

## 2005 DRAFTING REQUEST

### Senate Amendment (SA-SB498)

Received: 02/22/2006

Received By: mkunkel

Wanted: As time permits

Identical to LRB:

For: Joseph Leibham (608) 266-2056

By/Representing:

This file may be shown to any legislator: NO

Drafter: mkunkel

May Contact:

Addl. Drafters:

Subject: Public Util. - electric

Extra Copies:

Submit via email: YES

Requester's email: Sen.Leibham@legis.state.wi.us

Carbon copy (CC:) to:

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#### Pre Topic:

No specific pre topic given

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#### Topic:

Local government requirements

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#### Instructions:

See Attached

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#### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/1	mkunkel 02/22/2006	jdyer 02/23/2006	chaugen 02/23/2006	_____	mbarman 02/23/2006	mbarman 02/23/2006	
/2	mkunkel 02/27/2006	jdyer 02/27/2006	rschluet 02/27/2006	_____	sbasford 02/27/2006	sbasford 02/27/2006	

FE Sent For:

<END>

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/?							
/1	mkunkel 02/22/2006	jdyer 02/23/2006	chaugen 02/23/2006		mbarman 02/23/2006	mbarman 02/23/2006	

FE Sent For:

1/2/27 jld

chaugen  
02/23/06  
<END>

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/?	mkunkel	1/23 jld	ch 2-23	ch 2-23 del			

FE Sent For:

<END>

## **Senate Bill 498 – Potential Amendments to Address Concerns**

### **1 – Access / Availability of Records:**

- p.3, line 15, after the word “other” add the words “readily available” ✓

### **2 – Liability for Information Provided:**

- p.3, line 19, after the period add the following sentence: “A local government unit or other person creating, providing or relying upon information pursuant to this subsection is not responsible to any person for any costs, claims or damages resulting from information provided in good faith regarding private- or customer-owned underground facilities.”

### **3 – Role of Local Government Units in Requiring Tracer Wire for New or Replacement Non-Conductive Laterals Installed On or After 01/01/2007:**

- p.3, lines 21 and 22, delete the words “Each local government unit shall require” and on line 23 delete the words “in the jurisdiction of the local government unit to” and substitute the word “shall”.

**SENATE BILL 498**

1 governmental unit and if the excavation notice relates to sewer or water facilities  
2 owned by the local governmental unit, the local governmental unit shall also mark  
3 the locations within the public right-of-way of all laterals connected to the sewer or  
4 water facilities at the area described in the notice. The marking of facilities shall be  
5 completed within 3 working days after receipt of the notice, or if notice is given more  
6 than 10 days before excavation is scheduled to begin, marking shall be completed at  
7 least 3 working days before excavation is scheduled to begin. If the approximate  
8 location of a transmission facility is marked with paint, flags, stakes or other  
9 physical means, the following color coding of lines, cables or conduits shall comply  
10 with the uniform color code adopted by the American National Standards Institute:

11 **SECTION 4.** 182.0175 (2m) (bm) of the statutes is created to read:

12 182.0175 **(2m)** (bm) In lieu of marking within the public right-of-way the  
13 locations of sewer or water service laterals ~~installed before January 1, 2007~~, a local  
14 government unit may provide an excavator with information on the location of such  
15 laterals as shown on maps, drawings, diagrams, or ~~other~~ <sup>readily available</sup> records. If a local  
16 government unit has no such <sup>readily available</sup> information regarding such laterals installed before  
17 January 1, 2007, and the local government unit provides the excavator with a notice  
18 certifying that the local government unit has no such <sup>readily available</sup> information, the local  
19 government unit is considered to have satisfied the requirements of par. (b).

20 **SECTION 5.** 182.0715 (2r) of the statutes is created to read:

21 182.0715 **(2r)** FACILITIES INSTALLED AFTER DECEMBER 31, 2006. Each local  
22 government unit shall require any person who, after December 31, 2006, installs a  
23 nonconductive water or sewer lateral in the jurisdiction of the local government unit  
24 to also install a locating wire or other equally effective means for marking the



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRBa2448/1

MDK:.....

*B-note*

*Jed*

*By Friday  
2/24  
pm*

**SENATE AMENDMENT ,  
TO 2005 SENATE BILL 498**

- 1 At the locations indicated, amend the bill as follows: ✓
- 2 **1.** Page 3, line 15: after "other" insert "readily available". ✓
- 3 **2.** Page 3, line 15: after "records." insert "A local government unit or other ✓
- 4 person that, in good faith, provides, creates, or relies on such information is immune
- 5 from civil liability for any damages to underground facilities that result because of
- 6 the information." ✓
- 7 **3.** Page 3, line 21: delete the material beginning with "Each local" and ending
- 8 with "to" on line 24 ✓ and substitute: *page NO #*
- 9 **(NO #)** "Any person who, after December 31, 2006, installs a nonconductive water or
- 10 sewer lateral shall". ✓

11 (END)

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBa2448/1dn

MDK:.....

JLD

Sen. Leibham:

Please see the changes I made regarding the issue of exemption from liability. My changes are mostly stylistic, but I did make the substantive change described below.

The instructions refer to privately owned or customer-owned<sup>✓</sup> underground facilities. I'm not sure about your intent. Don't privately owned facilities include customer-owned facilities? If so, then there is no need to refer to customer-owned facilities.

Also, what are privately owned facilities? Do you mean facilities that are not owned by local government units, or facilities that are not owned by any governmental unit, regardless of whether the unit is state or local?

Finally, if you limit the exemption to privately owned facilities, then the exemption will not apply to damages to publicly owned facilities. Is that your intent?

Mark D. Kunkel  
Senior Legislative Attorney  
Phone: (608) 266-0131  
E-mail: mark.kunkel@legis.state.wi.us

## **Kunkel, Mark**

---

**From:** Gasper, Greg  
**Sent:** Friday, February 24, 2006 1:03 PM  
**To:** Kunkel, Mark  
**Subject:** SB 498

Mark,

Thanks for your drafter's note. Here are a few answers:

1 - You are correct. In looking at it, we realize it is a bit redundant but don't see a pressing need to change it unless you think it is an important matter.

2 - With regard to your second question, we mean the latter, facilities that are not owned by any governmental unit, regardless of whether the unit is state or local.

3 - That is our intent, to limit the exemption to privately owned facilities.

I'm giving it one last look and I will let you know if anything else is needed.

Thanks,

### **Greg Gasper**

Legislative Aide  
Office of State Senator Joe Leibham

Greg.Gasper@legis.state.wi.us  
Toll Free - (888) 295-8750  
Capitol Address -  
P.O. Box 7882  
Madison, WI 53707-7882

## 2005 - 2006 LEGISLATURE

LRBa2448/1

MDK:jld:ch

**SENATE AMENDMENT ,  
TO 2005 SENATE BILL 498**

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 3, line 15: after "other" insert "readily available".

3 **2.** Page 3, line 15: after "records." insert "A local government unit or other  
4 person that, in good faith, provides <sup>or such information or an excavator who</sup> creates or relies on such information is immune  
5 from civil liability <sup>resulting from</sup> ~~for any~~ damage<sup>s</sup> to underground facilities <sup>attributable to erroneous</sup> ~~that result because of~~  
6 ~~the~~ information."

7 **3.** Page 3, line 21: delete the material beginning with "Each local" and ending  
8 with "to" on line 24 and substitute "Any person who, after December 31, 2006, installs  
9 a nonconductive water or sewer lateral shall".

10 Additional amendments (END)

Page 3, line 13: delete the phrase "installed before  
January 1, 2007".

Page 3, lines 16 + 17: delete the phrase "installed before  
January 1, 2007"

Page 3, line 16: before "information" insert "readily available".

Page 3, line 18: before "information" insert "readily available"

2

TOMORROW  
TUES  
2/28  
AM

O-NOTE

RM  
HAS  
BEEN  
RUN

**SENATE AMENDMENT ,  
TO 2005 SENATE BILL 498**

INSERT 1-1 ✓

1 At the locations indicated, amend the bill as follows:

2 ~~1. Page 3, line 15: after "other" insert "readily available"~~

3 **2.** Page 3, line 15: after "records." insert "A local government unit or other  
4 person that, in good faith, provides, creates, or relies on such information is immune  
5 from civil liability for any damages to underground facilities that result because of  
6 the information."

7 **3.** Page 3, line 21: delete the material beginning with "Each local" and ending  
8 with "to" on line 24 and substitute "Any person who, after December 31, 2006, installs  
9 a nonconductive water or sewer lateral shall".

10 (END)

2005-2006 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRBa2448/2ins  
MDK:.....

1

INSERT 1-1:

2

1. Page, line 3: delete lines 12 to 19 and substitute:

3

"182.0175 (2m) (bm) In lieu of marking within the public right-of-way<sup>✓</sup> the

4

locations of sewer or water service laterals, a local government unit may provide an

5

excavator with information on the location of such laterals as shown on maps,

6

drawings, diagrams, or other records<sup>✓</sup> that are readily available. A local government

7

unit or other person that, in good faith,<sup>✓</sup> provides or creates such information, or an

8

excavator that relies on such information, is immune from civil liability resulting

9

from damage to underground facilities attributable to erroneous information. If a

10

local government unit has no such readily available information regarding such

11

laterals and the local government unit provides the excavator with a notice certifying

12

that the local government unit has no such readily available information, the local

13

government unit is considered to have satisfied the requirements of par. (b)."<sup>✓</sup>

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBa2448/2dn

MDK:.....

^  
jld

Se. Leibham:

I revised the amendment so that the changes to proposed s. 182.0175 (2m) (bm)<sup>✓</sup> are easier to read.

Mark D. Kunkel  
Senior Legislative Attorney  
Phone: (608) 266-0131  
E-mail: mark.kunkel@legis.state.wi.us

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBa2448/2dn  
MDKjld:rs

February 27, 2006

Se. Leibham:

I revised the amendment so that the changes to proposed s. 182.0175 (2m) (bm) are easier to read.

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Senior Legislative Attorney  
Phone: (608) 266-0131  
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