



1997 ASSEMBLY BILL 553

October 9, 1997 – Introduced by Representatives CULLEN and GREEN, cosponsored by Senators GEORGE and HUELSMAN. Referred to Committee on Judiciary.

1 **AN ACT to repeal** 801.11 (7); **to renumber** chapter 184 (title), 184.01 to 184.05,
2 184.07 to 184.11, 184.13 and 184.15; **to renumber and amend** 184.06, 184.12
3 and 184.14; **to amend** 20.155 (1) (g), 20.155 (2) (g), 87.01 (7), 182.025 (1),
4 182.031 (2), 182.70 (9) (a), 182.71 (7) (c), 195.60 (2), 196.02 (7), 196.195 (1),
5 196.195 (5), 196.202 (2), 196.203 (1), 196.203 (3) (a), 196.203 (4), 196.795 (5) (a),
6 196.795 (5) (b), 196.80 (1m) (d), 196.85 (1), 196.85 (2), 893.33 (5) and 946.82 (4);
7 and **to create** 59.43 (1) (v), 77.25 (20), chapter 184 and 706.03 (3m) of the
8 statutes; **relating to:** the adoption of the Uniform Unincorporated Nonprofit
9 Association Act; the authority of nonprofit associations to acquire, hold and
10 transfer property; the liability of nonprofit associations and their members; and
11 the ability of nonprofit associations to sue and to be sued.

Analysis by the Legislative Reference Bureau

This bill adopts the Uniform Unincorporated Nonprofit Association Act, which was approved by the National Conference of Commissioners on Uniform State Laws in 1992. The bill makes a number of changes regarding the legal status of nonprofit associations and their members. The bill defines a nonprofit association as an

unincorporated organization consisting of 3 or more “members” joined by mutual consent for a common, nonprofit purpose. The term “members” is defined to mean persons who, under the nonprofit association’s rules, are entitled to participate in the selection of the association’s management or in the development of its policy. In particular, the bill makes the following changes:

1. Authority to Acquire, Hold and Transfer Property. At common law, unincorporated associations were generally not recognized as separate legal entities. The bill changes this common law rule by permitting a nonprofit association, in its own name, to acquire, hold, encumber or transfer real or personal property, regardless of whether the nonprofit association has any other ties to this state. The bill also expressly permits a nonprofit association to be a legatee or beneficiary of a trust or contract.

The bill establishes a mechanism under which a nonprofit association may record a statement of authority with a county register of deeds stating the name and address of the nonprofit association, the name or title of a person authorized to transfer real property held in the name of the nonprofit association and the action, procedure or vote of the nonprofit association that authorizes the person to transfer real property and that authorizes the person to execute the statement of authority. The county register of deeds may collect a fee for recording the statement in an amount equal to the amount charged for recording a transfer of real property. Unless amended or canceled earlier, a statement of authority is canceled by operation of law 5 years after the date of the most recent recording.

If a nonprofit association has been inactive for 3 years or longer, the person in possession or control of the nonprofit association’s personal property may transfer the property. If the documents of the nonprofit association specify to whom the transfer is to be made in such circumstances, the transfer must be made in accordance with the documents. If no person is specified, the property may be transferred to a nonprofit association or nonprofit corporation pursuing similar purposes or to a governmental agency or instrumentality. The bill does not specify a mechanism for disposition of the real property of an inactive association.

The bill contains certain transitional provisions regarding certain property transfers that occurred before the effective date of the bill. If an estate or interest in real or personal property was purportedly transferred to a nonprofit association before the effective date of the bill, the estate or interest vests in the nonprofit association on the effective date of the bill, unless the parties have treated the transfer as ineffective. Also, if a transfer of property vested the estate or interest in the property in another person to hold as fiduciary for the benefit of the nonprofit association or its members or both, the fiduciary may transfer the estate or interest to the nonprofit association in its name, or the nonprofit association may, by appropriate proceedings, require that the estate or interest be transferred to it in its name. No real estate transfer fee is assessed for these transfers.

2. Contract and Tort Liability of Nonprofit Associations and Members. Because an unincorporated nonprofit association was generally not treated as a separate legal entity at common law, members of the association were generally subject to joint and several liability for the association’s actions. Under the bill, a nonprofit

association is recognized as a legal entity separate from its members for purposes of liability in tort and contract. A person is not liable for a tortious act or omission of the nonprofit association, or for the nonprofit association's breach of contract, solely because of the person's status as a member or a person authorized to participate in the management of the nonprofit association's affairs. The bill does not address the liability of nonprofit associations for civil forfeitures or for criminal acts.

3. Ability of a Nonprofit Association to Sue and to be Sued as an Entity. At common law, a nonprofit association was generally not viewed as a legal entity distinct from its members. The bill authorizes members of a nonprofit association to assert a claim against the association and allows the association to assert a claim against one of its members. The bill allows a nonprofit association to, in its own name, institute, defend, intervene or participate in judicial or administrative proceedings. It allows a nonprofit association to assert a claim in its name on behalf of its members if one or more members of the association would have standing to assert the claim in their own right, if the interests that the nonprofit association seeks to protect are germane to the association's purposes and neither the claim asserted nor the relief requested requires the participation of a member. Under the bill, a judgment or order against a nonprofit association is not by itself a judgment or order against the association's members. Further, claims against a nonprofit association do not abate merely because of a change in the members or management of the association. The bill also contains provisions determining proper venue for nonprofit associations, establishing procedures for serving a complaint or summons on a nonprofit association and allowing a nonprofit association to appoint an agent for service of process.

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

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

1 **SECTION 1.** 20.155 (1) (g) of the statutes is amended to read:

2 20.155 (1) (g) *Utility regulation.* The amounts in the schedule for the
3 regulation of utilities. Ninety percent of all moneys received by the commission
4 under s. 184.10 ~~(3)~~, 196.85 ~~or~~, 196.855 or 200.10 (3) shall be credited to this
5 appropriation. Ninety percent of all receipts from the sale of miscellaneous printed
6 reports and other copied material, the cost of which was originally paid under this
7 paragraph, shall be credited to this appropriation.

8 **SECTION 2.** 20.155 (2) (g) of the statutes is amended to read:

1 20.155 (2) (g) *Railroad regulation and general program operations.* The
2 amounts in the schedule for railroad regulation under chs. 189 to 192 and 195 and
3 general program operations of the office of the commissioner of railroads. Ninety
4 percent of all moneys received by the office under s. ~~184.10 (3) or~~, 195.60 or 200.10
5 (3) shall be credited to this appropriation.

6 **SECTION 3.** 59.43 (1) (v) of the statutes is created to read:

7 59.43 (1) (v) Record and index statements of authority under s. 184.05.

8 **SECTION 4.** 77.25 (20) of the statutes is created to read:

9 77.25 (20) Made under s. 184.15.

10 **SECTION 5.** 87.01 (7) of the statutes is amended to read:

11 87.01 (7) "Public service corporation" means any corporation specified in s.
12 ~~184.01~~ 200.01.

13 **SECTION 6.** 182.025 (1) of the statutes is amended to read:

14 182.025 (1) Any domestic corporation formed to furnish water, heat, light,
15 power, telegraph or telecommunications service or signals by electricity may, subject
16 to the provisions of ch. ~~184~~ 200 and by an affirmative vote of at least two-thirds of
17 its outstanding shares entitled to vote thereon, or any cooperative association
18 organized under ch. 185 to furnish water, heat, light, power, telegraph or
19 telecommunications service to its stockholders or members only may, by a vote of a
20 majority of a quorum of its stockholders or members present at any regular or special
21 meeting held upon due notice as to the purpose of the meeting or when authorized
22 by the written consent of the holders of a majority of its capital stock outstanding and
23 entitled to vote or of a majority of its members, mortgage or trust deed any or all of
24 the property, rights and privileges and franchises that it may then own or thereafter
25 acquire, to secure the payment of its bonds or notes to a fixed amount or in amounts

1 to be from time to time determined by the board of directors, and may, in and by such
2 mortgage or deed of trust, provide for the disposal of any of its property and the
3 substitution of other property in its place. Every such mortgage or deed of trust may
4 be recorded in the office of the register of deeds of the county in which such
5 corporation is located at the time of such recording, and such record shall have the
6 same effect as if the instrument were filed in the proper office as a chattel mortgage
7 or financing statement, and so remain until satisfied or discharged without any
8 further affidavit, continuation statement or proceeding whatever. For this purpose
9 the location of such corporation shall be deemed to be: as to a corporation or a
10 cooperative association not at the time subject to either s. 180.0501 or 185.08, the
11 location designated in its articles as then in effect; as to a corporation subject to s.
12 180.0501, the location of its registered office; and as to a cooperative association
13 subject to s. 185.08, the location of its principal office or registered agent as
14 designated thereunder.

15 **SECTION 7.** 182.031 (2) of the statutes is amended to read:

16 182.031 (2) POWERS; PLACE OF BUSINESS. Every such corporation shall possess
17 all the rights and powers conferred upon corporations by chs. 180 and ~~184~~ 200. It
18 may have its principal place of business without the state. If its principal place of
19 business is outside the state, process in actions against it may be served as provided
20 in s. 180.1510 for service on a foreign stock corporation authorized to transact
21 business in this state or upon the department of financial institutions as provided
22 in s. 181.66 (2) for service upon a foreign nonprofit corporation.

23 **SECTION 8.** 182.70 (9) (a) of the statutes is amended to read:

24 182.70 (9) (a) The company may, after certification from the commission
25 according to the procedures under ss. ~~184.03~~ 200.03 and ~~184.04~~ 200.04, issue bonds

1 or other obligations secured by pledge, assignment, mortgage or trust deed of its
2 property.

3 **SECTION 9.** 182.71 (7) (c) of the statutes is amended to read:

4 182.71 (7) (c) The company may, after certification from the commission
5 according to the procedures under ss. ~~184.03~~ 200.03 and ~~184.04~~ 200.04, issue capital
6 stock or negotiable bonds. The money received by the company upon account of
7 capital stock or sale of its negotiable bonds shall be used to pay the original cost of
8 purchase, construction or improvement of the reservoir system. All tolls collected
9 under sub. (5) shall be applied only to the payment of cost of maintenance and
10 operation of the system and payment of the net return on capital so that the capital
11 stock and bonds of the corporation shall be maintained at par value at all times.

12 **SECTION 10.** Chapter 184 (title) of the statutes is renumbered chapter 200
13 (title).

14 **SECTION 11.** 184.01 to 184.05 of the statutes are renumbered 200.01 to 200.05.

15 **SECTION 12.** 184.06 of the statutes is renumbered 200.06, and 200.06 (2), as
16 renumbered, is amended to read:

17 200.06 (2) The commission may attach to the issuance of any certificate under
18 this chapter such terms, conditions or requirements as in its judgment are
19 reasonably necessary to protect the public interest. Any public service corporation
20 dissatisfied with any of the terms or conditions so imposed by the commission in such
21 certificate of authority shall be limited in its remedy to an action to modify or set
22 aside the commission order authorizing a certificate of authority, as provided by s.
23 ~~184.08~~ 200.08. Any public service corporation issuing securities pursuant to any
24 certificate of authority, not having brought any such action to set aside such order,

1 shall be deemed thereby to have waived any and all objections to the terms,
2 conditions and requirements contained in such certificate of authority.

3 **SECTION 13.** 184.07 to 184.11 of the statutes are renumbered 200.07 to 200.11.

4 **SECTION 14.** 184.12 of the statutes is renumbered 200.12 and amended to read:

5 **200.12 Judicial sale of corporation, reorganization.** Whenever the
6 rights, powers, privileges and franchises of any domestic public service corporation
7 shall be sold at judicial sale or pursuant to the foreclosure of a mortgage, the
8 purchaser shall, within sixty days after such sale, organize a new corporation
9 pursuant to the laws respecting corporations for similar purposes and shall convey
10 to such corporation the rights, privileges and franchises which the former
11 corporation had, or was entitled to have, at the time of such sale, and such as are
12 provided by the statutes applicable thereto. The amount of securities which may be
13 issued by the new corporation for the purpose of acquiring the property of the former
14 corporation shall be determined in accordance with ss. ~~184.04, 184.05~~ 200.04, 200.05
15 and ~~184.06~~ 200.06.

16 **SECTION 15.** 184.13 of the statutes is renumbered 200.13.

17 **SECTION 16.** 184.14 of the statutes is renumbered 200.14 and amended to read:

18 **200.14 Validation of securities issued without certificate.** Securities
19 issued by any such corporation, for the issuance of which a certificate should have
20 been, but through excusable neglect or mistake was not, applied for, may be validated
21 by the commission upon application of such corporation, signed and verified by the
22 president and secretary, and setting forth the information required by s. ~~184.05~~
23 200.05 (1), and in addition thereto a concise statement of the reasons why such
24 application was not made at the time such securities were issued. If the commission
25 shall find and determine that such failure to make application was due to excusable

1 neglect or mistake, and was not occasioned by any design to evade compliance with
2 the law, and that such issue was otherwise in accordance with law, the commission
3 shall issue to the corporation a validating certificate.

4 **SECTION 17.** 184.15 of the statutes is renumbered 200.15.

5 **SECTION 18.** Chapter 184 of the statutes is created to read:

6 **CHAPTER 184**

7 **UNIFORM UNINCORPORATED**

8 **NONPROFIT ASSOCIATION ACT**

9 **184.01 Definitions.** In this chapter:

10 (1) "Member" means a person who, under the rules or practices of a nonprofit
11 association, may participate in the selection of persons authorized to manage the
12 affairs of the nonprofit association or in the development of policy of the nonprofit
13 association.

14 (2) "Nonprofit association" means an unincorporated organization consisting
15 of 3 or more members joined by mutual consent for a common, nonprofit purpose.
16 However, joint tenancy, tenancy in common, or tenancy by the entirety does not, by
17 itself, establish a nonprofit association, even if the coowners share use of the property
18 for a nonprofit purpose.

19 **184.02 Supplementary general principles of law and equity.** Principles
20 of law and equity supplement this chapter, unless displaced by a particular provision
21 of this chapter.

22 **184.03 Territorial application.** Real and personal property in this state may
23 be acquired, held, encumbered and transferred by a nonprofit association, whether
24 or not the nonprofit association or a member has any other relationship with this
25 state.

1 **184.04 Real and personal property; nonprofit association as legatee or**
2 **beneficiary. (1)** A nonprofit association in its name may acquire, hold, encumber
3 or transfer an estate or interest in real or personal property.

4 **(2)** A nonprofit association may be a legatee or beneficiary of a trust or contract.

5 **184.05 Statement of authority as to real property. (1)** A nonprofit
6 association may execute and record a statement of authority to transfer an estate or
7 interest in real property in the name of the nonprofit association.

8 **(2)** An estate or interest in real property in the name of a nonprofit association
9 may be transferred by a person so authorized in a statement of authority recorded
10 in the office of the county register of deeds in which a transfer of the property would
11 be recorded.

12 **(3)** A statement of authority must include all of the following:

13 (a) The name of the nonprofit association. The name of a nonprofit association
14 as set forth in the statement of authority must contain the words “unincorporated
15 association” or “unincorporated assoc.” or end with the abbreviation “U.A.” or “UA”.
16 The name may not contain language stating or implying that the nonprofit
17 association is incorporated.

18 (b) The address in this state, including the street address, if any, of the
19 nonprofit association or, if the nonprofit association does not have an address in this
20 state, its address outside this state.

21 (c) The name or title of a person who is authorized to transfer an estate or
22 interest in real property held in the name of the nonprofit association.

23 (d) The action, procedure or vote of the nonprofit association that authorizes
24 the person to transfer the real property of the nonprofit association and that
25 authorizes the person to execute the statement of authority.

1 (4) A statement of authority shall be executed in the same manner as a deed
2 by a person who is not the person authorized by the statement of authority to transfer
3 the estate or interest in real property.

4 (6) An amendment, including a cancellation, of a statement of authority must
5 meet the requirements for execution and recording of an original statement. Unless
6 canceled earlier, a recorded statement of authority or its most recent amendment is
7 canceled by operation of law 5 years after the date of the most recent recording.

8 (7) If the record title to real property is in the name of a nonprofit association
9 and the statement of authority is recorded in the office of the county register of deeds
10 in which a transfer of real property would be recorded, the authority of the person
11 named in a statement of authority is conclusive in favor of a person who gives value
12 without notice that the person lacks authority.

13 **184.06 Liability in tort and contract.** (1) A nonprofit association is a legal
14 entity separate from its members for the purposes of determining and enforcing
15 rights, duties and liabilities in contract and tort.

16 (2) A person is not liable for a breach of a nonprofit association's contract
17 merely because the person is a member, is authorized to participate in the
18 management of the affairs of the nonprofit association, or is a person considered to
19 be a member by the nonprofit association.

20 (3) A person is not liable for a tortious act or omission for which a nonprofit
21 association is liable merely because the person is a member, is authorized to
22 participate in the management of the affairs of the nonprofit association, or is a
23 person considered to be a member by the nonprofit association.

24 (4) A tortious act or omission of a member or other person for which a nonprofit
25 association is liable is not imputed to a person merely because the person is a member

1 of the nonprofit association, is authorized to participate in the management of the
2 affairs of the nonprofit association, or is a person considered to be a member by the
3 nonprofit association.

4 (5) A member of, or a person considered to be a member by, a nonprofit
5 association may assert a claim against the nonprofit association. A nonprofit
6 association may assert a claim against a member or a person considered to be a
7 member by the nonprofit association.

8 **184.07 Capacity to assert and defend; standing.** (1) A nonprofit
9 association, in its name, may institute, defend, intervene or participate in a judicial,
10 administrative or other governmental proceeding or in an arbitration, mediation or
11 any other form of alternative dispute resolution.

12 (2) A nonprofit association may assert a claim in its name on behalf of its
13 members if one or more members of the nonprofit association have standing to assert
14 a claim in their own right, the interests that the nonprofit association seeks to protect
15 are germane to its purposes, and neither the claim asserted nor the relief requested
16 requires the participation of a member.

17 **184.08 Effect of judgment or order.** A judgment or order against a nonprofit
18 association is not by itself a judgment or order against a member.

19 **184.09 Disposition of personal property of inactive nonprofit**
20 **association.** If a nonprofit association has been inactive for 3 years or longer, a
21 person in possession or control of personal property of the nonprofit association may
22 transfer the property to any of the following:

23 (1) If a document of a nonprofit association specifies a person to whom transfer
24 is to be made under these circumstances, that person.

1 **(2)** If no person is so specified, a nonprofit association or nonprofit corporation
2 pursuing broadly similar purposes, or to a government or governmental subdivision,
3 agency or instrumentality.

4 **184.10 Appointment of agent to receive service of process. (1)** A
5 nonprofit association may file with the department of financial institutions a
6 statement appointing an agent who is authorized to receive service of process.

7 **(2)** A statement appointing an agent shall be on the form prescribed by the
8 department of financial institutions and shall set forth all of the following:

9 (a) The name of the nonprofit association. The name of a nonprofit association
10 as set forth in the statement appointing an agent must contain the words
11 “unincorporated association” or “unincorporated assoc.” or end with the abbreviation
12 “U.A.” or “UA”. The name may not contain language stating or implying that the
13 nonprofit association is incorporated.

14 (b) The address in this state, including the street address, if any, of the
15 nonprofit association, or, if the nonprofit association does not have an address in this
16 state, its address out of state.

17 (c) The name of the person in this state who is authorized to receive service of
18 process and the person’s address, including the street address, in this state.

19 (d) That the person appointed as agent has accepted the appointment.

20 **(3)** A statement appointing an agent must be signed by a person who is
21 authorized to manage the affairs of a nonprofit association. The appointed agent
22 may resign by filing a resignation with the department of financial institutions and
23 giving notice to the nonprofit association.

1 (4) The department of financial institutions shall collect a fee of \$15 for filing
2 a statement appointing an agent to receive service of process, an amended and
3 restated statement or a resignation.

4 (5) A statement filed under sub. (1) may be amended by filing a statement
5 changing or restating the information set forth in the original statement and
6 declaring that the statement supersedes and takes the place of the original
7 statement. The statement shall set forth all of the information required under sub.
8 (2) and shall meet the requirements for execution of an original statement.

9 (6) A statement, an amended and restated statement or a resignation filed
10 under this section is effective on the date on which it is filed by the department of
11 financial institutions.

12 **184.11 Claim not abated by change of members or officers.** A claim for
13 relief against a nonprofit association does not abate merely because of a change in
14 its members or persons authorized to manage the affairs of the nonprofit association.

15 **184.12 Venue.** For purposes of determining venue under s. 801.50, a nonprofit
16 association is a resident of a county in which it has an office.

17 **184.13 Summons and complaint; service on whom.** In an action or
18 proceeding against a nonprofit association, a summons and complaint must be
19 served on an agent who is authorized by appointment to receive service of process,
20 an officer, managing or general agent, or a person who is authorized to participate
21 in the management of its affairs. If none of them can be served, service may be made
22 on a member.

23 **184.14 Uniformity of application and construction.** This chapter shall
24 be applied and construed to effectuate its general purpose to make uniform the law
25 with respect to the subject of this chapter among states enacting it.

1 **184.15 Transfers by a fiduciary.** If before the effective date of this section
2 [revisor inserts date], the transfer vested the estate or interest in another person
3 to hold the estate or interest as a fiduciary for the benefit of the nonprofit association
4 or its members or both, on or after the effective date of this section [revisor inserts
5 date], the fiduciary may transfer the estate or interest to the nonprofit association
6 in its name, or the nonprofit association, by appropriate proceedings, may require
7 that the estate or interest be transferred to the nonprofit association in its name.

8 **SECTION 19.** 195.60 (2) of the statutes is amended to read:

9 **195.60 (2)** The office shall annually, within 90 days after the close of each fiscal
10 year, ascertain the total of its expenditures during such year which are reasonably
11 attributable to the performance of its duties relating to railroads. For purposes of
12 such calculation, 90% of the expenditures so determined shall be expenditures of the
13 office and 10% of the expenditures so determined shall be expenditures for state
14 government operations. The office shall deduct therefrom all amounts chargeable
15 to railroads under sub. (1) and s. ~~184.10~~ 200.10 (3). A sum equal to the remainder
16 plus 10% of the remainder shall be assessed by the office to the several railroads in
17 proportion to their respective gross operating revenues during the last calendar year,
18 derived from intrastate operations. Such assessment shall be paid within 30 days
19 after the bill has been mailed to the several railroads, which bill shall constitute
20 notice of assessment and demand of payment thereof. The total amount which may
21 be assessed to the railroads under authority of this subsection shall not exceed 1.75%
22 of the total gross operating revenues of such railroads, during such calendar year,
23 derived from intrastate operations. Ninety percent of the payment shall be credited
24 to the appropriation account under s. 20.155 (2) (g). The railroads shall furnish such
25 financial information as the office requires.

1 **SECTION 20.** 196.02 (7) of the statutes is amended to read:

2 196.02 (7) COMMISSION INITIATIVE. In any matter within its jurisdiction,
3 including, but not limited to, chs. ~~184~~, 197 and 200 and this chapter, the commission
4 may initiate, investigate and order a hearing at its discretion upon such notice as it
5 deems proper.

6 **SECTION 21.** 196.195 (1) of the statutes is amended to read:

7 196.195 (1) REGULATION IMPOSED. Except as provided in this section and ss.
8 196.202, 196.203, 196.215 and 196.219, a telecommunications utility is subject to
9 every applicable provision of this chapter and ch. ~~184~~ 200.

10 **SECTION 22.** 196.195 (5) of the statutes is amended to read:

11 196.195 (5) COMMISSION ACTION. If after the proceedings under subs. (2), (3) and
12 (4) the commission has determined that effective competition exists in the market
13 for the telecommunications service which justifies a lesser degree of regulation and
14 that lesser regulation in that market will serve the public interest, the commission
15 may, by order, suspend any of the following provisions of law, except as provided
16 under subs. (7) and (8): ch. ~~184~~ 200 and s. 196.02 (2); s. 196.05; s. 196.06; s. 196.07;
17 s. 196.09; s. 196.10; s. 196.12; s. 196.13 (2); s. 196.19; tariffing requirements under
18 s. 196.194; s. 196.196 (1) or (5); s. 196.20; s. 196.204 (7); s. 196.21; s. 196.22; s. 196.26;
19 s. 196.28; s. 196.37; s. 196.49; s. 196.52; s. 196.58; s. 196.60; s. 196.604; s. 196.77; s.
20 196.78; s. 196.79; and s. 196.805.

21 **SECTION 23.** 196.202 (2) of the statutes is amended to read:

22 196.202 (2) SCOPE OF REGULATION. A cellular mobile radio telecommunications
23 utility is not subject to ch. ~~184~~ 200 or this chapter, except a cellular mobile radio
24 telecommunications utility is subject to s. 196.218 (3) to the extent not preempted by
25 federal law. If the application of s. 196.218 (3) to a cellular mobile radio

1 telecommunications utility is not preempted, a cellular mobile radio
2 telecommunications utility shall respond, subject to the protection of the cellular
3 mobile radio telecommunications utility's competitive information, to all reasonable
4 requests for information about its operations in this state from the commission
5 necessary to establish and administer the universal service fund.

6 **SECTION 24.** 196.203 (1) of the statutes is amended to read:

7 196.203 (1) Except as provided in this section, alternative telecommunications
8 utilities are exempt from all provisions of ch. 184 200 and this chapter.

9 **SECTION 25.** 196.203 (3) (a) of the statutes is amended to read:

10 196.203 (3) (a) In response to a petition from any interested person, or upon
11 its own motion, the commission shall determine whether the public interest requires
12 that any provision of ch. 184 200 or this chapter be imposed on a person providing
13 or proposing to provide service as an alternative telecommunications utility in a
14 relevant market. In making this determination, the commission may consider
15 factors including the quality of service, customer complaints, concerns about the
16 effect on customers of local exchange telecommunications utilities and the extent to
17 which similar services are available from alternative sources.

18 **SECTION 26.** 196.203 (4) of the statutes is amended to read:

19 196.203 (4) The commission may impose any provision of ch. 184 200 or this
20 chapter on one or more, but not necessarily all, alternative telecommunications
21 utilities providing service in a relevant market.

22 **SECTION 27.** 196.795 (5) (a) of the statutes is amended to read:

23 196.795 (5) (a) No holding company which is not a public utility and no
24 nonutility affiliate is subject to any regulatory power of the commission except under
25 this section, ss. 196.52, 196.525 and 196.84 and except under ch. 184 200 if the

1 commission has made a determination under sub. (7) (a) which makes such holding
2 company a public service corporation, as defined under s. ~~184.01~~ 200.01 (2).

3 **SECTION 28.** 196.795 (5) (b) of the statutes is amended to read:

4 196.795 (5) (b) The commission has full access to any book, record, document
5 or other information relating to a holding company system to the extent that such
6 information is relevant to the performance of the commission's duties under ch. ~~184~~
7 200, this chapter or any other statute applicable to the public utility affiliate. The
8 commission may require a holding company to keep any record or document which
9 is necessary for the commission to perform its duties under this section and which
10 is consistent with generally accepted accounting and record-keeping practices of the
11 particular type of business involved. Any information obtained under this
12 paragraph is subject to sub. (9), when applicable.

13 **SECTION 29.** 196.80 (1m) (d) of the statutes is amended to read:

14 196.80 (1m) (d) Consolidate or merge with any Wisconsin corporation if
15 substantially all of the assets of the corporation consist of the entire stock of the
16 public utility. The total of the resulting securities outstanding of the possessor
17 corporation which have not been authorized previously under ch. ~~184~~ 200 shall
18 require authorization under ch. ~~184~~ 200 as a condition precedent to the merger or
19 consolidation.

20 **SECTION 30.** 196.85 (1) of the statutes is amended to read:

21 196.85 (1) If the commission in a proceeding upon its own motion, on complaint,
22 or upon an application to it deems it necessary in order to carry out the duties
23 imposed upon it by law to investigate the books, accounts, practices and activities of,
24 or make appraisals of the property of any public utility, power district or sewerage
25 system or to render any engineering or accounting services to any public utility,

1 power district or sewerage system, the public utility, power district or sewerage
2 system shall pay the expenses attributable to the investigation, including the cost
3 of litigation, appraisal or service. The commission shall mail a bill for the expenses
4 to the public utility, power district or sewerage system either at the conclusion of the
5 investigation, appraisal or services, or during its progress. The bill constitutes notice
6 of the assessment and demand of payment. The public utility, power district or
7 sewerage system shall, within 30 days after the mailing of the bill pay to the
8 commission the amount of the special expense for which it is billed. Ninety percent
9 of the payment shall be credited to the appropriation account under s. 20.155 (1) (g).
10 The total amount in any one calendar year for which any public utility, power district
11 or sewerage system is liable, by reason of costs incurred by the commission within
12 the calendar year, including charges under s. ~~184.10~~ 200.10 (3), may not exceed
13 four-fifths of one percent of its gross operating revenues derived from intrastate
14 operations in the last preceding calendar year. Nothing in this subsection shall
15 prevent the commission from rendering bills in one calendar year for costs incurred
16 within a previous year. For the purpose of calculating the costs of investigations,
17 appraisals and other services under this subsection, 90% of the costs determined
18 shall be costs of the commission and 10% of the costs determined shall be costs of
19 state government operations.

20 **SECTION 31.** 196.85 (2) of the statutes is amended to read:

21 196.85 (2) The commission shall annually, within 90 days of the
22 commencement of each fiscal year, calculate the total of its expenditures during the
23 prior fiscal year which are reasonably attributable to the performance of its duties
24 relating to public utilities, sewerage systems and power districts under this chapter
25 and chs. 66, ~~184~~ and 198 and 200 and expenditures of the state for state government

1 operations to support the performance of such duties. For purposes of such
2 calculation, 90% of the expenditures so determined shall be expenditures of the
3 commission and 10% of the expenditures so determined shall be expenditures for
4 state government operations. The commission shall deduct from this total all
5 amounts chargeable to public utilities, sewerage systems and power districts under
6 sub. (1) and s. ~~184.10~~ 200.10 (3). The commission shall assess a sum equal to the
7 remainder plus 10% of the remainder to the public utilities and power districts in
8 proportion to their respective gross operating revenues during the last calendar year,
9 derived from intrastate operations. If, at the time of payment, the prior year's
10 expenditures made under this section exceeded the payment made under this section
11 in the prior year, the commission shall charge the remainder to the public utilities
12 and power districts in proportion to their gross operating revenues during the last
13 calendar year. If, at the time of payment it is determined that the prior year's
14 expenditures made under this section were less than the payment made under this
15 section in the prior year, the commission shall credit the difference to the current
16 year's payment. The assessment shall be paid within 30 days after the bill has been
17 mailed to the public utilities and power districts. The bill constitutes notice of the
18 assessment and demand of payment. Ninety percent of the payment shall be credited
19 to the appropriation account under s. 20.155 (1) (g).

20 **SECTION 32.** 706.03 (3m) of the statutes is created to read:

21 706.03 (**3m**) A nonprofit association, as defined in s. 184.01 (2), may authorize
22 a person to execute conveyances of estates or interests in real property by executing
23 and filing a statement of authority under s. 184.05.

24 **SECTION 33.** 801.11 (7) of the statutes is repealed.

25 **SECTION 34.** 893.33 (5) of the statutes is amended to read:

1 893.33 (5) This section bars all claims to an interest in real property, whether
2 rights based on marriage, remainders, reversions and reverter clauses in covenants
3 restricting the use of real estate, mortgage liens, old tax deeds, death and income or
4 franchise tax liens, rights as heirs or under will, or any claim of any nature, however
5 denominated, and whether such claims are asserted by a person sui juris or under
6 disability, whether such person is within or without the state, and whether such
7 person is natural or corporate, or private or governmental, unless within the 30-year
8 period provided by sub. (2) there has been recorded in the office of the register of
9 deeds some instrument expressly referring to the existence of the claim, or a notice
10 pursuant to this section. This section does not apply to any action commenced or any
11 defense or counterclaim asserted, by any person who is in possession of the real
12 estate involved as owner at the time the action is commenced. This section does not
13 apply to any real estate or interest in real estate while the record title to the real
14 estate or interest in real estate remains in a railroad corporation, a public service
15 corporation as defined in s. ~~184.01~~ 200.01, an electric cooperative organized and
16 operating on a nonprofit basis under ch. 185, or any trustee or receiver of a railroad
17 corporation, a public service corporation or an electric cooperative, or to claims or
18 actions founded upon mortgages or trust deeds executed by that cooperative or
19 corporation, or trustees or receivers of that cooperative or corporation. This section
20 also does not apply to real estate or an interest in real estate while the record title
21 to the real estate or interest in real estate remains in the state or a political
22 subdivision or municipal corporation of this state.

23 **SECTION 35.** 946.82 (4) of the statutes is amended to read:

24 946.82 (4) "Racketeering activity" means any activity specified in 18 USC 1961
25 (1) in effect as of April 27, 1982 or the attempt, conspiracy to commit, or commission

1 of any of the felonies specified in: chs. 945 and 961 and ss. 49.49, 134.05, 139.44 (1),
2 180.0129, 181.69, ~~184.09 (2)~~, 185.825, 200.09 (2), 215.12, 221.0625, 221.0636,
3 221.0637, 221.1004, 551.41, 551.42, 551.43, 551.44, 553.41 (3) and (4), 553.52 (2),
4 940.01, 940.19 (3) to (6), 940.20, 940.203, 940.21, 940.30, 940.305, 940.31, 941.20 (2)
5 and (3), 941.26, 941.28, 941.298, 941.31, 941.32, 943.01 (2) or (2g), 943.012, 943.013,
6 943.02, 943.03, 943.04, 943.05, 943.06, 943.10, 943.20 (3) (b) to (d), 943.23 (1g), (1m),
7 (1r), (2) and (3), 943.24 (2), 943.25, 943.27, 943.28, 943.30, 943.32, 943.34 (1) (b) and
8 (c), 943.38, 943.39, 943.40, 943.41 (8) (b) and (c), 943.50 (4) (b) and (c), 943.60, 943.70,
9 944.205, 944.21 (5) (c) and (e), 944.32, 944.33 (2), 944.34, 945.03, 945.04, 945.05,
10 945.08, 946.10, 946.11, 946.12, 946.13, 946.31, 946.32 (1), 946.48, 946.49, 946.61,
11 946.64, 946.65, 946.72, 946.76, 947.015, 948.05, 948.08, 948.12 and 948.30.

12 **SECTION 36. Nonstatutory provisions.**

13 (1) PRIOR TRANSFERS OF REAL OR PERSONAL PROPERTY. If, before the effective date
14 of this subsection, an estate or interest in real or personal property was purportedly
15 transferred to a nonprofit association, on the effective date of this subsection, the
16 estate or interest vests in the nonprofit association unless the parties have treated
17 the transfer as ineffective.

18 **SECTION 37. Initial applicability.**

19 (1) This act first applies to actions or proceedings commenced, and to rights
20 accrued, on the effective date of this subsection.

21 **SECTION 38. Effective dates.** This act takes effect on the day after
22 publication, except as follows:

23 (1) The creation of section 184.10 of the statutes takes effect on the first day
24 of the 7th month beginning after publication.

25

(END)