register with the public utilities commission and pay a 290
safety registration not to exceed fifty dollars annually, which 291
the commission may lower if the commission determines lowering the 292
registration to be necessary. The commission shall administer and 293
oversee the registration process. Failure to register shall result 294
in a fine of not more than two thousand five hundred dollars. 295

(B) The commission shall deposit all safety registrations and 296
finances collected under this section in the underground facilities 297
protection administrative fund created under section 4913.30 of 298
the Revised Code. 299

Sec. 4913.05. (A) Beginning January 1, 2016, an aggrieved 300
person may request an inquiry with the staff of the public 301
utilities commission seeking the imposition, in accordance with 302
this chapter, of a fine or penalty on the person responsible for 303
the alleged compliance failure described in division (A) of 304
section 4913.01 of the Revised Code. The person shall make the 305
request not later than ninety days after discovering the alleged 306
compliance failure. The request shall not, by itself, cause the 307
creation of a formal proceeding at the commission. 308

(B) A request made under this section shall state, at a 309
minimum and with particularity, the name of the person responsible 310
for the alleged compliance failure, the date of the compliance 311
failure, the nature of the compliance failure, the location of the 312
compliance failure, and any other information that the requestor 313
considers relevant. 314

(C) The staff shall, not later than ten business days after 315
receiving a request under this section, notify the person 316

responsible for the alleged compliance failure that the request 317
was made. 318

Sec. 4913.07. If a request for an inquiry is made under 319
section 4913.05 of the Revised Code, the person responsible for 320
the alleged compliance failure may, not later than thirty days 321
after being notified under that section, respond to the request, 322
providing any information that the person considers relevant to 323
the request. The response may include an admission of the 324
compliance failure. 325

Sec. 4913.09. (A) The staff of the public utilities 326
commission shall conduct an inquiry upon receiving a request made 327
under section 4913.05 of the Revised Code. The inquiry shall be 328
limited to whether there was a compliance failure. 329

(B) During an inquiry conducted under this section, the staff 330
shall examine relevant facts regarding the alleged compliance 331
failure and may request records verification, informal meetings, 332
teleconferences, photo documentation, and any other documentation 333
or information relevant to the inquiry. 334

Sec. 4913.13. The staff of the public utilities commission 335
shall make a report of each inquiry conducted under section 336
4913.09 of the Revised Code available to the underground technical 337
committee, created under section 3781.34 of the Revised Code. The 338
report shall contain any admission made under section 4913.07 of 339
the Revised Code by the person who is the subject of the inquiry. 340
This report shall not contain a recommendation as to the 341
imposition of a fine or penalty or as to whether no enforcement 342
action should be taken. 343

Sec. 4913.15. (A) The underground technical committee shall 344
review every report of the staff of the public utilities 345

commission made available under section 4913.13 of the Revised Code or submitted under section 4913.16 of the Revised Code. 346
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(B) Not later than ninety days after the committee obtains the staff's report under section 4913.13 of the Revised Code, the committee shall do any of the following: 348
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(1) Make a written recommendation to the commission as to the imposition of a fine, a penalty, or a combination of fines and penalties, in accordance with section 4913.151 of the Revised Code; 351
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(2) Determine that no enforcement action should be taken and notify the commission in writing of the determination; 355
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(3) Request a hearing under section 4913.19 of the Revised Code. 357
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(C) There shall be a majority vote of the full committee, with at least one of the commercial-excavator stakeholders voting with the majority, for the committee to do any of the following: 359
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(1) Recommend a fine, penalty, or a combination of fines and penalties under this section or section 4913.16 of the Revised Code; 362
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(2) Determine, under this section or section 4913.16 of the Revised Code, that no enforcement action should be taken; 365
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(3) Request a hearing under section 4913.19 of the Revised Code. 367
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If the committee fails to achieve the required majority for any action described in division (C) of this section, it shall notify the commission. 369
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Sec. 4913.151. In determining a fine or penalty recommendation as required under section 4913.15 or 4913.16 of the Revised Code: 372
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(A) If the compliance failure is the first for the person 375
responsible, the underground technical committee may recommend a 376
penalty of a training requirement, an education requirement, or 377
another nonmonetary penalty, or may recommend a fine not exceeding 378
two thousand five hundred dollars, or may recommend a combination 379
of this fine and these penalties. 380

(B) If the compliance failure is a subsequent compliance 381
failure for the person responsible, the committee may recommend a 382
penalty of a training requirement, an education requirement, or 383
another nonmonetary penalty, or may recommend a fine not exceeding 384
five thousand dollars, or may recommend a combination of this fine 385
and these penalties. 386

(C) Any penalty recommended under this section shall be 387
appropriately related to enforcement of the provisions enumerated 388
in division (A) of section 4905.041 of the Revised Code. 389

Sec. 4913.152. The underground technical committee may 390
communicate with persons who have knowledge or information 391
concerning the alleged compliance failure as part of the 392
committee's review under section 4913.15 of the Revised Code and 393
to assist the committee in making recommendations under that 394
section and section 4913.16 of the Revised Code. 395

Sec. 4913.16. (A)(1) If the underground technical committee 396
votes during the ninety-day time period as required under division 397
(B) of section 4913.15 of the Revised Code but fails to achieve 398
the required majority as described in division (C) of that 399
section, no enforcement action shall be taken. 400

(2) If the committee, during the ninety-day time period, 401
fails to vote on any action as required under division (B) of 402
section 4913.15 of the Revised Code, the staff of the public 403
utilities commission shall make a recommendation as to a fine or 404

penalty or no enforcement. The staff shall cause the initial 405
report made available under section 4913.13 of the Revised Code to 406
be amended to add the recommendation, and shall submit the amended 407
report to the committee. 408

(B) Not later than thirty days after the committee receives 409
an amended report under division (A)(2) of this section, the 410
committee shall do any of the following, subject to division (C) 411
of section 4913.15 of the Revised Code: 412

(1) Make a written recommendation to the commission as to the 413
imposition of a fine, penalty, or a combination of fines and 414
penalties in accordance with section 4913.151 of the Revised Code; 415

(2) Determine that no enforcement action should be taken and 416
notify the commission in writing of the determination; 417

(3) Request a hearing under section 4913.19 of the Revised 418
Code. 419

(C)(1) If the committee votes during the thirty-day time 420
period as required under division (B) of this section but fails to 421
achieve the required majority as described in division (C) of 422
section 4913.15 of the Revised Code, no enforcement action shall 423
be taken. 424

(2) If the committee fails to vote on any action as required 425
under division (B) of this section, the commission shall impose a 426
fine or penalty consistent with section 4913.151 of the Revised 427
Code or take no enforcement action. The commission shall inform 428
the committee of its decision. 429

Sec. 4913.17. (A) Based upon the number and type of 430
compliance failures committed by a person, the underground 431
technical committee may find, as part of the committee's review 432
under section 4913.15 of the Revised Code, that the person is a 433
persistent noncomplier. 434

(B) The committee shall report a finding made under division 435
(A) of this section to the staff of the public utilities 436
commission. 437

(C) There shall be a majority vote of the full committee, 438
with at least one of the commercial-excavator stakeholders voting 439
with the majority, for the committee to make a finding under 440
division (A) of this section. 441

Sec. 4913.171. If the underground technical committee reports 442
that a person responsible for a compliance failure has been found 443
to be a persistent noncomplier under section 4913.17 of the 444
Revised Code, the public utilities commission may impose a fine on 445
the person not exceeding ten thousand dollars. A penalty 446
recommended by the committee under section 4913.15 or 4913.16 of 447
the Revised Code may also be imposed by the commission. 448

Sec. 4913.19. In lieu of making a recommendation of a fine or 449
penalty or a no-enforcement determination, the underground 450
technical committee may request an administrative hearing with the 451
public utilities commission if the committee believes that any 452
person responsible for a compliance failure should be subject to a 453
fine or penalty exceeding those described in section 4913.151 of 454
the Revised Code. As a result of the hearing, the commission shall 455
impose a fine or penalty or take no enforcement action. 456

Sec. 4913.20. In determining a fine or penalty recommendation 457
or imposition or whether no enforcement action should be taken 458
under section 4913.15, 4913.16, 4913.171, 4913.19, or 4913.25 of 459
the Revised Code, the underground technical committee, the public 460
utilities commission, and the commission staff, as applicable, 461
shall consider the following factors, as they apply: 462

(A) The person's demonstrated history of one-call, design, 463
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<u>and excavation practices, including the following:</u>	465
<u>(1) The number of locate requests received and responded to;</u>	466
<u>(2) The number of locates completed;</u>	467
<u>(3) The number of one calls placed;</u>	468
<u>(4) The number of excavations completed;</u>	469
<u>(5) The number of design or development projects.</u>	470
<u>(B) The nature, circumstances, and gravity of the compliance failure, including the amount of damage involved in relation to the compliance failure, and whether it resulted in death, serious injury, dismemberment, or a significant threat to public safety;</u>	471
<u>(C) The organizational size of the responsible person;</u>	472
<u>(D) The prospective effect of a fine on the person's ability to pay business obligations and otherwise conduct business;</u>	473
<u>(E) The history or number of compliance failures by the person;</u>	474
<u>(F) The good faith effort on the person's part in attempting to achieve compliance after the compliance failure was identified.</u>	475
<u>Sec. 4913.21. Except as provided in sections 4913.171 and 4913.19 of the Revised Code, the public utilities commission shall impose every recommendation made under section 4913.15 or 4913.16 of the Revised Code by the underground technical committee.</u>	476
<u>Sec. 4913.22. A person subject to a fine imposed under section 4913.171, 4913.19, or 4913.21 of the Revised Code or division (C)(2) of section 4913.16 of the Revised Code shall pay the fine not later than sixty days after the fine or penalty is imposed. A person subject to a penalty imposed under any of those sections or that division shall begin compliance with the penalty not later than thirty days after the penalty is imposed.</u>	477
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Sec. 4913.23. The public utilities commission shall, by 493
letter, promptly notify the person that requested the inquiry and 494
the person responsible for the compliance failure of any fine or 495
penalty imposed under section 4913.171, 4913.19, or 4913.21 of the 496
Revised Code or division (C)(2) of section 4913.16 of the Revised 497
Code, or of a no-enforcement determination under section 4913.15 498
or 4913.19 of the Revised Code or division (A)(1) or (C)(1) of 499
section 4913.16 of the Revised Code. The notice shall include all 500
of the following, as applicable: 501

(A) The date of the compliance failure; 502

(B) The citation to the statute that was not complied with; 503

(C) A brief description of the compliance failure; 504

(D) The fine or penalty to be imposed, if any; 505

(E) Instructions on how to remit payment of a fine or to 506
comply with a penalty; 507

(F) Instructions on how the person may file for 508
reconsideration under section 4913.25 of the Revised Code and how 509
to make a timely filing; 510

(G) A statement that failure to file for reconsideration 511
under section 4913.25 of the Revised Code will make any findings 512
final and enforceable. 513

Sec. 4913.25. (A) If either the person that requested the 514
inquiry or the person responsible for the compliance failure 515
disagrees with either a finding or a no-enforcement determination 516
made by the underground technical committee under section 4913.15, 517
4913.16, 4913.17, or 4913.19 of the Revised Code, either person 518
may, not later than thirty days after receiving notice under 519
section 4913.23 of the Revised Code, file a written application 520
with the public utilities commission for reconsideration of the 521

committee's finding. The application for reconsideration must 522
state with particularity the grounds for reconsideration. 523

(B) Upon the filing of an application for reconsideration 524
under this section, the commission shall formally review the 525
finding of the committee. 526

(C) The commission may hold a hearing on the application for 527
reconsideration. 528

(D) The commission shall affirm, reject, or modify the 529
finding of the committee and shall impose any fine or penalty 530
authorized under this chapter or take no enforcement action. The 531
person responsible for the compliance failure shall pay any fine 532
not later than sixty days after the fine is imposed by the 533
commission. A person subject to a penalty shall begin compliance 534
with the penalty not later than thirty days after the penalty is 535
imposed by the commission. 536

Sec. 4913.251. A reconsideration order issued under section 537
4913.25 of the Revised Code is subject to the rehearing and appeal 538
process under Chapter 4903. of the Revised Code. 539

Sec. 4913.252. All hearings conducted by the public utilities 540
commission under this chapter and under the process described in 541
section 4913.251 of the Revised Code shall be conducted in a 542
manner consistent with Chapter 4903. of the Revised Code. 543

Sec. 4913.26. Any documentation obtained pursuant to an 544
inquiry conducted under section 4913.09 of the Revised Code, 545
communications described in section 4913.152 of the Revised Code, 546
or an administrative hearing conducted under section 4913.19 of 547
the Revised Code shall be treated as confidential until a formal 548
proceeding is commenced under section 4913.25 of the Revised Code, 549
at which time the parties to the proceeding shall be bound by the 550

rules of the public utilities commission governing discovery in 551
matters pending before it. 552

Sec. 4913.27. Except for safety registrations and fines 553
collected under section 4913.03 of the Revised Code, the public 554
utilities commission shall deposit all fines collected under this 555
chapter into the underground facilities protection fund created 556
under section 4913.29 of the Revised Code. 557

Sec. 4913.29. There is hereby created in the state treasury 558
the underground facilities protection fund. The fund shall consist 559
of all fines collected under this chapter, except for safety 560
registrations and fines collected under section 4913.03 of the 561
Revised Code. The fund shall retain the interest earned. The 562
amounts in the fund shall be used solely to fund grants under 563
section 4913.31 of the Revised Code. 564

Sec. 4913.30. There is hereby created in the state treasury 565
the underground facilities protection administrative fund to be 566
administered by the public utilities commission. The fund shall 567
consist of all safety registrations and fines collected under 568
section 4913.03 of the Revised Code. The fund shall retain the 569
interest earned. The amounts in the fund shall be used for the 570
operation of the underground technical committee, created under 571
section 3781.34 of the Revised Code, and the commission in the 572
performance of its duties under this chapter. 573

Sec. 4913.31. (A) The public utilities commission may 574
administer an underground utility damage prevention grant program 575
to provide grants for any of the following purposes: 576

(1) Public awareness programs established by a protection 577
service; 578

(2) Training and education programs for excavators, 579

operators, designers, persons who locate underground utility facilities, or other persons; 580
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(3) Programs providing incentives for excavators, operators, persons who locate underground utility facilities, or other persons to reduce the number and severity of compliance failures. 582
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(B) The commission shall determine the appropriate amount of any grant issued under this section. 585
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Sec. 4913.43. The public utilities commission shall submit to the general assembly an annual report of the previous year's activities under this chapter. Each report shall be submitted on or before April 1. Each report shall be made publicly available on the commission's web site. 587
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Sec. 4913.45. (A) The public utilities commission shall, in consultation with the underground technical committee, adopt rules under section 111.15 of the Revised Code to carry out this chapter. The rules shall include all of the following: 592
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(1) Guidelines for consistent application of fines and penalties under this chapter; 596
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(2) Tracking compliance of persons on whom fines or penalties have been imposed under this chapter; 598
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(3) The required contents of the underground utility damage prevention grant program established under section 4913.31 of the Revised Code; 600
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(4) The gathering, review, and acceptance of applications for a grant under section 4913.31 of the Revised Code; 603
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(5) The dispensation and tracking of money from the underground facilities protection fund; 605
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(6) The committee's duties, including rules that establish the committee's operation, meeting schedule, and voting 607
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procedures; 609

(7) The contents of the annual report required under section 4913.43 of the Revised Code; 610
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(8) The process related to collecting the registration under section 4913.03 of the Revised Code. 612
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(B) The commission may adopt rules establishing the following: 614
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(1) Procedures for conducting inquiries under section 4913.09 of the Revised Code; 616
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(2) Any other duties for the underground technical committee pursuant to section 3781.36 of the Revised Code. 618
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Sec. 4913.47. Notwithstanding any provision of the Revised Code to the contrary, if a person is subject to more than one fine for the same compliance failure, and one fine is imposed under this chapter and one or more other fines are imposed under federal law, rules, or regulations, the person shall not be required to pay the fine imposed under this chapter. 620
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Sec. 4913.50. Any proceeding held under this chapter, any no-enforcement determination under this chapter, and any fine or penalty imposed under this chapter shall neither prevent nor preempt the right of any party to obtain civil damages for personal injury or property damage in a private cause of action. No finding, determination, or recommendation of the underground technical committee, no decision of the public utilities commission under this chapter, and no no-enforcement determination under this chapter shall be determinative of civil liability in a private cause of action for personal injury or property damage. 626
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Sec. 4913.52. A person with a permit for excavation from the state or a local governmental unit is subject to this chapter. 636
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This chapter does not affect or impair local ordinances, charters,
or other provisions of law requiring permits to be obtained before
excavating. 638
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Section 2. That existing sections 3781.25 and 4905.26 of the 641
Revised Code are hereby repealed. 642