



**SENATE SUBSTITUTE AMENDMENT 2,  
TO 1995 SENATE BILL 64**

May 24, 1995 - Offered by JOINT COMMITTEE ON FINANCE.

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14 **SECTION 2.** 182.0175 (1) (a) of the statutes is repealed.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 a condition that poses a clear and  
3 immediate danger to life or health, or a significant loss of property.

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 underground or  
16 aboveground, regardless of the nature of their transmittants or of their in-service  
17 application. The term includes, but is not restricted to, utility facilities,  
18 government-owned facilities, facilities transporting hazardous materials,  
19 communications and data facilities, drainage facilities and private water facilities  
20 and sewer systems. The term does not include culverts.

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

22           182.0175 (1m) ONE-CALL SYSTEM. (a) *Statewide system.* Transmission facilities  
23 owners shall establish or designate a nonprofit organization governed by a board of  
24 directors as the operator of a one-call system. The one-call system shall be a  
25 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.

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

9 (bm) *Membership fees*. Members may be assessed an initial start-up fee equal  
10 to the system's costs in adding the member to the one-call system, except that any  
11 initial start-up fee may not exceed \$100 for a member whose transmission facilities  
12 serve less than 5,000 customers. For purposes of assessing the initial start-up fee,  
13 affiliated transmission facilities owners shall be considered a single member. Under  
14 this paragraph, a transmission facilities owner is affiliated with another  
15 transmission facilities owner if the transmission facilities owner, directly, or  
16 indirectly through one or more intermediaries, controls, is controlled by, or is under  
17 common control with, the other transmission facilities owner. Members shall also  
18 be assessed a fee per notice of intended excavation activity. Membership in the  
19 one-call system ceases if a fee assessed under this paragraph is more than 90 days  
20 past due. A transmission facilities owner may be reinstated as a member upon  
21 payment of the amount past due.

22 (c) *Liability*. Any transmission facilities owner who is required to be a member  
23 of the one-call system and has not complied with the membership requirement is  
24 liable for all damages to the owner's transmission facilities and for any other

1 damages that occur as a result of a properly noticed excavation to the one-call  
2 system.

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

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

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

6 3. Accept notices of intended excavation activity.

7 4. Accept notices of intended emergency location or emergency excavation  
8 activity 24 hours a day.

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

11 6. Promptly transmit notice information to affected-member transmission  
12 facilities owners.

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

14 **SECTION 8.** 182.0175 (2) (title) of the statutes is repealed and recreated to read:  
15 182.0175 (2) (title) EXCAVATOR AND PLANNER RESPONSIBILITIES.

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

17 182.0175 (2) (a) (title) *Planning.* (intro.) Every person who ~~engages in or with~~  
18 ~~respect to subds. 1. and 2.~~ is responsible for the preparation of plans and  
19 specifications for nonemergency excavation ~~or demolition~~ and every excavator shall  
20 do all of the following:

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

22 182.0175 (2) (a) 1. Take reasonable action to learn the location of any  
23 transmission facilities in and near the area where ~~such operation~~ the excavation is  
24 to be conducted.

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

1           182.0175 (2) (a) 2. Plan the excavation ~~or demolition~~ to avoid to the extent  
2 possible interference with transmission facilities in and near the ~~construction~~  
3 excavation area.

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

6           182.0175 (2) (am) 1. Provide ~~reasonable~~ advance notice not less than 3 working  
7 days ~~prior to before~~ the start of the nonemergency excavation ~~or demolition~~ of the  
8 intent to excavate or demolish and the commencement date to the owners of the  
9 transmission facilities in and near the construction area whose facilities may be  
10 affected by the excavation or demolition one-call system.

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

13           182.0175 (2) (am) 3. Maintain an estimated minimum clearance of 18 inches  
14 between an unexposed underground transmission facility marked pursuant to par.  
15 (e) under sub. (2m) and the cutting edge or point of any power-operated excavating  
16 or earth moving equipment. If the transmission facility is exposed, the excavator  
17 may reduce the clearance ~~may be reduced~~ to 2 times the known limit of control of the  
18 cutting edge or point of the equipment or 12 inches, whichever is greater.

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

21           182.0175 (2) (am) 5. Provide ~~such~~ support for existing transmission facilities  
22 in and near the ~~construction~~ excavation area as that may be reasonably necessary  
23 or that is specified by the transmission facility owner for the protection of ~~such~~ the  
24 facilities, unless ~~such~~ protection is required of the owner of the transmission facility  
25 under s. 66.047.

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

3           182.0175 (2) (am) 6. ~~Inspect prior to backfilling~~ Before backfilling, inspect all  
4           transmission facilities exposed during excavation ~~or demolition~~ to ascertain if the  
5           transmission facilities have been or may have been struck, damaged, dislocated or  
6           disrupted and ~~notify promptly before backfilling.~~

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

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

12          182.0175 (2) (am) 8. Backfill ~~all excavations in such~~ an excavation as specified  
13          by the owner of the existing transmission facilities or in a manner and with such  
14          materials as that may be reasonably necessary for the protection of, and to provide  
15          reliable support during backfilling and following backfilling for, existing  
16          transmission facilities in and near the ~~construction~~ excavation area.

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

18          182.0175 (2) (am) *Excavation notice.* (intro.) An excavator shall do all of the  
19          following:

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

21          182.0175 (2) (am) 4. Provide a repeat notice to the one-call system if marks are  
22          destroyed or covered by excavation site activities, if the excavation does not start  
23          within 10 days of the scheduled start date or if excavation is interrupted for more  
24          than 10 days.

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

1           182.0175 (2) (am) 6m. Refrain from backfilling an excavation until an  
2 inspection is conducted and any necessary repairs have been made by the owner of  
3 the transmission facility.

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

6           182.0175 (2) (am) 2. ~~Every person who engages in~~ In an emergency excavation  
7 ~~or demolition shall,~~ take all reasonable precautions to avoid to the extent possible  
8 interference with existing transmission facilities in and near the ~~construction~~  
9 excavation area and shall notify as promptly as possible the owners of transmission  
10 facilities which may be affected by the emergency excavation ~~or demolition.~~

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

12           182.0175 (2) (bm) *Notice.* An excavation notice shall include all of the following  
13 information:

- 14           1. The name of the person providing notice.
- 15           2. The name, address and telephone number of the excavator.
- 16           3. The specific location and description of the excavation area, including the  
17 county, place, street address, nearest intersecting road, distance and direction from  
18 the nearest intersection and marking instructions.
- 19           4. A description of the intended excavation activity.
- 20           5. The intended starting date of the excavation.

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

22           **SECTION 23.** 182.0175 (2) (e) of the statutes is renumbered 182.0175 (2m) (b)  
23 and amended to read:

24           182.0175 (2m) (b) (title) Facilities marking. Every A person owning  
25 transmission facilities, upon receipt of an excavation notice ~~under par. (a) 3.~~, shall

1 mark in a reasonable manner the locations of transmission facilities ~~in~~ at the field  
2 ~~so as~~ area described in the notice to enable the person engaged in excavation or  
3 ~~demolition~~ excavator to locate the transmission facilities without endangering the  
4 security of ~~such~~ the facilities or the public. The marking of facilities shall be  
5 ~~accomplished~~ completed within 3 working days after receipt of the notice, ~~except or~~  
6 if notice is given more than 10 days before the excavation or ~~demolition~~ is scheduled  
7 to begin, marking ~~need not~~ shall be ~~accomplished more than~~ completed at least 3  
8 working days before excavation or ~~demolition~~ is scheduled to begin. If the  
9 approximate location of an ~~underground~~ a transmission facility is marked with  
10 paint, flags, stakes or other physical means, the following color coding of lines, cables  
11 or conduits shall be as follows ~~except that color coding shall not be required for~~  
12 ~~permanent markers required by state and federal codes~~ comply with the uniform  
13 color code adopted by the American National Standards Institute:

14 1. Electric power ~~distribution and transmission:~~ safety: red.

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

18 3. ~~Telecommunications and telegraph systems~~ Communications, cable  
19 television and ~~police and fire communications:~~ safety alert or alarm or signal  
20 systems: orange.

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

22 5. Sewer or drain systems: ~~safety~~ green.

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



1           182.0175 **(2m)** (c) (title) *Facilities inspection and repair*. Every person owning  
2 transmission facilities who receives a notice under par. (a) 6., (e) or (d) of possible  
3 damage shall inspect the facilities for damage within 24 6 hours after receipt of the  
4 notice if there is risk of personal injury or loss of life or within 24 hours after receipt  
5 of the notice if there is not a risk of personal injury or loss of life and shall repair any  
6 damage found as soon as practicable. Unless the owner of any transmission facility  
7 is notified pursuant to par. (a) 6., (e) or (d) or has knowledge of frequent damage to  
8 transmission facilities by a ~~person doing emergency or nonemergency excavation or~~  
9 ~~demolition, such an excavator, the owner shall is not be responsible for or be required~~  
10 to make an inspection of its transmission facilities, nor shall the owner, in the  
11 absence of ~~such~~ notification or knowledge, be responsible for supervising in any  
12 manner the excavation ~~or demolition work. Upon the giving of notice pursuant to~~  
13 ~~par. (a) 6., (e) or (d) the person performing the demolition or excavation shall refrain~~  
14 ~~from backfilling until an inspection and any necessary repairs are made by the owner~~  
15 ~~of the transmission facilities.~~

16           **SECTION 25.** 182.0175 (2m) (title) and (a) of the statutes are created to read:

17           182.0175 **(2m)** (title) TRANSMISSION FACILITIES OWNER REQUIREMENTS. (a)  
18 *Responsibilities.* A transmission facilities owner shall do all of the following:

19           1. Respond to a planning notice within 10 days after receipt of the notice by  
20 conducting field markings, providing records and taking other appropriate  
21 responses.

22           2. Respond to an excavation notice within 3 working days by marking the  
23 location of transmission facilities as provided under par. (b) in the area described in  
24 the excavation notice.

1           3. Provide emergency locator service within 24 hours after receiving a request  
2 for that service.

3           **SECTION 26.** 182.0175 (2m) (b) 6. and 7. of the statutes are created to read:

4           182.0175 **(2m)** (b) 6. Temporary survey markings: pink.

5           7. Proposed excavation: white.

6           **SECTION 27.** 182.0175 (3) of the statutes is renumbered 182.0175 (3) (a) and  
7 amended to read:

8           182.0175 **(3)** (a) (title) *Forfeitures.* Any person who wilfully and knowingly fails  
9 ~~to comply with~~ violates this section, ~~except sub. (2) (e), shall~~ may be required to forfeit  
10 ~~\$1,000~~ \$2,000 for each such failure, ~~provided that if the failure to comply results in~~  
11 ~~damage to any transmission facility, the forfeiture shall be \$2,000~~ offense. Each day  
12 ~~that failure to comply persists is~~ of continued violation constitutes a separate offense.  
13 ~~All actions to recover penalties under this section shall be brought in circuit court by~~  
14 ~~the district attorney.~~

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

16           182.0175 **(3)** (b) *Misdemeanor.* Whoever intentionally removes, moves or  
17 obliterates a transmission facilities marking placed by the transmission facilities  
18 owner may be fined not more than \$500 or imprisoned for not more than 30 days or  
19 both. This paragraph does not apply to an excavator who removes or obliterates  
20 markings during an excavation.

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

22           182.0175 **(4)** RIGHT OF ACTION. This section shall not ~~release or waive or~~  
23 ~~otherwise affect any right of action, forfeiture or penalty which the~~ this state or any  
24 person ~~has or~~ may have.

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

