

**REVISED**  
**SESSION OF 2023**

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2226**

As Recommended by House Committee on  
Energy, Utilities and Telecommunications

**Brief\***

HB 2226 would amend the Kansas Underground Utility Damage Prevention Act regarding excavation notification and whitelining [*i.e.*, the marking of a site for excavation].

The bill would change several definitions, including updating the definition of whitelining to allow for virtual whitelining with the use of technology and make several changes to notification and location requirements including, but not limited to, extending the maximum allowable number of days for notice of intent to excavate from 15 to 20 days, and requiring immediate notification of contact or damage to underground facilities.

***Definition Changes***

The bill would change the definition of “permitted project” by requiring a permit applicant to serve notice to all underground facility operators of an intent to excavate instead of locating such facilities in the area of work.

Further, the bill would change the definition of “tolerance zone” to mean not more than 24 inches outside the dimensions of an underground facility for facilities in which a larger tolerance zone has not been established in rules and regulations by the Kansas Corporation Commission (KCC), or

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

not more than 60 inches outside the dimensions of an underground water or waste water facility.

The bill would amend the definition of “whitelining” to include the use of technology developed for the purpose of the identification of routes or boundaries, allowing an excavator to provide a virtual excavation path when applying for a ticket.

### ***Notification and Location Requirements***

The bill would also increase the maximum number of calendar days for a notice to excavate to be served from 15 to 20. Furthermore, the bill would increase the number of calendar days an intent to excavate notification is valid from 15 to 20, and allow the KCC to adjust, notwithstanding the statutory maximum, the extent of time that a notice is valid through the rules and regulations process.

The bill would also change the two-working-day notification requirement for providing tolerance zone locations to a determination made by the KCC in rules and regulations, and would no longer require an operator, after notification from an excavator, to re-identify tolerance zones whose physical identifiers have been improperly removed or altered within one day of notification from the notification center.

The bill would require individuals filing a notice of intent to excavate to whitenline the site at the request of the operator in all instances, and remove the requirement that a whitenline must be completed prior to facility locations being identified.

### ***Notification of Damage***

The bill would require an excavator to immediately notify an underground facility operator and the notification center when contact or damage has been made to an underground facility. The bill would also require the notification center to

contact the underground facility operator when such contact or damage occurs.

The bill would change the notification threshold for civil action when there is a failure of an operator to inform the excavator of the tolerance zone of the underground facility from two working days to “prior to the excavation start date.”

### ***Technical Changes***

The bill would make several technical changes, remove reference to prior dates, and clarify what does not constitute a facility.

### ***Effective Date***

The bill would become effective on January 1, 2024, and its publication in the statute book.

### **Background**

The bill was introduced by the House Committee on Energy, Utilities and Telecommunications at the request of a representative of the KCC.

### ***House Committee on Energy, Utilities and Telecommunications***

In the House Committee hearing, representatives of the KCC, Kansas Gas Service, and K&W Underground provided **proponent** testimony, generally stating the bill would increase project efficiency and communication between excavators, utility operators, and its locators through the introduction of virtual whitelining. Proponents also stated that the extension of ticket life from 15 to 20 days will help reduce the number of updated tickets called in. Finally, proponents expressed that the bill would benefit public safety by requiring

excavators to immediately report damages to the Kansas Notification Center and assist in reducing costs incurred from damage to utilities.

Written-only proponent testimony was provided by AT&T.

Written-only neutral testimony was provided by representatives of Black Hills Energy and the City of Overland Park, who generally supported the provisions in the bill allowing for virtual whitelining and prompt notification of damage to underground facilities, but opposed the extension of ticket life.

**Opponent** testimony was provided by a representative of the US Infrastructure Company (USIC), Central Plains Region, who expressed public safety concerns over the extension of ticket life from 15 to 20 days. Generally, opponent testimony expressed to the Committee that the bill would draw out the time it takes to address open excavation site tickets and would be compounded further by the renewal of existing tickets.

### **Fiscal Information**

According to the fiscal note prepared by the Division of Budget on the bill, the KCC indicates enactment of the bill would have no fiscal effect on agency operations, and the League of Kansas Municipalities notes the bill would have no fiscal impact on cities.

Virtual whitelining; notice of excavation; Kansas Corporation Commission; Kansas Underground Utility Damage Prevention Act; underground facility