

Energy and Technology Committee JOINT FAVORABLE REPORT

Bill No.: SB-858

AN ACT CONCERNING CALL BEFORE YOU DIG PROGRAM VIOLATIONS
AND CERTAIN MODIFICATIONS TO GAS PIPELINES PROCESSES.

Title:

Vote Date: 3/18/2021

Vote Action: Joint Favorable Substitute

PH Date: 2/18/2021

File No.:

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SPONSORS OF BILL:

Energy and Technology Committee

REASONS FOR BILL:

This bill would make the utility responsible for paying any civil penalties for violation of CBYD regulations even in the event that the utility had retained a private contractor to perform the markings.

RESPONSE FROM ADMINISTRATION/AGENCY:

Marissa P. Gillett, Chairman (PURA) supports SB 858 because many utilities outsource their CBYD associated locating responsibility and contractually require their subcontractor to pay all civil penalties assessed for violations. As a result, utilities that outsource this responsibility are effectively held harmless; they are not penalized if their contractors mark the utilities' facilities incorrectly.

This proposal would require that the regulated utilities pay any civil penalties assessed by PURA. The utilities would still be allowed (and encouraged) to continue to enforce contracts with their respective contractors by collecting the specified amount of civil penalties from the contractor. However, the party in violation would be required to forfeit the proceeds from those civil penalties in a manner to be determined by PURA

NATURE AND SOURCES OF SUPPORT:

Utility Contractors Association of Connecticut (UCAC) supports sections 11 & 12 of the bill as currently drafted, which seeks to authorize PURA to be able to efficiently respond to potential hazardous conditions, particularly with regard to natural gas infrastructure, and

issue stop work orders if necessary. UCAC agrees that these sections of this bill are a proactive approach to ensure that PURA has the proper authority to protect everyone involved in what can often be hazardous work.

The Connecticut Construction Industries Association, Inc. (CCIA) supports sections 11 and 12 of this bill because it will give the governing agency, overseeing this work, the ability to promptly stop work to address hazardous situations, instantaneously, to protect people and property

NATURE AND SOURCES OF OPPOSITION:

Allison M. Ellis-Senior Vice President, Frontier Communications opposes Section 1 of SB 858 because it appears as if PURA is looking to “double penalize” utilities for mistakes made by outside contractors. Specifically, the language is vague in that there are no apparent factors that the Authority must consider in determining whether to require a forfeiture, thereby exposing utilities to considerable uncertainty relative to potential fines. Second, there are questions as to whether the bill as written would permit a state agency to interfere with a private contract between the utility company and its contractor. Finally, “double penalizing” utilities will only add to costs, which will raise the costs for utility services across the state.

Betsy Gara, Executive Director, Connecticut Council of Small Towns opposes certain provisions in SB 858. As drafted, SB-858 makes the utility responsible for paying any civil penalties for violation of CBYD regulations even if the utility has retained a private contractor to perform the markings. Moreover, under the bill, PURA has broad discretion to prohibit the utility from recouping any civil penalty from the contractor responsible for the violation. The bill fails to set forth any criteria whatsoever for determining when PURA may prohibit the penalty from being recouped. This could cost municipal utilities a significant amount given that CBYD penalties of up to \$40,000 per violation are permitted under existing law. COST opposes this bill which unfairly shifts costs for CBYD violations to municipal and other utilities.

Donna Hamzy, Advocacy Manager of CCM opposes SB 858 because under this bill, if a public agency, which includes municipalities, recoups the penalty from an “outside source,” such as the contractor that performed the work, PURA can require the public utility to forfeit the penalty. This unfairly penalizes local governments for CBYD violations of contractors that may have directly caused the damage which resulted in the violations. The criteria set forth in the regulations for assessing penalties clearly includes consideration of factors that are outside the control of the municipality. As such, municipalities should be able to recoup the penalties from the contractors responsible for the violation.

Reported by: Jason Snukis

Date: April 5, 2021