

State of Arizona  
House of Representatives  
Forty-second Legislature  
Second Regular Session  
1996

**FILED**

Jane Dee Hull  
Secretary of State

## HOUSE BILL 2042

### CHAPTER 4

#### AN ACT

AMENDING SECTION 40-360.22, ARIZONA REVISED STATUTES; RELATING TO PUBLIC UTILITIES.

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 40-360.22, Arizona Revised Statutes, is amended to  
3 read:

4 40-360.22. Excavations; determining location of underground  
5 facilities; providing information; excavator  
6 marking; on-site representative; validity period  
7 of markings

8 A. A person shall not make or begin any excavation in any public  
9 street, alley, right-of-way dedicated to the public use or utility easement  
10 or on any express or implied private property utility easement without first  
11 determining whether underground facilities will be encountered, and if so  
12 where they are located from each and every public utility, municipal  
13 corporation or other person having the right to bury such underground  
14 facilities within the public street, alley, right-of-way or utility easement  
15 and taking measures for control of the facilities in a careful and prudent  
16 manner.

17 B. Every public utility, municipal corporation or other person having  
18 the right to bury underground facilities shall file with the corporation  
19 commission the job title, address and telephone number of the person or  
20 persons from whom the necessary information may be obtained. Such person or  
21 persons shall be readily available during established business hours. The  
22 information on file shall also include the name, address and telephone number  
23 of each one-call notification center to which the owner of the facility

1 belongs. Upon receipt of inquiry or notice from the excavator, the owner of  
2 the facility shall respond as promptly as practical, but in no event later  
3 than two working days, by marking such facility with stakes, paint or in some  
4 customary manner. No person shall begin excavating before the location and  
5 marking are complete or the excavator is notified that marking is  
6 unnecessary.

7 C. On a timely request by the owner of a facility, the excavator shall  
8 mark the boundaries of the location requested to be excavated in accordance  
9 with a color code designated by the commission or by applicable custom or  
10 standard in the industry. A request under this subsection for excavator  
11 marking does not alter any other requirement of this section.

12 D. In performing the marking required by subsection B of this section,  
13 the owner of an underground facility installed after December 31, 1988 in a  
14 public street, alley or right-of-way dedicated to public use, but not  
15 including any express or implied private property utility easement, shall  
16 locate the facility by referring to installation records of the facility and  
17 utilizing one of the following methods:

- 18 1. Vertical line or facility markers.
- 19 2. Locator strip or locator wire.
- 20 3. Signs or permanent markers.
- 21 4. Electronic or magnetic location or tracing techniques.
- 22 5. Electronic or magnetic sensors or markers.
- 23 6. Metal sensors or sensing techniques.
- 24 7. Sonar techniques.
- 25 8. Underground electrical or radio transmitters.
- 26 9. Manual location techniques, including pot-holing.
- 27 10. Surface extensions of underground facilities.
- 28 11. Any other surface or subsurface location technique at least as  
29 accurate as the other marking methods in this subsection not prohibited by  
30 the commission or by federal or state law.

31 E. For an underground facility other than one installed after December  
32 31, 1988, in a public street, alley or right-of-way dedicated to public use,  
33 in performing the marking required by subsection B of this section, the owner  
34 may refer to installation or other records relating to the facility to assist  
35 in locating the facility and shall locate the facility utilizing one of the  
36 methods listed under subsection D of this section.

37 F. If an underground facility owner is unable to complete the location  
38 and marking within the time period provided by subsection B of this section,  
39 the facility owner shall satisfy the requirements of this section by  
40 providing prompt notice of these facts to the excavator and assigning one or  
41 more representatives to be present on the excavation site at all pertinent  
42 times as requested by the excavator to provide facility location services  
43 until the facilities have been located and marked. The underground facility  
44 owner shall bear all of its own costs associated with assigning

1 representatives. If representatives are assigned under this subsection, the  
2 excavator is not responsible or liable for damage to or repair of the owner's  
3 underground facility while acting under the direction of an assigned  
4 representative of the owner, unless the damage or need for repair was caused  
5 by the excavator's negligence.

6 G. The marking required by subsection B of this section is valid for  
7 fifteen days from the date of the marking, EXCLUDING SATURDAYS, SUNDAYS AND  
8 OTHER LEGAL HOLIDAYS. If the excavation will continue past the validity  
9 period of the marks as provided by this subsection, the excavator shall  
10 notify the facility owner or an organization designated by the facility owner  
11 at least two days, excluding Saturdays, Sundays and legal holidays, before  
12 the end of the validity period.

13 H. Nothing in this section shall be construed to prevent an excavator  
14 and an underground facility owner from holding a preconstruction conference  
15 regarding marking and location of underground facilities and entering into  
16 a mutually agreeable written schedule or written arrangement for satisfying  
17 the requirements of this section, except that this subsection does not  
18 eliminate the excavator's obligation to notify the facility owner to mark  
19 excavation sites under subsection B of this section based on the actual  
20 construction schedule.

21 I. The owner of an underground facility shall notify the excavator  
22 whether the facility is active or abandoned. For an underground facility  
23 abandoned after December 31, 1988 or covered by installation records prepared  
24 under section 40-360.30, subsection A, the owner of the facility may not  
25 advise or represent to the excavator that a facility or portion of a facility  
26 is abandoned unless the owner has verified, by reference to installation  
27 records or by testing, that the facility or portion is actually abandoned and  
28 not merely inactive. For all other abandoned or apparently abandoned  
29 underground facilities, each one-call notification center shall establish a  
30 method of providing personnel from a facility owner qualified to safely  
31 inspect and verify that the facility is abandoned or active and a method for  
32 reimbursing the verifying facility owner for the costs incurred. The  
33 reimbursement method may not include any charge or expense to the excavator.  
34 An inactive facility shall be considered active for purposes of this article.  
35 For all purposes under this article, a facility owner, excavator or other  
36 person subject to this article may not represent that an underground facility  
37 is abandoned, or treat an underground facility as abandoned, unless the  
38 facility has been verified as abandoned pursuant to this subsection.

39 J. Nothing in this section shall be construed as prohibiting the use  
40 of warning tape, warning markers or any other warning device by the owner of  
41 an underground facility.

APPROVED BY THE GOVERNOR MARCH 8, 1996.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 11, 1996.