# SENATE
## STATE OF MINNESOTA
## NINETY-FOURTH SESSION

# S.F. No. 4339

**(SENATE AUTHORS: HOFFMAN and Howe)**

| DATE | D-PG | OFFICIAL STATUS |
|---|---|---|
| 03/11/2026 | 6591 | Introduction and first reading |
| | | Referred to Transportation |
| 03/26/2026 | 7090a | Comm report: To pass as amended |
| | 7091 | Second reading |
| 04/07/2026 | 7918 | Author added Howe |
| 04/15/2026 | 8080 | Special Order |
| | 8080 | Third reading Passed |
| 05/17/2026 | 10922 | Returned from House |
| | | Presentment date 05/20/26 |
| | 11759 | Governor's action Approval 05/26/26 |
| | 11760 | Secretary of State Chapter 112 05/26/26 |
| | | Effective date various dates |

A bill for an act

relating to utilities; modifying certain requirements governing the excavation notice system, including to require electronic positive response; amending Minnesota Statutes 2024, sections 216D.01, by adding a subdivision; 216D.03, by adding a subdivision; 216D.04, subdivision 3.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2024, section 216D.01, is amended by adding a subdivision to read:

Subd. 2a. **Electronic positive response.** "Electronic positive response" means an electronic notification from an operator to the notification center regarding the status of a locate in the area of a proposed excavation or boundary survey.

Sec. 2. Minnesota Statutes 2024, section 216D.03, is amended by adding a subdivision to read:

Subd. 6. **Electronic positive response.** The notification center must make an electronic positive response from an operator available to the relevant excavator through electronic means.

Sec. 3. Minnesota Statutes 2024, section 216D.04, subdivision 3, is amended to read:

Subd. 3. **Locating underground facility; operator.** (a) Prior to the conclusion of the locate period, an operator must locate and mark or otherwise provide the approximate horizontal location of the underground facilities of the operator and provide readily available information regarding the operator's abandoned and out-of-service underground facilities as shown on maps, drawings, diagrams, or other records used in the operator's normal course

of business, without cost to the excavator. Prior to the conclusion of the locate period, an operator must provide an electronic positive response through the notification center for the notice of excavation. The excavator must determine the precise location of the underground facility, without damage, before excavating within two feet of the marked location of the underground facility.

(b) Within 96 hours or the time specified in the notice, whichever is later, after receiving a notice for boundary survey from the notification center, excluding Saturdays, Sundays, and holidays, unless otherwise agreed to between the land surveyor and operator, an operator must locate and mark or otherwise provide the approximate horizontal location of the underground facilities of the operator, without cost to the land surveyor. Prior to the conclusion of the time period under this paragraph, an operator must provide an electronic positive response through the notification center for the notice for boundary survey.

(c) For the purpose of this section, the approximate horizontal location of the underground facilities is a strip of land two feet on either side of the underground facilities.

(d) Markers used to designate the approximate horizontal location of underground facilities are subject to the following requirements:

(1) markers must be a combination of paint markings and at least one of the following: (i) a flag or flags, (ii) a stake or stakes, or (iii) a whisker or whiskers;

(2) all markers under clause (1) must follow the current color code standard used by the American Public Works Association;

(3) markers must be located within a plus or minus two-foot tolerance; and

(4) the name of the operator must be indicated on each flag, stake, or whisker.

If the surface being marked is hard, markers without flags, stakes, or whiskers may be used but must comply with the color code standard and tolerance requirement under clauses (2) and (3).

(e) If the operator cannot complete marking of the excavation or boundary survey area before the excavation or boundary survey start time stated in the notice, the operator must promptly contact the excavator or land surveyor.

(f) Operators must maintain maps, drawings, diagrams, or other records of any underground facility abandoned or out-of-service after December 31, 1998.

(g) An operator or other person providing information pursuant to this subdivision is not responsible to any person, for any costs, claims, or damages for information provided

in good faith regarding abandoned, out-of-service, or private or customer-owned underground facilities.

(h) An operator must use geospatial location information or an equivalent technology to develop as-built drawings of newly installed or newly abandoned facilities if exposed in the excavation area. The requirements under this paragraph apply (1) on or after January 1, 2026, or (2) on or after January 1, 2027, for an operator that provided services to fewer than 10,000 customers in calendar year 2025.

(i) An operator must provide up-to-date contact information to the notification center (1) as the contact changes occur, to the extent practicable, and (2) on at least a quarterly basis following a change in contact information. The contact information must include at least one telephone number designated by the operator to reach a person or persons regarding locates.

**EFFECTIVE DATE.** This section is effective August 1, 2026, except that paragraph (i) is effective January 1, 2027.