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MEMORANDUM

To: Senate Committee on Utilities
From: Office of Revisor of Statutes
Date: March 14, 2023
Subject: Bill Brief - HB 2226

House bill 2226 revises the Kansas underground utility damage prevention act. This act requires excavators to conduct excavations in a safe manner by knowing where underground facilities are located before digging, excavating, or trenching.

HB 2226 amends the definition of white lining to add an option for an excavator to mark the proposed excavation site through virtual white lining of the proposed location. An excavator is required to white line the proposed excavation site before locates are performed if requested by the operator of the underground facility. Currently, the law only contemplates physical white lining with white paint, stakes, or flags.

The bill amends the definition of “permitted project” to clarify that an applicant must provide a notice of intent to excavate to all operators of underground facilities for projects that require a municipal, state or federal permit to conduct such work. Current law requires such an applicant to 'locate' the underground facilities and provide notice to each facility operator before excavation.

HB 2226 amends the time period for a person to provide a notice of intent to excavate to the notification center. Currently, a notice of intent to excavate shall be given at least 2 days but not more than 15 days before the anticipated excavation start date. HB 2226 extends the number of days that an excavator may serve such notice to not more than 20 days before the anticipated excavation start date. HB 2226 would also allow the KCC to adjust the timing of such notices through rules and regulations.

In addition to providing prompt notice of proposed excavations to operators, HB 2226 would require that the notification center also provide prompt reports of damage or contact with an underground facility to any affected operators.

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HB 2226 would also amend the time period for operators to mark the tolerance zone of their underground facilities. Currently, K.S.A. 66-1806 requires operators to mark the tolerance zone of their underground facilities within two working days after receipt of a notice of intent to excavate or after the excavator has white lined the excavation site. HB 2226 would remove this two working day requirement for locates and would authorize the KCC to establish through rules and regulations the required time frame for an operator to provide locates. HB 2226 would also amend the provision that authorizes a court to award economic damages if an operator fails to locate facilities.

Current law provides that an operator's failure to mark facilities within the two-day requirement shall not give rise to a cause of action against the operator for damages. The bill would amend this provision to provide that failure to mark facilities before the excavation start date shall not give rise to a cause of action.

HB 2226 would also amend state law to provide that when there is contact or damage to an underground facility, an excavator shall immediately notify the operator of the facility and the notification center. Currently, an excavator is only required to notify the operator of the underground facility.

Lastly, the bill also makes various technical revisions throughout the amended statutes.