



## 1995 SENATE BILL 64

February 14, 1995 - Introduced by Senators COWLES, PANZER, BURKE and SCHULTZ, cosponsored by Representatives DUFF, BAUMGART, PORTER, SCHNEIDERS, GOETSCH, AINSWORTH, SILBAUGH, REYNOLDS, NOTESTEIN and RYBA. Referred to 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) and 182.0175 (3) (b) of the statutes; **relating to:** damage to  
10    transmission facilities and providing penalties.

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### ***Analysis by the Legislative Reference Bureau***

This bill revises the procedures relating notices involving excavation near transmission facilities and damage to transmission facilities. "Transmission facilities" include pipes, cables, wires and other physical facilities used by utilities or private parties to transport gas, electricity, water, sewage or other materials. The bill expands the definition of transmission facilities to explicitly include government-owned facilities and telecommunications and data transmission facilities.

Under the bill, transmission facilities owners are required to establish a statewide, toll-free one-call system (a "digger's hotline") to receive and transmit excavation notices to transmission facilities owners. With limited exceptions,

transmission facilities owners are required to participate in funding the one-call system.

The bill requires excavation planners and excavators to notify the one-call system before engaging in nonemergency excavation. The bill identifies the information needed to be included in an excavation notice. An excavator is required to repeat a notice to the one-call system if excavation is delayed or interrupted by 10 days.

Upon receipt of an excavation notice, a transmission facilities owner is required to mark the excavation area to identify the facilities. The bill revises the color-code used to identify various types of transmission facilities.

Currently, if a transmission facilities owner receives notice of possible damage to facilities, the owner is required to inspect the damage within 24 hours. Under the bill, inspection is required within 6 hours after receipt of the notice.

The bill also requires a transmission facilities owner to mark facilities or provide other appropriate responses to an excavation notice within certain time limits after receiving an excavation notice.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

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

2           182.0175 (1) DEFINITIONS. (intro.) ~~As used in In this section, unless the context~~  
3 ~~requires otherwise:~~

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

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

6           182.0175 (1) (am) "Emergency" means an unforeseen condition that requires  
7 immediate excavation to avoid property damage, personal injury or loss of life.

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

9           182.0175 (1) (b) "Excavation" means any operation in which earth, rock or  
10 other material in or on the ground is moved, removed or otherwise displaced by  
11 means of any tools, equipment or explosives and includes grading, trenching,  
12 digging, ditching, drilling, augering, tunneling, scraping, cable or pipe plowing; and

1 driving and means any operation by which a structure or mass of material is  
2 wrecked, razed, rended, moved or removed.

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

4 182.0175 (1) (bm) "Excavator" means a person who engages in excavation.

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

6 182.0175 (1) (c) "Transmission facilities" includes all pipes, pipelines, wires,  
7 cables, ducts, wirelines and associated facilities, regardless of the nature of their  
8 transmittants or of their in-service application. The term includes, but is not  
9 restricted to, utility facilities, government-owned facilities, facilities transporting  
10 hazardous materials, communications and data facilities, drainage facilities and  
11 ~~private~~ water facilities and sewer systems.

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

13 182.0175 (1m) ONE-CALL SYSTEM. (a) *Statewide system.* Transmission facilities  
14 owners shall establish or designate a nonprofit organization governed by a board of  
15 directors as the operator of a one-call system. The one-call system shall be a  
16 statewide communication system in which a single operational center receives  
17 excavation notices and transmits notice information to affected-member  
18 transmission facilities owners.

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

22 2. A transmission facilities owner is not required to be a member of the one-call  
23 system if all of that person's transmission facilities are located on property owned by  
24 that person. This subdivision does not apply to a governmental unit that is a  
25 transmission facilities owner.

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

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

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

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

8 3. Accept notices of intended excavation activity.

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

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

13 6. 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) (a) 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.
- 17           4. A description of the intended excavation activity.
- 18           5. The intended starting date of the excavation.

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

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

22           182.0175 (2m) (b) (title) Facilities marking. Every A person owning  
23 transmission facilities, upon receipt of an excavation notice ~~under par. (a) 3.,~~ shall  
24 mark in a reasonable manner the locations of transmission facilities in the field ~~so~~  
25 ~~as~~ area described in the notice to enable the ~~person engaged in excavation or~~

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

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

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

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

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

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

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

23 182.0175 (2m) (c) (title) Facilities inspection and repair. Every person owning  
24 transmission facilities who receives a notice under par. (a) 6., (e) or (d) of possible  
25 damage shall acknowledge receipt of the notice within 2 hours, shall inspect the



1 facilities for damage within ~~24~~ 6 hours after receipt of the notice and repair any  
2 damage found as soon as practicable. Unless the owner of any transmission facility  
3 is notified pursuant to ~~par. (a) 6., (c) or (d)~~ or has knowledge of frequent damage to  
4 transmission facilities by ~~a person doing emergency or nonemergency excavation or~~  
5 ~~demolition, such an excavator, the~~ owner shall ~~is~~ not be responsible ~~for~~ or be required  
6 to make an inspection of its transmission facilities, nor shall the owner, in the  
7 absence of ~~such~~ notification or knowledge, be responsible for supervising in any  
8 manner the excavation ~~or demolition work~~. Upon the giving of notice pursuant to  
9 ~~par. (a) 6., (c) or (d) the person performing the demolition or excavation shall refrain~~  
10 ~~from backfilling until an inspection and any necessary repairs are made by the owner~~  
11 ~~of the transmission facilities.~~

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

13 182.0175 **(2m)** (title) TRANSMISSION FACILITIES OWNER REQUIREMENTS. (a)  
14 *Responsibilities.* A transmission facilities owner shall do all of the following:

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

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

21 **SECTION 26.** 182.0175 (3) of the statutes is renumbered 182.0175 (3) (a) and  
22 amended to read:

23 182.0175 **(3)** (a) (title) *Forfeitures.* Any person who wilfully and knowingly fails  
24 ~~to comply with~~ violates this section, ~~except sub. (2) (e), shall~~ may be required to forfeit  
25 \$1,000 for each ~~such failure, provided that if the failure to comply results in damage~~

1 to any transmission facility, the forfeiture shall be \$2,000 offense. Each day that  
2 failure to comply persists is of continued violation constitutes a separate offense. All  
3 actions to recover penalties under this section shall be brought in circuit court by the  
4 district attorney.

5 **SECTION 27.** 182.0175 (3) (b) of the statutes is created to read:

6 182.0175 (3) (b) *Misdemeanor.* Whoever intentionally removes, moves or  
7 obliterates a transmission facilities marking placed by the transmission facilities  
8 owner may be fined not more than \$500 or imprisoned for not more than 30 days or  
9 both. This paragraph does not apply to an excavator who removes, moves or  
10 obliterates markings during an excavation.

11 **SECTION 28.** 182.0175 (4) of the statutes is amended to read:

12 182.0175 (4) RIGHT OF ACTION. This section shall not ~~release or waive or~~  
13 ~~otherwise affect any right of action, forfeiture or penalty which the~~ this state or any  
14 person ~~has or~~ may have.

15 **SECTION 29.** 182.0175 (5) of the statutes is amended to read:

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

