WEST VIRGINIA CODE: §24C-1-2A

§24C-1-2a. Underground Facilities Damage Prevention Board.

(a) There is hereby created an Underground Facilities Damage Prevention Board for the purpose of enforcing this article.

(b) It is the intent of the Legislature that the board and its enforcement activities shall not be funded by appropriations from the state budget. All civil penalties imposed and collected by the board shall not revert to the General Fund but shall be retained for the exclusive use of the board pursuant to this article.

(c) The board shall have the power and authority to investigate damage to underground facilities caused by an excavator, make findings, assess penalties and require training in accordance with §24C-1-9 of this code, and to obtain liens on the real and personal property of those persons who have failed to pay penalties assessed by the board. The board may consult with the Public Service Commission as needed regarding investigation of damages to underground facilities under its jurisdiction. The commission shall collect from the board any expenses incurred during the consultation. The board shall furnish to the commission at least annually electronic copies of all reports of investigations and enforcement activities conducted by or on behalf of the board.

(d) The board shall be composed of 10 voting members who shall be appointed by the Governor to serve four-year terms in accordance with West Virginia law. The board shall be empowered to establish one or more subcommittees in performing its tasks. Appointments to the board shall be made as follows:

(1) The President of Miss Utility of West Virginia or the president’s designee;

(2) One representative of the excavation, utility, or site construction industry;

(3) One representative of the natural resource extraction industry;

(4) The Executive Director of the West Virginia Municipal League or its designee;

(5) The Executive Director of the West Virginia Rural Water Association or its designee;

(6) One representative of the natural gas transmission or distribution or hazardous liquid industry;

(7) One representative of the electric, cable, or communications industry;

(8) One representative of the privately owned water and/or wastewater services industry;

(9) One representative from the general public; and

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(10) The Chairman of the Public Service Commission or the chairman's designee.

(e) The board shall meet not less than twice per year, with a date and time to be set by its chairman upon at least five days' notice provided by United States mail, electronic mail, or personal delivery to every board member. The board may hold meetings and vote by telephone, video connection, computer, or other electronic means.

(f) Six members of the board shall constitute a quorum, and a majority vote of those present and voting at any one meeting shall be necessary to transact business.

(g) In the absence of willful misconduct, the members of the board shall be immune, individually and jointly, from civil liability for any act or omission done or made in the performance of their duties while serving as members of the board.

(h) Members of the board shall serve without compensation and without reimbursement for expenses. Nothing contained in this section shall be construed to prevent any sponsoring organization for compensating its representative on the board for salary, expenses, or other compensation considered as a condition for their employment.

(i) Every two years, the board shall elect a chair and other officers from among its members as the board deems necessary.

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