## Local Government Mandate Statement Kentucky Legislative Research Commission 2019 Regular Session

## **Part I: Measure Information**

Bill Request #: 1137			
Bill #: SB 129			
Document ID #: 2520			
Bill Subject/Title: AN ACT relating to underground facility protection.			
Sponsor: Senator Paul Hornback			
Unit of Government: x City x County x Urban-County Unified Local x Charter County x Consolidated Local x Government			
Office(s) Impacted: Municipal and county operated utilities; county clerks			
Requirement: <u>x</u> Mandatory <u>x</u> Optional			
Effect on Powers & Duties:x _ Modifies Existingx _ Adds Newx _ Eliminates Existing			

## Part II: Bill Provisions and the Estimated Fiscal Impact Relating to Local Government

The fiscal impact of SB 129 is indeterminate and may range from minimal to significant.

The sections of SB 129 directly affecting local governments are as follows:

Section 2 of SB 129 amends KRS 367.4909 to require all utility operators with underground facilities located in Kentucky to be members of the Kentucky Contact Center (KY 811) and establishes a phase-in period for mandatory membership. The Act provides that excavators will not be liable for damages to the underground facilities of KY 811 non-members after December 31, 2023.

Section 4 of SB 129 eliminates the requirement that county clerks receive and maintain a list (provided by protection notification centers) of the protection notification centers' utility operators member identities, their business addresses, and their business and emergency telephone numbers.

The total number of municipal and county operated utilities (e.g., water districts) that would be affected by this bill is unknown. One immediate **direct cost to new members of KY 811 would be notification ticket fees, currently about \$1.50 per ticket**. Nonmember utility operators currently do not pay these notification ticket fees. However, nonmember utility operators are currently required to support personnel in their own required "Protection Notification Centers". These personnel are predominately employees of the utility operator.

Conceivably, depending on how a universal membership in KY 811 is structured, and the extent to which a non-member utility is presently supporting and/or operating a protection notification contact center (i.e., personnel), these personnel costs could be reduced or offset if relocated to the Kentucky Contact Center.

The Kentucky Rural Water Association (of which about 2/3 of its members are non-members of KY 811) does not identify such potential reductions in costs. The Association provided information from four water districts (Warren, Butler, Simpson, and Oldham counties) and states that with an estimated ticket fee cost of \$1.50 per ticket, participation in KY 811 would be approximately \$40,000 per year for these four water districts combined. Additionally, these four water districts believe that they would be required to hire additional personnel to adhere to the requirements established by being an operator with the Kentucky Contact Center.

Similarly, the Kentucky League of Cities (KLC) anticipates moderate to significant cost increases resulting from SB 129. According to KLC, 77 cities currently participate in the "call before you dig" program. However, statewide around 200 cities offer some type of utility (water, sewer, gas, electric, and/or telecommunications). KLC notes that KY 811 bylaws state that "each General Member shall be required to pay periodic fees determined by the Board of Directors" and "the establishment of a fee(s) or the adjustment to any existing fee or charge requires an affirmative vote by a majority of the Board of Directors."

KLC calculates an average cost associated with each utility at approximately \$7,800 per utility, resulting in about \$1 million more in cost for those Kentucky cities that do not currently participate in the KY 811 program. KLC notes that fees would be associated with the number of tickets associated with their service area, thus roughly correlating with the number of consumers served by the utility.

In addition to the above costs, KLC cites associated administrative costs, such as providing data and/or maps indicating service areas, and updating those annually as required in the legislation, and also when any changes are made. Also, KLC states that, for regular requests, city utilities would only have two business days to respond to an inquiry, and many cities have small utility operations with few full-time employees. The mandated quick turnaround time could lead to staffing or overtime concerns for these smaller utilities.

In summary, the costs or potential cost savings for a utility will depend on multiple factors, such as the extent of a utility's underground facilities, the extent of a utility's current support for its required protection notification contact center, and the

structure, function and responsiveness of a Kentucky Contact Center functioning in compliance with the provisions of SB 129, and benefiting from any economies of scale and digital automation as it serves all utilities in the state.

There will be time and effort cost savings for county clerks who will no longer be responsible for maintaining and providing lists of protection notification centers.

## Part III: Differences to Local Government Mandate Statement from Prior Versions

The Part II section above pertains to the bill as introduced and there are not any prior introduced versions of the bill to complete the Part III section.

Data Source(s):	Kentucky Rural Water Association; Oldham County Water District; Warren, Butler, and Simpson County Water District; LRC staff; Kentucky	
	League of Cities	
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