

HB1173\_L.001

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Transportation & Local Government.

HB20-1173 be amended as follows:

1 Amend printed bill, page 3, after line 11 insert:

2 "SECTION 2. In Colorado Revised Statutes, 9-1.5-103, amend  
3 (4)(b) as follows:

4 **9-1.5-103. Plans and specifications - notice of excavation -  
5 duties of excavators - duties of owners and operators - fee - repeal.**

6 (4) (b) The marking of underground facilities shall be considered valid  
7 so long as the markings are clearly visible, but not for more than thirty  
8 calendar days following the due date of the locate request initiated  
9 pursuant to subsection (3) of this section. ~~except that, if an excavation  
10 notice is limited to only annual road maintenance that does not exceed six  
11 inches in depth conducted by a government agency on an existing  
12 unpaved road, the marking shall be considered valid for up to one  
13 hundred eighty days. Upon receipt of the notification, an owner or  
14 operator has ten business days to coordinate the excavation activity with  
15 the government agency. If an excavation has not been completed within  
16 the applicable THIRTY-DAY period, the excavator shall notify the  
17 notification association at least two business days, not including the day  
18 of actual notice, before the end of the applicable THIRTY-DAY period."~~

19 Renumber succeeding section accordingly.

\*\* \*\* \*\* \*\* \*\*

Second Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0750.01 Jason Gelender x4330

HOUSE BILL 20-1173

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**A BILL FOR AN ACT**

101    **CONCERNING EXCAVATION NOTIFICATION REQUIREMENTS FOR**  
102            **UNDERGROUND FACILITY LOCATION IN CONNECTION WITH**  
103            **COUNTY ROAD MAINTENANCE, AND, IN CONNECTION**  
104            **THEREWITH, SPECIFYING THAT EXCAVATION DOES NOT INCLUDE**  
105            **ROUTINE OR EMERGENCY MAINTENANCE OF RIGHT-OF-WAY ON**  
106            **COUNTY-OWNED GRAVEL OR DIRT ROADS THAT DOES NOT**  
107            **LOWER THE EXISTING GRADE OR ELEVATION OF THE ROAD,**  
108            **SHOULDER, AND DITCHES AND THAT DOES NOT DISTURB MORE**  
109            **THAN SIX INCHES IN DEPTH DURING MAINTENANCE OPERATIONS.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that*

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

*applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

Current law requires an individual or entity to notify the statewide notification association of all owners and operators of underground facilities of its intent to engage in excavation so that any underground facilities, such as water and sewer pipes, gas lines, and electric or cable lines, that the excavation might affect can be located and marked before excavation begins. Underground facilities are often located beneath county gravel and dirt roads, normally at a depth of at least 18 inches below the road surface. Counties maintain the profile and surface condition of such county roads and county road rights-of-way by engaging in routine and emergency maintenance activities that do not disturb more than 6 inches in depth. These maintenance activities currently trigger the excavation notification requirement, and the related requirement that the location of underground facilities be marked, even though they occur above the levels where underground facilities are located. To prevent such activities from triggering the excavation notification requirement, the bill specifies that "excavation" does not include routine or emergency maintenance of right-of-way on county-owned gravel or dirt roads performed by county employees that:

- ! Does not lower the existing grade or elevation of the road, shoulder, and ditches; and
- ! Does not disturb more than 6 inches in depth during maintenance operations.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2           **SECTION 1.** In Colorado Revised Statutes, 9-1.5-102, **amend**  
3 (3)(a) and (3)(b)(III)(B); and **add** (3)(c) as follows:

4           **9-1.5-102. Definitions.** As used in this article 1.5, unless the  
5 context otherwise requires:

6           (3) "Excavation" means any operation in which earth is moved or  
7 removed by means of any tools, equipment, or explosives and includes  
8 augering, backfilling, boring, ditching, drilling, grading, plowing-in,  
9 pulling-in, ripping, scraping, trenching, hydro excavating, postholing, and  
10 tunneling. "Excavation" does not include:

11           (a) Routine maintenance on existing planted landscapes; or

1 (b) An excavation by a rancher or a farmer, as defined in section  
2 42-20-108.5, occurring on a ranch or farm when the excavation involves:

3 (III) Routine maintenance of:

4 (B) Existing fence lines; OR

5 (c) ROUTINE OR EMERGENCY MAINTENANCE OF RIGHT-OF-WAY ON  
6 COUNTY-OWNED GRAVEL OR DIRT ROADS PERFORMED BY COUNTY  
7 EMPLOYEES THAT:

8 (I) DOES NOT LOWER THE EXISTING GRADE OR ELEVATION OF THE  
9 ROAD, SHOULDER, AND DITCHES; AND

10 (II) DOES NOT DISTURB MORE THAN SIX INCHES IN DEPTH DURING  
11 MAINTENANCE OPERATIONS.

12 **SECTION 2. Act subject to petition - effective date.** This act  
13 takes effect at 12:01 a.m. on the day following the expiration of the  
14 ninety-day period after final adjournment of the general assembly (August  
15 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a  
16 referendum petition is filed pursuant to section 1 (3) of article V of the  
17 state constitution against this act or an item, section, or part of this act  
18 within such period, then the act, item, section, or part will not take effect  
19 unless approved by the people at the general election to be held in  
20 November 2020 and, in such case, will take effect on the date of the  
21 official declaration of the vote thereon by the governor.



Legislative Council Staff

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HB 20-1173

FISCAL NOTE

<b>Drafting Number:</b>	LLS 20-0750	<b>Date:</b>	February 10, 2020
<b>Prime Sponsors:</b>	Rep. Saine; Baisley Sen. Smallwood; Winter	<b>Bill Status:</b>	House Trans. & Local Govt.
		<b>Fiscal Analyst:</b>	Katie Ruedebusch   303-866-3001 Katie.Ruedebusch@state.co.us

**Bill Topic:** 811 LOCATE EXEMPTION FOR COUNTY ROAD MAINTENANCE

<b>Summary of Fiscal Impact:</b>	<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
	<input type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
	<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill exempts counties from excavation notification requirements for routine or emergency maintenance of right-of-ways on county-owned gravel or dirt roads. The bill decreases county workload on an ongoing basis.

**Appropriation Summary:** No appropriation is required.

**Fiscal Note Status:** The fiscal note reflects the introduced bill.

Summary of Legislation

Under current law, counties must notify the statewide notification association of all owners and operators of underground facilities (Colorado 811) of routine or emergency maintenance of right-of-ways on county-owned dirt roads. The bill exempts counties from excavation notification requirements for routine or emergency maintenance of right-of-way on county-owned gravel or dirt roads. In order to be exempt from notification requirements, the county's routine or emergency maintenance may not lower the existing grade or elevation of the road, shoulder, and ditches, and does not disturb more than six inches in depth during the excavation operations.

Background

The Utility Notification Center of Colorado, or Colorado 811, is a statutory public entity authorized to operate as the statewide, one-call system for locating underground facilities. The organization also promotes statewide public safety awareness, damage prevention programs, and other educational services. In addition, the Underground Damage Prevention Safety Commission in the Department of Labor and Employment advises stakeholders on best practices and safety-enhancement policies, and review complaints alleging violations of the state's excavation laws. The commission consists of 15 Governor-appointed members, including members of local governments, energy producers, contractors, excavators, engineers, investor-owned utilities, rural electric cooperatives, pipeline companies, telecommunications and broadband companies, water utilities, transportation, and farming and ranching

**Local Government**

The bill may decrease costs and workload for counties that perform routine or emergency maintenance of right-of-ways on county-owned gravel or dirt roads. These impacts will vary by county and have not been estimated.

**Effective Date**

The bill takes effect August 5, 2020, if the General Assembly adjourns on May 6, 2020, as scheduled, and no referendum petition is filed.

**State and Local Government Contacts**

Counties  
Law  
Transportation

Information Technology  
Municipalities

Labor  
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