



**SENATE SUBSTITUTE AMENDMENT 1,
TO 1995 SENATE BILL 64**

March 9, 1995 - Offered by COMMITTEE ON ENVIRONMENT AND ENERGY.

1 **AN ACT to repeal** 182.0175 (1) (a) and 182.0175 (2) (c) and (d); **to renumber and**
2 **amend** 182.0175 (2) (a) 3., 182.0175 (2) (a) 4., 182.0175 (2) (a) 5., 182.0175 (2)
3 (a) 6., 182.0175 (2) (a) 7., 182.0175 (2) (b), 182.0175 (2) (e), 182.0175 (2) (f) and
4 182.0175 (3); **to amend** 182.0175 (1) (intro.), 182.0175 (1) (b), 182.0175 (1) (c),
5 182.0175 (2) (a) (intro.), 182.0175 (2) (a) 1., 182.0175 (2) (a) 2., 182.0175 (4) and
6 182.0175 (5); **to repeal and recreate** 182.0175 (2) (title); and **to create**
7 182.0175 (1) (am), 182.0175 (1) (bm), 182.0175 (1m), 182.0175 (2) (am) (intro.),
8 182.0175 (2) (am) 4., 182.0175 (2) (am) 6m., 182.0175 (2) (bm), 182.0175 (2m)
9 (title) and (a), 182.0175 (2m) (b) 6. and 7. and 182.0175 (3) (b) of the statutes;
10 **relating to:** damage to transmission facilities and providing penalties.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

11 **SECTION 1.** 182.0175 (1) (intro.) of the statutes is amended to read:
12 182.0175 (1) DEFINITIONS. (intro.) ~~As used in In this section, unless the context~~
13 requires otherwise:

14 **SECTION 2.** 182.0175 (1) (a) of the statutes is repealed.

1 **SECTION 3.** 182.0175 (1) (am) of the statutes is created to read:

2 182.0175 (1) (am) “Emergency” means an unforeseen condition that requires
3 immediate excavation to avoid property damage, personal injury or loss of life.

4 **SECTION 4.** 182.0175 (1) (b) of the statutes is amended to read:

5 182.0175 (1) (b) “Excavation” means any operation in which earth, rock or
6 other material in or on the ground is moved, removed or otherwise displaced by
7 means of any tools, equipment or explosives and includes grading, trenching,
8 digging, ditching, drilling, augering, tunneling, scraping, cable or pipe plowing, and
9 driving and means any operation by which a structure or mass of material is
10 wrecked, razed, rended, moved or removed.

11 **SECTION 5.** 182.0175 (1) (bm) of the statutes is created to read:

12 182.0175 (1) (bm) “Excavator” means a person who engages in excavation.

13 **SECTION 6.** 182.0175 (1) (c) of the statutes is amended to read:

14 182.0175 (1) (c) “Transmission facilities” includes all pipes, pipelines, wires,
15 cables, ducts, wirelines and associated facilities, whether below or above ground,
16 regardless of the nature of their transmittants or of their in-service application. The
17 term includes, but is not restricted to, utility facilities, government-owned facilities,
18 facilities transporting hazardous materials, communications and data facilities,
19 drainage facilities and private water facilities and sewer systems.

20 **SECTION 7.** 182.0175 (1m) of the statutes is created to read:

21 182.0175 (1m) ONE-CALL SYSTEM. (a) *Statewide system.* Transmission facilities
22 owners shall establish or designate a nonprofit organization governed by a board of
23 directors as the operator of a one-call system. The one-call system shall be a
24 statewide communication system in which a single operational center receives

1 excavation notices and transmits notice information to affected-member
2 transmission facilities owners.

3 (b) *Membership.* 1. Except as provided in subd. 2., a transmission facilities
4 owner shall be a member of the one-call system. A member shall participate in the
5 funding of the one-call system.

6 2. A transmission facilities owner or lessee is not required to be a member of
7 the one-call system if all of that person's transmission facilities are located on
8 property owned or leased by that person. This subdivision does not apply to a
9 governmental unit that is a transmission facilities owner.

10 (c) *Liability.* A transmission facilities owner who is required to be a member
11 of the one-call system is liable for all damages to the person's transmission facilities
12 and for any other damages that occur as a result of excavation if that person is not
13 a member of the one-call system.

14 (d) *System functions.* The one-call system shall do all of the following:

15 1. Publicize the availability and use of the one-call system.

16 2. Provide toll-free communication to the one-call system.

17 3. Accept notices of intended excavation activity.

18 4. Accept notices of intended emergency location or emergency excavation
19 activity 24 hours a day.

20 5. Inform the person providing notice of the names of transmission facilities
21 owners who will receive the notice information.

22 6. Promptly transmit notice information to affected-member transmission
23 facilities owners.

24 7. Retain records of notices for a period of not less than 6 years.

25 **SECTION 8.** 182.0175 (2) (title) of the statutes is repealed and recreated to read:

1 182.0175 (2) (title) EXCAVATOR AND PLANNER RESPONSIBILITIES.

2 **SECTION 9.** 182.0175 (2) (a) (intro.) of the statutes is amended to read:

3 182.0175 (2) (a) (title) Planning. (intro.) Every person who engages in or with
4 respect to ~~subds. 1. and 2.~~ is responsible for the preparation of plans and
5 specifications for nonemergency excavation ~~or demolition~~ and every excavator shall
6 do all of the following:

7 **SECTION 10.** 182.0175 (2) (a) 1. of the statutes is amended to read:

8 182.0175 (2) (a) 1. Take reasonable action to learn the location of any
9 transmission facilities in and near the area where ~~such operation~~ the excavation is
10 to be conducted.

11 **SECTION 11.** 182.0175 (2) (a) 2. of the statutes is amended to read:

12 182.0175 (2) (a) 2. Plan the excavation ~~or demolition~~ to avoid to the extent
13 possible interference with transmission facilities in and near the ~~construction~~
14 excavation area.

15 **SECTION 12.** 182.0175 (2) (a) 3. of the statutes is renumbered 182.0175 (2) (am)
16 1. and amended to read:

17 182.0175 (2) (am) 1. Provide ~~reasonable~~ advance notice not less than 3 working
18 days prior to before the start of the nonemergency excavation ~~or demolition~~ of the
19 ~~intent to excavate or demolish and the commencement date~~ to the owners of the
20 transmission facilities in and near the construction area whose facilities may be
21 affected by the excavation or demolition one-call system.

22 **SECTION 13.** 182.0175 (2) (a) 4. of the statutes is renumbered 182.0175 (2) (am)
23 3. and amended to read:

24 182.0175 (2) (a) 3. Maintain an estimated minimum clearance of 18 inches
25 between an unexposed underground transmission facility marked pursuant to par.

1 (e) under sub. (2m) and the cutting edge or point of any power-operated excavating
2 or earth moving equipment. If the transmission facility is exposed, the excavator
3 may reduce the clearance may be reduced to 2 times the known limit of control of the
4 cutting edge or point of the equipment or 12 inches, whichever is greater.

5 **SECTION 14.** 182.0175 (2) (a) 5. of the statutes is renumbered 182.0175 (2) (am)
6 5. and amended to read:

7 182.0175 (2) (am) 5. Provide such support for existing transmission facilities
8 in and near the ~~construction~~ excavation area as that may be reasonably necessary
9 or that is specified by the transmission facility owner for the protection of such ~~the~~
10 facilities, unless such protection is required of the owner of the transmission facility
11 under s. 66.047.

12 **SECTION 15.** 182.0175 (2) (a) 6. of the statutes is renumbered 182.0175 (2) (am)
13 6. and amended to read:

14 182.0175 (2) (am) 6. ~~Inspect prior to backfilling~~ Before backfilling, inspect all
15 transmission facilities exposed during excavation ~~or demolition~~ to ascertain if the
16 transmission facilities have been or may have been struck, damaged, dislocated or
17 disrupted ~~and notify promptly before backfilling.~~

18 7. Immediately notify the owner of any a transmission facility ~~which if an~~
19 inspection reveals that the transmission facility has been or may have been struck,
20 damaged, dislocated or disrupted.

21 **SECTION 16.** 182.0175 (2) (a) 7. of the statutes is renumbered 182.0175 (2) (am)
22 8. and amended to read:

23 182.0175 (2) (am) 8. Backfill ~~all excavations in such an excavation as specified~~
24 by the owner of the existing transmission facilities or in a manner and with such
25 materials as that may be reasonably necessary for the protection of, and to provide

1 reliable support during backfilling and following backfilling for, existing
2 transmission facilities in and near the construction excavation area.

3 **SECTION 17.** 182.0175 (2) (am) (intro.) of the statutes is created to read:

4 182.0175 (2) (am) *Excavation notice.* (intro.) An excavator shall do all of the
5 following:

6 **SECTION 18.** 182.0175 (2) (am) 4. of the statutes is created to read:

7 182.0175 (2) (am) 4. Provide a repeat notice to the one-call system if marks are
8 destroyed or covered by excavation site activities, if the excavation does not start
9 within 10 days of the scheduled start date or if excavation is interrupted for more
10 than 10 days.

11 **SECTION 19.** 182.0175 (2) (am) 6m. of the statutes is created to read:

12 182.0175 (2) (am) 6m. Refrain from backfilling an excavation until an
13 inspection is conducted and any necessary repairs have been made by the owner of
14 the transmission facility.

15 **SECTION 20.** 182.0175 (2) (b) of the statutes is renumbered 182.0175 (2) (am)
16 2. and amended to read:

17 182.0175 (2) (am) 2. ~~Every person who engages in~~ In an emergency ~~excavation~~
18 ~~or demolition shall,~~ take all reasonable precautions to avoid to the extent possible
19 interference with existing transmission facilities in and near the ~~construction~~
20 excavation area and shall notify as promptly as possible the owners of transmission
21 facilities which may be affected by the emergency excavation ~~or demolition.~~

22 **SECTION 21.** 182.0175 (2) (bm) of the statutes is created to read:

23 182.0175 (2) (bm) *Notice.* An excavation notice shall include all of the following
24 information:

25 1. The name of the person providing notice.

1 2. The name, address and telephone number of the excavator.

2 3. The specific location and description of the excavation area.

3 4. A description of the intended excavation activity.

4 5. The intended starting date of the excavation.

5 **SECTION 22.** 182.0175 (2) (c) and (d) of the statutes are repealed.

6 **SECTION 23.** 182.0175 (2) (e) of the statutes is renumbered 182.0175 (2m) (b)

7 and amended to read:

8 182.0175 **(2m)** (b) (title) *Facilities marking.* Every A person owning
9 transmission facilities, upon receipt of an excavation notice under par. (a) ~~3~~, shall
10 mark in a reasonable manner the locations of transmission facilities ~~in~~ at the field
11 ~~so as~~ area described in the notice to enable the ~~person engaged in excavation or~~
12 ~~demolition~~ excavator to locate the transmission facilities without endangering the
13 security of ~~such~~ the facilities or the public. The marking of facilities shall be
14 ~~accomplished~~ completed within 3 working days after receipt of the notice, ~~except or~~
15 if notice is given more than 10 days before ~~the excavation or demolition~~ is scheduled
16 to begin, marking ~~need not~~ shall be ~~accomplished more than~~ completed at least 3
17 working days before excavation ~~or demolition~~ is scheduled to begin. If the
18 approximate location of ~~an underground~~ a transmission facility is marked with
19 paint, flags, stakes or other physical means, the following color coding of lines, cables
20 or conduits shall be as follows ~~except that color coding shall not be required for~~
21 ~~permanent markers required by state and federal codes~~ comply with the uniform
22 color code adopted by the American National Standards Institute:

23 1. Electric power ~~distribution and transmission: safety;~~ red.

1 2. ~~Natural gas distribution and transmission, oil distribution and transmission~~
2 ~~and dangerous Gas, oil, steam, petroleum or gaseous materials products lines: high~~
3 ~~visibility safety: yellow.~~

4 3. ~~Telecommunications and telegraph systems~~ Communications, cable
5 television and ~~police and fire communications: safety alert or alarm or signal~~
6 ~~systems: orange.~~

7 4. Water, irrigation or slurry systems: safety precaution blue.

8 5. Sewer or drain systems: safety green.

9 **SECTION 24.** 182.0175 (2) (f) of the statutes is renumbered 182.0175 (2m) (c) and
10 amended to read:

11 182.0175 **(2m)** (c) (title) Facilities inspection and repair. Every person owning
12 transmission facilities who receives a notice under par. (a) 6., (e) or (d) of possible
13 damage shall inspect the facilities for damage within 24 6 hours after receipt of the
14 notice if there is risk of personal injury or loss of life or within 24 hours after receipt
15 of the notice if there is not a risk of personal injury or loss of life and shall repair any
16 damage found as soon as practicable. Unless the owner of any transmission facility
17 is notified pursuant to par. (a) 6., (e) or (d) or has knowledge of frequent damage to
18 transmission facilities by a person doing emergency or nonemergency excavation or
19 ~~demolition, such an excavator, the owner shall~~ is not be responsible for or be required
20 to make an inspection of its transmission facilities, nor shall the owner, in the
21 absence of such notification or knowledge, be responsible for supervising in any
22 manner the excavation or demolition work. ~~Upon the giving of notice pursuant to~~
23 ~~par. (a) 6., (e) or (d) the person performing the demolition or excavation shall refrain~~
24 ~~from backfilling until an inspection and any necessary repairs are made by the owner~~
25 ~~of the transmission facilities.~~

- 1 **SECTION 25.** 182.0175 (2m) (title) and (a) of the statutes are created to read:
- 2 182.0175 **(2m)** (title) TRANSMISSION FACILITIES OWNER REQUIREMENTS. (a)
- 3 *Responsibilities.* A transmission facilities owner shall do all of the following:
- 4 1. Respond to a planning notice within 10 days after receipt of the notice by
- 5 conducting field markings, providing records and taking other appropriate
- 6 responses.
- 7 2. Respond to an excavation notice within 3 working days by marking the
- 8 location of transmission facilities as provided under par. (b) in the area described in
- 9 the excavation notice.
- 10 3. Provide emergency locater service within 24 hours after receiving a request
- 11 for that service.

- 12 **SECTION 26.** 182.0175 (2m) (b) 6. and 7. of the statutes are created to read:
- 13 182.0175 **(2m)** (b) 6. Temporary survey markings: pink.
- 14 7. Proposed excavation: white.

- 15 **SECTION 27.** 182.0175 (3) of the statutes is renumbered 182.0175 (3) (a) and
- 16 amended to read:

- 17 182.0175 **(3)** (a) (title) *Forfeitures.* Any person who wilfully and knowingly fails
- 18 ~~to comply with~~ violates this section, ~~except sub. (2) (e), shall~~ may be required to forfeit
- 19 ~~\$1,000~~ \$2,000 for each such failure, ~~provided that if the failure to comply results in~~
- 20 ~~damage to any transmission facility, the forfeiture shall be \$2,000~~ offense. Each day
- 21 ~~that failure to comply persists is~~ of continued violation constitutes a separate offense.
- 22 ~~All actions to recover penalties under this section shall be brought in circuit court by~~
- 23 ~~the district attorney.~~

- 24 **SECTION 28.** 182.0175 (3) (b) of the statutes is created to read:

1 182.0175 (3) (b) *Misdemeanor.* Whoever intentionally removes, moves or
2 obliterates a transmission facilities marking placed by the transmission facilities
3 owner may be fined not more than \$500 or imprisoned for not more than 30 days or
4 both. This paragraph does not apply to an excavator who removes or obliterates
5 markings during an excavation.

6 **SECTION 29.** 182.0175 (4) of the statutes is amended to read:

7 182.0175 (4) RIGHT OF ACTION. This section shall not ~~release or waive or~~
8 ~~otherwise~~ affect any right of action, ~~forfeiture or penalty which the~~ this state or any
9 person ~~has or~~ may have.

10 **SECTION 30.** 182.0175 (5) of the statutes is amended to read:

11 182.0175 (5) RIGHT TO INJUNCTION. If any person engages in or is likely to
12 engage in excavation ~~or demolition contrary to the provisions of~~ inconsistent with
13 this section, and which results or is likely to result in damage to transmission
14 facilities, the person who owns or operates ~~such~~ the facilities may seek injunctive
15 relief in the circuit court for Dane the county ~~or in any other court of competent~~
16 ~~jurisdiction in which the transmission facilities are located.~~ If the transmission
17 facilities are owned or operated by a public utility as defined in s. 196.01 (5),
18 including a telecommunications carrier, as defined in s. 196.01 (8m), and the public
19 utility does not seek injunctive relief, the attorney general, upon request of the public
20 service commission, shall seek injunctive relief in the circuit court for Dane the
21 county ~~or in any other court of competent jurisdiction in which the transmission~~
22 facilities are located.

23 **SECTION 31. Initial applicability.**

24 (1) This act first applies to notices given on the effective date of this subsection.

25 **SECTION 32. Effective date.**

