

The bill amends KRS 367.4911 to require excavators that find evidence of an unmarked underground facility to notify the protection notification centers and give the operators 6 hours to identify the facility. SB 14 provides that if an operator of underground facilities (other than one transporting gas or hazardous liquids or transmitting electricity) fails to respond to locate requests and to update the positive response system the excavator shall not be liable for damages resulting from the operator's failure to comply with the duties provided in the Underground Facility Damage Prevention Act of 1994.

The Act provides that operator members “**provide**” (deleting “record”) addresses and emergency telephone numbers to county clerks and amends KRS 367.4913 clarifying duties of the protection notification centers; requiring centers to maintain certain information for 5 years, and filing annual reports with the Governor and the Legislative Research Commission.

The Kentucky League of Cities (KLC) states that the positive response system would involve some costs in set up and operation, turnaround times are short, and there would be some cost in keeping the records for at least five years. KLC is mostly concerned about the waiver of civil liability in Section 3(12) and the potential costs involved. However, the waiver of civil ability only arises after a second opportunity to respond and it doesn’t exclude intentional or negligent conduct. Over half of city utilities have chosen not to join the statewide KY 811 service, due to the membership and response fees associated with it. If KY 811 creates a positive response system as a result of SB 165, cities could join it, but at additional costs.

The Kentucky Rural Water Association has not recorded a position on the bill other than to note that it does not mandate membership requirements for water and wastewater utilities.

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

The Part II section above pertains to the bill as introduced.

Data Source(s): Kentucky Rural Water Association; LRC staff; Kentucky League of Cities; Kentucky Municipal Utilities Association; Kentucky Association of County Clerks

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