

1999 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB747)

Received: **02/24/2000**

Received By: **kunkemd**

Wanted: As time permits

Identical to LRB:

For: **David Hutchison (608) 266-5350**

By/Representing: **John Stolzenberg**

This file may be shown to any legislator: NO

Drafter: **kunkemd**

May Contact:

Alt. Drafters:

Subject: **Education - miscellaneous
Higher Education - miscellaneous
Public Util. - telco and cable**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Prohibiting certain governmental subdivisions from providing telecommunications and Internet services

Instructions:

See Attached

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Reauired</u> |
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| /1 | | lrb-docadmin 03/08/2000 | jfrantze 02/25/2000 | _____ | lrb-docadmin 02/25/2000 | lrb-docadmin 02/25/2000 | |
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| | <p>15 wj 3/14 3/14 3/14</p> <p><i>(Handwritten signatures and dates)</i></p> | | | | | | |

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| | | | | Kjf/Km 3/9 | | | |

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FE Sent For:

2/25

<END>

Kunkel, Mark

From: Stolzenberg, John
Sent: Thursday, February 24, 2000 3:48 PM
To: Kunkel, Mark
cc: Taylor, Mike
Subject: Sub to AB 747

Mark,

Please draft for Rep. Hutchison an Assembly substitute amendment to 1999 AB 747 that is based on AB 747, as amended by LRBa1446/1.

Thanks.

John

John Stolzenberg, Staff Scientist
Wisconsin Legislative Council Staff
P.O. Box 2536
Madison, WI 53701-2536
Direct: 608-266-2988 Fax: 608-266-3830
John.Stolzenberg@legis.state.wi.us

O-NOTE

By Fri
8/25
4:00pm

ASA to

1999 ASSEMBLY BILL 747

50334/11

February 10, 2000 - Introduced by Representatives HUEBSCH, STONE, MUSSER, SUDER, FREESE, GOETSCH, HANDRICK, KELSO, WALKER and POWERS, cosponsored by Senators SHIBILSKI, BRESKE and MOEN. Referred to Committee on Information Policy.

repeal

public library systems

1 AN ACT *to renumber* 196.203 (2) and 196.50 (2) (c); *to renumber and amend*

2 196.499 (15) and 196.50 (4); *to amend* 196.50 (4) (title), 198.12 (6) and 198.22

3 (6); and to *create* 196.203 (2) (b), 196.499 (15) (b), 196.50 (2) (c) 2., 196.50 (4)

4 (a) and 196.50 (4) (c) of the statutes; **relating to:** prohibiting cities, villages,

5 towns, counties, school districts, technical college districts and cooperative

6 educational service agencies from providing *or selling* certain telecommunications

7 services and Internet access services and from making certain transfers of

8 telecommunications transmission facilities.

Analysis by the Legislative Reference Bureau

Under this bill, a governmental subdivision, which the bill defines as a city, village, town, county, school district, technical college district or cooperative

ASSEMBLY BILL 747

"alternative telecommunications utility" is defined to include cable television telecommunications service providers, pay telephone service providers and telecommunications resellers.

The bill also prohibits a governmental subdivision from providing an Internet access service directly or indirectly to the public. "Internet access service" is defined as a service that enables a user to obtain access to content, information, electronic mail or any other service offered over the Internet. Finally, the bill prohibits a governmental subdivision from transferring a telecommunications transmission facility in this state to another person if the facility is used to furnish a telecommunications service directly or indirectly to the public.

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.** 196.203 (2) of the statutes is renumbered 196.203 (2) (a).

2 **SECTION 2.** 196.203 (2) (b) of the statutes is created to read:

3 196.203 (2) (b) The commission may not issue a determination under par. (a)
4 to a governmental subdivision, as defined in s. 196.50 (4) (a) 1.

5 **SECTION 3.** 196.499 (15) of the statutes is renumbered 196.499 (15) (a) and
6 amended to read:

7 196.499 (15) (a) A telecommunications carrier that is not authorized to provide
8 intrastate telecommunications service on January 1, 1994, may not commence the
9 construction of any plant, extension or facility, or provide intrastate
10 telecommunications service directly or indirectly to the public, unless the
11 telecommunications carrier obtains a certificate from the commission authorizing
12 the telecommunications carrier to provide intrastate telecommunications. ~~The~~
13 Except as provided in par. (b), the commission may issue a certificate if the
14 telecommunications carrier demonstrates that it possesses sufficient technical,
15 financial and managerial resources to provide intrastate telecommunications

ASSEMBLY BILL 747

1 services. A telecommunications carrier that is authorized to provide intrastate
2 telecommunications service on January 1, 1994, is not required to be recertified
3 under this ~~subsection~~ paragraph.

4 **SECTION 4.** 196.499 (15) (b) of the statutes is created to read:

5 196.499 (15) (b) The commission may not issue a certificate under par. (a) to
6 a governmental subdivision, as defined in s. 196.50 (4) (a) 1.

7 **SECTION 5.** 196.50 (2) (c) of the statutes is renumbered 196.50 (2) (c) 1.

8 **SECTION 6.** 196.50 (2) (c) 2. of the statutes is created to read:

9 196.50 (2) (c) 2. The commission may not issue a certificate of authority under
10 this subsection to a governmental subdivision, as defined in s. 196.50 (4) (a) 1.

11 **SECTION 7.** 196.50 (4) (title) of the statutes is amended to read:

12 196.50 (4) (title) ~~MUNICIPALITY~~ MUNICIPALITIES AND GOVERNMENTAL SUBDIVISIONS
13 **RESTRAINED.**

14 **SECTION 8.** 196.50 (4) of the statutes is renumbered 196.50 (4) (b) and amended
15 to read:

16 196.50 (4) (b) No municipality may construct any public utility that is not a
17 telecommunications utility or alternative telecommunications utility if there is in
18 operation under an indeterminate permit in the municipality a public utility
19 engaged in similar service ~~other than a telecommunications service~~, unless it secures
20 from the commission a declaration, after a public hearing of all parties interested,
21 that public convenience and necessity require the municipal public utility.

22 **SECTION 9.** 196.50 (4) (a) of the statutes is created to read:

23 **INSERT**
3-23 196.50 (4) (a) In this subsection:

24 1. "Governmental subdivision" means a city, village, town, county, school
25 district, cooperative educational service agency or technical college district.

ASSEMBLY BILL 747

INSEAT
4-2

1 2. "Internet access service" means a service that enables a user to obtain access
2 to content, information, electronic mail or any other service offered over the Internet.

INSEAT
4-4

3 3. "Transfer" means to sell, lease or transfer for consideration of any interest
4 in ownership, title or right to use.

(Except as provided in par. (d))

5 SECTION 10. 196.50 (4) (c) of the statutes is created to read:

INSEAT
4-6

6 196.50 (4) (c) ^(l.c.) No governmental subdivision may do any of the following:

7 ~~1. Provide a telecommunications service in this state as a telecommunications
8 utility, alternative telecommunications utility or telecommunications carrier.~~

9 2. Transfer a transmission facility in this state to another person if the facility
10 is used to furnish a telecommunications service directly or indirectly to ^{a member of} the public.

11 ~~3. Provide an Internet access service directly or indirectly to the public.~~

INSEAT 4-11B

12 SECTION 11. 198.12 (6) of the statutes is amended to read:

13 198.12 (6) UTILITIES, ACQUIRE, CONSTRUCT, OPERATE; WATER POWER; SALE OF
14 SERVICE; USE OF STREETS. The district shall have power and authority to own, acquire
15 and, subject to the restrictions applying to a municipality under s. 196.50 (4) (b), to
16 construct any utility or portion thereof to operate, in whole or in part, in the district,
17 and to own, acquire and, subject to ss. 196.01 to 196.53 and 196.59 to 196.76 where
18 applicable, to construct any addition to or extension of any such utility, and to own,
19 acquire and construct any water power and hydroelectric power plant, within or
20 without the district, to be operated in connection with any such utility, and to
21 operate, maintain and conduct such utility and water power and hydroelectric power
22 plant and system both within and without the district, and to furnish, deliver and
23 sell to the public and to any municipality and to the state and any state institution
24 heat, light and power service and any other service, commodity or facility which may
25 be produced or furnished thereby, and to charge and collect rates, tolls and charges

a ASSEMBLY BILL 747

1 for the same. For said purposes the district is granted and shall have and exercise
2 the right freely to use and occupy any public highway, street, way or place reasonably
3 necessary to be used or occupied for the maintenance and operation of such utility
4 or any part thereof, subject, however, to such local police regulations as may be
5 imposed by any ordinance adopted by the governing body of the municipality in
6 which such highway, street, way or place is located.

7 **SECTION 12.** 198.22 (6) of the statutes is amended to read:

8 198.22 (6) **ACQUISITION; CONSTRUCTION; OPERATION; SALE OF SERVICE; USE OF**
9 **STREETS.** The district shall have power and authority to own, acquire, and, subject
10 to the restrictions applying to a municipality under s. 196.50 (4) (b), to construct any
11 water utility or portion thereof, to operate, in whole or in part, in the district and to
12 construct any addition or extension to any such utility For such purpose the district
13 is granted and shall have and exercise the right freely to use and occupy any public
14 highway, street, way or place reasonably necessary to be used or occupied for the
15 construction, operation or maintenance of such utility or any part thereof, subject,
16 however, to the obligation of the district to replace said grounds in the same condition
17 as they previously were in.

18 **SECTION 13. Initial applicability**

19 (1) The treatment of section 196.50 (4) (c) of the statutes first applies to services
20 provided ^{or sold} for facilities transferred under contracts entered into, extended, modified or
21 renewed on the effective date of this subsection.

22 (END)

**ASSEMBLY AMENDMENT,
TO 1999 ASSEMBLY BILL 747**

1 At the locations indicated, amend the bill as follows:
2 1. Page 1, line 5: after "college districts" insert ", public library systems".
3 2. Page 1, line 6: after "providing" insert "or selling".
4 3. Page 3, line 24: delete lines 24 and 25 and substitute:

INSERT
3-23:
text
insert

- 5 1. "Governmental subdivision" means any of the following:
- 6 a. A political subdivision.
- 7 b. A school district.
- 8 c. A cooperative educational service agency.
- 9 d. A technical college district.
- 10 e. A public library system, as defined in s. 43.01 (5).
- 11 f. An instrumentality or corporation of any person specified in subd. 1. a. to e.
- 12 g. A combination or subunit of any person specified in subd. 1. a. to f.

END OF INSERT 3-23

13 4. Page 4, line 2: after that line insert:

INSERT
4-2:
1

2e. "Local governmental unit" means any of the following:

- 2 a. A political subdivision
- 3 b. A special purpose district
- 4 c. An instrumentality or corporation of a political subdivision or special
- 5 purpose district.
- 6 d. A combination or subunit of any person specified in subd. 2e. a. to c.
- 7 e. A combination of a state agency and any person specified in subd. 2e. a. to
- 8 d.

9 2m. "Member of the public" means any person except a governmental
10 subdivision.

11 2r. "Political subdivision" means any city, village, town or county.

12 2w. "State agency" means any office, department, independent agency,
13 institution of higher education, association, society or other body in state
14 government created or authorized to be created by the constitution or any law,
15 including the legislature and courts.

END OF INSERT 4-2

INSERT
4-4:
17

~~5. Page 4, line 4: after that line insert.~~

18 3m. "Transmission facility" means any plant or equipment used to transmit
19 a telecommunications service by wire, optics, radio signal or other means
20 "Transmission facility" does not include any conduit, pole, tower or other structure
21 that supports the plant or equipment used to transmit the telecommunications
22 service.

END OF INSERT 4-4

~~6. Page 4, line 6: delete "No" and substitute "Except as provided in par (d), no"~~

~~7. Page 4, line 7: delete lines 7 and 8 and substitute.~~

INSEAT 4-6

1 Provide a telecommunications service in this state to a member of the
2 public. *COE* **END OF INSEAT 4-6**

3 ~~8. Page 4, line 10: before "the public" insert "a member of".~~

4 ~~9. Page 4, line 11: delete that line and substitute.~~

INSEAT 4-11A

5 ~~3. Sell an Internet access service directly or indirectly to a member of the~~
6 public. *COE* **END OF INSEAT 4-11A**

INSEAT 4-11B

7 ~~10. Page 4, line 12: before that line insert:~~ *that number*
8 ~~SECTION 10m.~~ 196.50 (4) (d) of the statutes is created to read:

9 196.50 (4) (d) 1. Paragraph (c) 1., 2. and 3. does not apply to a governmental
10 subdivision that provides a telecommunications service, transfers a transmission
11 facility or sells an Internet access service to a local governmental unit, state agency,
12 federally recognized Indian tribe or band located in this state or volunteer fire
13 company or fire department organized under ch. 213, under a contract or agreement
14 under ch. 43 or s. 66.30 or a similar contract or agreement for the sharing of services
15 or facilities.

16 2. Paragraph (c) 3. does not apply to a school district, cooperative educational
17 service agency or technical college district that sells an Internet access service as
18 part of the delivery by the school district, cooperative educational service agency or
19 technical college district of an educational service, including an instructional service
20 or related support service. *COE* **END OF INSEAT 4-11B**

21 ~~11. Page 5, line 20: after "provided" insert "or sold".~~

22 (END)

END OF INSEATS

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0334/1dn
MDK:.....

cm4t

✓
Representative Hutchison:

✓
This substitute amendment, which was requested by John Stolzenberg, is identical to Assembly Bill 747, as amended by LRBA1446/1.

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

**DRAFTER'S NOTE
FROM THE
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MDK:cmh:jf

February 25, 2000

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

Kunkel, Mark

From: Kunkel, Mark
Sent: Wednesday, March 08, 2000 8:48 AM
To: Stolzenberg, John
Subject: RE: Voice mail on AB 747 Subs

What do you think of the following definition (I ran it by Peter Grant, our library expert):

“Governmental subdivision” means a political subdivision, an instrumentality or corporation of a political subdivision or a combination or subunit of any of the foregoing, but does not include a public library board or public library system.

Mark Kunkel
Legislative Attorney
Legislative Reference Bureau
(606) 266-0131 mark.kunkel@legis.state.wi.us

-----Original Message-----

From: Stolzenberg, John
Sent: Tuesday, March 07, 2000 6:40 PM
To: Kunkel, Mark
Subject: Voice mail on AB 747 Subs

Mark,

In case you haven't listened to it yet, check for my voice mail message on including “public library systems” (along with “public libraries”) in the exception to the definition of governmental subdivision in the new AB 747 subs. Under s. 43.19, it appears that some public library systems are subunits of counties and others are not but instead are “separate legal entities.”

John

John Stolzenberg, Staff Scientist
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Madison, WI 53701-2536
Direct: 608-266-2988 Fax: 608-266-3830
John.Stolzenberg@legis.state.wi.us



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBs0334/1
MDK:wlj&cmh:jf
↓ ↓
stays 2

10/1/00
10/1/00

ASSEMBLY SUBSTITUTE AMENDMENT,
TO 1999 ASSEMBLY BILL 747

RM
NOT
RUN

Regen
certain governmental subdivisions

1 AN ACT *to renumber* 196.203 (2) and 196.50 (2) (c); *to renumber and amend*
2 196.499 (15) and 196.50 (4); *to amend* 196.50 (4) (title), 198.12 (6) and 198.22
3 (6); and to *create* 196.203 (2) (b), 196.499 (15) (b), 196.50 (2) (c) 2., 196.50 (4)
4 (a), 196.50 (4) (c) and 196.50 (4) (d) of the statutes; **relating to:** prohibiting
5 ~~cities, villages, towns, counties, school districts, technical college districts,~~
6 ~~public library systems and cooperative educational service agencies~~ from
7 providing or selling certain telecommunications services and Internet access
8 services and from making certain transfers of telecommunications
9 transmission facilities.

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

10 **SECTION 1.** 196.203 (2) of the statutes is renumbered 196.203 (2) (a).

11 **SECTION 2.** 196.203 (2) (b) of the statutes is created to read:

1 196.203 (2) (b) The commission may not issue a determination under par. (a)
2 to a governmental subdivision, as defined in s. 196.50 (4) (a) 1.

3 **SECTION 3.** 196.499 (15) of the statutes is renumbered 196.499 (15) (a) and
4 amended to read:

5 196.499 (15) (a) A telecommunications carrier that is not authorized to provide
6 intrastate telecommunications service on January 1, 1994, may not commence the
7 construction of any plant, extension or facility, or provide intrastate
8 telecommunications service directly or indirectly to the public, unless the
9 telecommunications carrier obtains a certificate from the commission authorizing
10 the telecommunications carrier to provide intrastate telecommunications. ~~The~~
11 Except as provided in par. (b), the commission may issue a certificate if the
12 telecommunications carrier demonstrates that it possesses sufficient technical,
13 financial and managerial resources to provide intrastate telecommunications
14 services. A telecommunications carrier that is authorized to provide intrastate
15 telecommunications service on January 1, 1994, is not required to be recertified
16 under this ~~subsection~~ par. (a).

17 **SECTION 4.** 196.499 (15) (b) of the statutes is created to read:

18 196.499 (15) (b) The commission may not issue a certificate under par. (a) to
19 a governmental subdivision, as defined in s. 196.50 (4) (a) 1.

20 **SECTION 5.** 196.50 (2) (c) of the statutes is renumbered 196.50 (2) (c) 1.

21 **SECTION 6.** 196.50 (2) (c) 2. of the statutes is created to read:

22 196.50 (2) (c) 2. The commission may not issue a certificate of authority under
23 this subsection to a governmental subdivision, as defined in s. 196.50 (4) (a) 1.

24 **SECTION 7.** 196.50 (4) (title) of the statutes is amended to read:

(INSERT 3-12 J)

1 196.50 (4) (title) ~~MUNICIPALITY MUNICIPALITIES AND GOVERNMENTAL SUBDIVISIONS~~
2 RESTRAINED.

3 SECTION 8. 196.50 (4) of the statutes is renumbered 196.50 (4) (b) and amended
4 to read:

5 196.50 (4) (b) No municipality may construct any public utility that is not a
6 telecommunications utility or alternative telecommunications utility if there is in
7 operation under an indeterminate permit in the municipality a public utility
8 engaged in similar service ~~other than a telecommunications service~~, unless it secures
9 from the commission a declaration, after a public hearing of all parties interested,
10 that public convenience and necessity require the municipal public utility.

11 SECTION 9. 196.50 (4) (a) of the statutes is created to read:

12 196.50 (4) (a) In this subsection:

13 1. "Governmental subdivision" means any of the following:

14 a. A political subdivision.

15 b. A school district.

16 c. A cooperative educational service agency.

17 d. A technical college district.

18 e. A public library system, as defined in s. 43.01 (5).

19 f. An instrumentality or corporation of any person specified in subd. 1. a. to e.

20 g. A combination or subunit of any person specified in subd. 1. a. to f.

21 2. "Internet access service" means a service that enables a user to obtain access
22 to content, information, electronic mail or any other service offered over the Internet.

23 2e. "Local governmental unit" means any of the following:

24 a. A political subdivision.

25 b. A special purpose district.

1 c. An instrumentality or corporation of a political subdivision or special
2 purpose district.

3 d. A combination or subunit of any person specified in subd. 2e. a. to c.

4 e. A combination of a state agency and any person specified in subd. 2e. a. to
5 d.

6 2m. "Member of the public" means any person except a governmental
7 subdivision.

8 2r. "Political subdivision" means any city, village, town or county.

9 2w. "State agency" means any office, department, independent agency,
10 institution of higher education, association, society or other body in state
11 government created or authorized to be created by the constitution or any law,
12 including the legislature and courts.

13 3. "Transfer" means to sell, lease or transfer for consideration of any interest
14 in ownership, title or right to use.

15 3m. "Transmission facility" means any plant or equipment used to transmit a
16 telecommunications service by wire, optics, radio signal or other means.
17 "Transmission facility" does not include any conduit, pole, tower or other structure
18 that supports the plant or equipment used to transmit the telecommunications
19 service.

20 **SECTION 10.** 196.50 (4) (c) of the statutes is created to read:

21 196.50 (4) (c) Except as provided in par. (d), no governmental subdivision may
22 do any of the following:

23 1. 'Provide a telecommunications service in this state to a member of the public.

INSERT 5-12 ↓

1 2. Transfer a transmission facility in this state to another person if the facility
2 is used to furnish a telecommunications service directly or indirectly to a member of
3 the public.

private colleges

4 3. Sell an Internet access service directly or indirectly to a member of the public.

5 **SECTION 11.** 196.50 (4) (d) of the statutes is created to read:

6 196.50 (4) (d) 1. Paragraph (c) 1., 2. and 3. does not apply to a governmentall
7 subdivision that provides a telecommunications service, transfers a transmission
8 facility or sells an Internet access service to a local governmental unit, state agency,
9 federally recognized Indian tribe or band located in this state or volunteer fire
10 company or fire department organized under ch. 2 13, under a contract or agreement
11 under ~~ch. 2 13~~ or s. 66.30 or a similar contract or agreement for the sharing of services
12 or facilities.

~~13 2. Paragraph (c) 3. does not apply to a school district, cooperative educational
14 service agency or technical college district that sells an Internet access service as
15 part of the delivery by the school district, cooperative educational service agency or
16 technical college district of an educational service, including an instructional service
17 or related support service.~~

18 **SECTION 12.** 198.12 (6) of the statutes is amended to read:

19 198.12 (6) UTILITIES, ACQUIRE, CONSTRUCT, OPERATE; WATER POWER; SALE OF
20 SERVICE; USE OF STREETS. The district shall have power and authority to own, acquire
21 and, subject to the restrictions applying to a municipality under s. 196.50 (4) (b), to
22 construct any utility or portion thereof to operate, in whole or in part, in the district,
23 and to own, acquire and, subject to ss. 196.01 to 196.53 and 196.59 to 196.76 where
24 applicable, to construct any addition to or extension of any such utility, and to own,
25 acquire and construct any water power and hydroelectric power plant, within or

1 without the district, to be operated in connection with any such utility, and to
 2 operate, maintain and conduct such utility and water power and hydroelectric power
 3 plant and system both within and without the district, and to furnish, deliver and
 4 sell to the public and to any municipality and to the state and any state institution
 5 heat, light and power service and any other service, commodity or facility which may
 6 be produced or furnished thereby, and to charge and collect rates, tolls and charges
 7 for the same. For said purposes the district is granted and shall have and exercise
 8 the right freely to use and occupy any public highway, street, way or place reasonably
 9 necessary to be used or occupied for the maintenance and operation of such utility
 10 or any part thereof, subject, however, to such local police regulations as may be
 11 imposed by any ordinance adopted by the governing body of the municipality in
 12 which such highway, street, way or place is located.

13 **SECTION 13.** 198.22 (6) of the statutes is amended to read:

14 **198.22 (6) ACQUISITION; CONSTRUCTION; OPERATION; SALE OF SERVICE; USE OF**
 15 **STREETS.** The district shall have power and authority to own, acquire, and, subject
 16 to the restrictions applying to a municipality under s. 196.50 (4) (b), to construct any
 17 water utility or portion thereof, to operate, in whole or in part, in the district and to
 18 construct any addition or extension to any such utility. For such purpose the district
 — 19 is granted and shall have and exercise the right freely to use and occupy any public
 20 highway, street, way or place reasonably necessary to be used or occupied for the
 21 construction, operation or maintenance of such utility or any part thereof, subject,
 22 however, to the obligation of the district to replace said grounds in the same condition
 23 as they previously were in.

24 **SECTION 14. Initial applicability.**

1

2

1

INSERT 3-12:

2

1. "Governmental subdivision" means a political subdivision, an instrumentality or corporation of a political subdivision or a combination or subunit of any of the foregoing, but does not include a public library board or public library system.

3

4

5

6

INSERT 5-12:

7

2. Paragraph (c) 2. does not apply to any of the following:

8

a. Sales of substantially all of a transmission facility by a governmental subdivision to a telecommunications carrier, telecommunications utility or alternative telecommunication utility.

10

11

b. Leases entered into before the effective date of this subdivision paragraph

12

.... [revisor inserts date].

g 2.b.
}

TODAY
by 1:00 pm

**ASSEMBLY SUBSTITUTE AMENDMENT,
TO 1999 ASSEMBLY BILL 747**

Regen

1 AN ACT ~~to renumber~~ 196.203 (2) and 196.50 (2) (c); **to renumber and amend**
2 196.499 (15) and 196.50 (4); **to amend** 196.50 (4) (title), 198.12 (6) and 198.22
3 (6); and **to create** 196.203 (2) (b), 196.499 (15) (b), 196.50 (2) (c) 2., 196.50 (4)
4 (a), 196.50 (4) (c) and 196.50 (4) (d) of the statutes; **relating to:** prohibiting
5 certain governmental subdivisions from providing or selling certain
6 telecommunications services and Internet access services and from making
7 certain transfers of telecommunications transmission facilities.

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

8 SECTION 1. 196.203 (2) of the statutes is renumbered 196.203 (2) (a).

9 SECTION 2. 196.203 (2) (b) of the statutes is created to read:

10 196.203 (2) (b) The commission may not issue a determination under par. (a)
11 to a governmental subdivision, as defined in s. 196.50 (4) (a) 1.

1 **SECTION 3.** 196.499 (15) of the statutes is renumbered 196.499 (15) (a) and
2 amended to read:

3 196.499 (15) (a) A telecommunications carrier that is not authorized to provide
4 intrastate telecommunications service on January 1, 1994, may not commence the
5 construction of any plant, extension or facility, or provide intrastate
6 telecommunications service directly or indirectly to the public, unless the
7 telecommunications carrier obtains a certificate from the commission authorizing
8 the telecommunications carrier to provide intrastate telecommunications ~~The~~
9 Except as provided in nar. (b). the commission may issue a certificate if the
10 telecommunications carrier demonstrates that it possesses sufficient technical,
11 financial and managerial resources to provide intrastate telecommunications
12 services. A telecommunications carrier that is authorized to provide intrastate
13 **telecommunications service on January 1, 1994, is not required to be recertified**
14 under this ~~subsection~~ paragraph.

15 **SECTION 4.** 196.499 (15) (b) of the statutes is created to read:

16 196.499 (15) (b) The commission may not issue a certificate under par. (a) to
17 a governmental subdivision, as defined in s. 196.50 (4) (a) 1.

18 **SECTION 5.** 196.50 (2) (c) of the statutes is renumbered 196.50 (2) (c) 1.

19 **SECTION 6.** 196.50 (2) (c) 2. of the statutes is created to read:

20 196.50 (2) (c) 2. The commission may not issue a certificate of authority under
21 **this subsection to a governmental subdivision, as defined in s. 196.50 (4) (a) 1.**

22 **SECTION 7.** 196.50 (4) (title) of the statutes is amended to read:

23 196.50 (4) (title) ~~MUNICIPALITY~~ MUNICIPALITIES AND GOVERNMENTAL SUBDIVISIONS
24 **RESTRAINED.**

1 **SECTION 8.** 196.50 (4) of the statutes is renumbered 196.50 (4) (b) and amended
2 to read:

3 196.50 (4) (b) No municipality may construct any public utility that is not a
4 telecommunications utility or alternative telecommunications utility if there is in
5 operation under an indeterminate permit in the municipality a public utility
6 e n g a g e d i n s i m i l a r s e r v i c e ' N, unless it secures
7 from the commission a declaration, after a public hearing of all parties interested,
8 that public convenience and necessity require the municipal public utility.

9 **SECTION 9.** 196.50 (4) (a) of the statutes is created to read:

10 196.50 (4) (a) In this subsection:

11 1. "Governmental subdivision" means a political subdivision, an
12 instrumentality or corporation of a political subdivision or a combination or subunit
13 of any of the foregoing, but does not include a public library board or public library
14 system.

15 2. "Internet access service" means a service that enables a user to obtain access
16 to content, information, electronic mail or any other service offered over the Internet.

17 2e. "Local governmental unit" means any of the following:

18 a. A political subdivision.

19 b. A special purpose district.

20 c. An instrumentality or corporation of a political subdivision or special
21 purpose district.

22 d. A combination or subunit of any person specified in subd. 2e. a. to c.

23 e. A combination of a state agency and any person specified in subd. 2e. a. to

24 d.

1 2m. “Member of the public” means any person except a governmental
2 subdivision.

3 2r. “Political subdivision” means any city, village, town or county.

4 2w. “State agency” means any office, department, independent agency,
5 institution of higher education, association, society or other body in state
6 government created or authorized to be created by the constitution or any law,
7 including the legislature and courts.

8 3. “Transfer” means to sell, lease or transfer for consideration of any interest
9 in ownership, title or right to use.

10 3m. “Transmission facility” means any plant or equipment used to transmit a
11 telecommunications service by wire, optics, radio signal or other means.
12 “Transmission facility” does not include any conduit, pole, tower or other structure
13 that supports the plant or equipment used to transmit the telecommunications
14 service.

15 **SECTION 10.** 196.50 (4) (c) of the statutes is created to read:

16 196.50 (4) (c) Except as provided in par. (d), no governmental subdivision may
17 do any of the following:

18 1. Provide a telecommunications service in this state to a member of the public,

19 2. Transfer a transmission facility in this state to another person if the facility
20 is used to furnish a telecommunications service directly or indirectly to a member of
21 the public.

22 3. Sell an Internet access service directly or indirectly to a member of the public.

23 **SECTION 11.** 196.50 (4) (d) of the statutes is created to read:

24 196.50 (4) (d) 1. Paragraph (c) 1., 2. and 3. does not apply to a governmental
25 subdivision that provides a telecommunications service, transfers a transmission

1 facility or sells an Internet access service to a local governmental unit, state agency,
 2 ~~private college,~~ federally recognized Indian tribe or band located in this state or
 3 volunteer fire company or fire department organized under ch. 213, under a contract
 4 or agreement under s. 66.30 or a similar contract or agreement for the sharing of
 5 services or facilities.

6 2. Paragraph (c) 2. does not apply to any of the following:

7 a. Sales of substantially all of ~~a~~ ^{the} transmission facility ~~by a~~ ^{owned by} governmental
 8 subdivision to a telecommunications carrier, telecommunications utility or
 9 alternative telecommunication utility

10 b. Leases entered into before the effective date of this subdivision 2.b. . . .
 11 [revisor inserts date].

12 **SECTION 12. 198.12 (6) of the statutes is amended to read:**

13 **198.12 (6) UTILITIES, ACQUIRE, CONSTRUCT, OPERATE; WATER POWER; SALE OF**
 14 **SERVICE; USE OF STREETS.** The district shall have power and authority to own, acquire
 15 and, subject to the restrictions applying to a municipality under s. 196.50 (4) (b), to
 16 construct any utility or portion thereof to operate, in whole or in part, in the district,
 17 and to own, acquire and, subject to ss. 196.01 to 196.53 and 196.59 to 196.76 where
 18 applicable, to construct any addition to or extension of any such utility, and to own,
 19 acquire and construct any water power and hydroelectric power plant, within or
 20 without the district, to be operated in connection with any such utility, and to
 21 operate, maintain and conduct such utility and water power and hydroelectric power
 22 plant and system both within and without the district, and to furnish, deliver and
 23 sell to the public and to any municipality and to the state and any state institution
 24 heat, light and power service and any other service, commodity or facility which may
 25 be produced or furnished thereby, and to charge and collect rates, tolls and charges

1 for the same. For said purposes the district is granted and shall have and exercise
 2 the right freely to use and occupy any public highway, street, way or place reasonably
 3 necessary to be used or occupied for the maintenance and operation of such utility
 4 or any part thereof, subject, however, to such local police regulations as may be
 5 imposed by any ordinance adopted by the governing body of the municipality in
 6 which such highway, street, way or place is located.

7 **SECTION 13.** 198.22 (6) of the statutes is amended to read:

8 198.22 (6) **ACQUISITION; CONSTRUCTION; OPERATION; SALE OF SERVICE; USE OF**
 9 **STREETS.** The district shall have power and authority to own, acquire, and, subject
 10 to the restrictions applying to a municipality under s. 196.50 (4) (b), to construct any
 11 water utility or portion thereof, to operate, in whole or in part, in the district and to
 12 construct any addition or extension to any such utility. For such purpose the district
 13 is granted and shall have and exercise the right freely to use and occupy any public
 14 highway, street, way or place reasonably necessary to be used or occupied for the
 15 construction, operation or maintenance of such utility or any part thereof, subject,
 16 however, to the obligation of the district to replace said grounds in the same condition
 17 as they previously were in.

18 **SECTION 14. Initial applicability.**

19 (1) The treatment of section 196.50 (4) (c) of the statutes first applies to services
 20 provided or sold or facilities transferred under contracts entered into, extended,
 21 modified or renewed on the effective date of this subsection.

22 (END)



by Thurs.
3/9
4:00pm

4

RM NOT
RUN

**ASSEMBLY SUBSTITUTE AMENDMENT,
TO 1999 ASSEMBLY BILL 747**

Regen

1 **AN ACT to renumber** 196.203 (2) and 196.50 (2) **(c); to renumber and amend**
2 196.499 (15) and 196.50 (4); **to amend** 196.50 (4) (title), 198.12 (6) and 198.22
3 (6); and **to create** 196.203 (2) (b), 196.499(15)(b), **196.50 (2) (c) 2.**, 196.50 (4)
4 (a), 196.50 (4) (c) and 196.50 (4) (d) of the statutes; **relating** to: prohibiting
5 certain governmental subdivisions from providing or selling certain
6 telecommunications services and Internet access services and from making
7 certain transfers of telecommunications transmission facilities.

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

8 SECTION 1. 196.203 (2) of the statutes is renumbered 196.203 (2) (a).

9 SECTION 2. 196.203 (2) (b) of the statutes is created to read:

10 196.203 (2) (b) The commission may not issue a determination under par. (a)

11 to a governmental subdivision, as defined in s. 196.50 (4) (a) 1.

1 SECTION 3. 196.499 (15) of the statutes is renumbered 196.499 (15) (a) and
2 amended to read:

3 196.499 (15) (a) A telecommunications carrier that is not authorized to provide
4 intrastate telecommunications service on January 1, 1994, may not commence the
5 construction of any plant, extension or facility, or provide intrastate
6 telecommunications service directly or indirectly to the public, unless the
7 telecommunications carrier obtains a certificate from the commission authorizing
8 the telecommunications carrier to provide intrastate telecommunications. ~~The~~
9 Except as provided in par. (b), the commission may issue a certificate if the
10 telecommunications carrier demonstrates that it possesses sufficient technical,
11 financial and managerial resources to provide intrastate telecommunications
12 services. A telecommunications carrier that is authorized to provide intrastate
13 telecommunications service on January 1, 1994, is not required to be recertified
14 under this ~~subsection~~ paragraph.

15 SECTION 4. 196.499 (15) (b) of the statutes is created to read:

16 196.499 (15) (b) The commission may not issue a certificate under par. (a) to
17 a governmental subdivision, as defined in s. 196.50 (4) (a) 1.

18 SECTION 5. 196.50 (2) (c) of the statutes is renumbered 196.50 (2) (c) 1.

19 SECTION 6. 196.50 (2) (c) 2. of the statutes is created to read:

20 196.50 (2) (c) 2. The commission may not issue a certificate of authority under
21 this subsection to a governmental subdivision, as defined in s. 196.50 (4) (a) 1.

22 SECTION 7. 196.50 (4) (title) of the statutes is amended to read:

23 196.50 (4) (title) ~~MUNICIPALITY~~ MUNICIPALITIES AND GOVERNMENTAL SUBDIVISIONS

24 RESTRAINED.

1 **SECTION 8.** 196.50 (4) of the statutes is renumbered 196.50 (4) (b) and amended
2 to read:

3 196.50 (4) (b) No municipality may construct any public utility ~~that is not a~~
4 telecommunications utility or alternative telecommunications utility if there is in
5 operation under an indeterminate permit in the municipality a public utility
6 engaged in similar service ~~other than telecommunications service~~, unless it secures
7 from the commission a declaration, after a public hearing of all parties interested,
8 that public convenience and necessity require the municipal public utility.

9 **SECTION 9.** 196.50 (4) (a) of the statutes is created to read:

10 196.50 (4) (a) In this subsection:

11 1. “Governmental subdivision” means a political subdivision, an
12 instrumentality or corporation of a political subdivision or a combination or subunit
13 of any of the foregoing, but does not include a public library board or public library
14 system.

15 2. “Internet access service” means a service that enables a user to obtain access
16 to content, information, electronic mail or any other service offered over the Internet.

17 2e. “Local governmental unit” means any of the following:

18 a. A political subdivision.

19 b. A special purpose district.

20 c. An instrumentality or corporation of a political subdivision or special
21 purpose district.

22 d. A combination or subunit of any person specified in subd. 2e. a. to c.

23 e. A combination of a state agency and any person specified in subd. 2e. a. to

24 d.

1 2m. "Member of the public" means any person except a governmental
2 subdivision.

3 2r. "Political subdivision" means any city, village, town or county.

4 2w. "State agency" means any office, department, independent agency,
5 institution of higher education, association, society or other body in state
6 government created or authorized to be created by the constitution or any law,
7 including the legislature and courts.

8 3. "Transfer" means to sell, lease or transfer for consideration of any interest
9 in ownership, title or right to use.

10 3m. "Transmission facility" means any plant or equipment used to transmit a
11 telecommunications service by wire, optics, radio signal or other means.
12 "Transmission facility" does not include any conduit, pole, tower or other structure
13 that supports the plant or equipment used to transmit the telecommunications
14 service.

15 SECTION 10. 196.50 (4) (c) of the statutes is created to read:

16 196.50 (4) (c) Except as provided in par. (d), no governmental subdivision may
17 do any of the following:

- 18 1. Provide a telecommunications service in this state to a member of the public.
- 19 2. Transfer a transmission facility in this state to another person if the facility
20 is used to furnish a telecommunications service directly or indirectly to a member of
21 the public.

22 3. Sell an Internet access service directly or indirectly to a member of the public.

23 SECTION 11. 196.50 (4) (d) of the statutes is created to read:

24 196.50 (4) (d) 1. Paragraph (c) 1., 2. and 3. does not apply to a governmental
25 subdivision that provides a telecommunications service, transfers a transmission

directly or indirectly

any of the following: (1) a.

INSERT 5-5J

1 facility or sells an Internet access service to a local governmental unit, state agency,
2 federally recognized Indian tribe or band located in this state or volunteer fire
3 company or fire department organized under ch. 213, under a contract or agreement
4 under s. 66.30 or a similar contract or agreement for the sharing of services or
5 facilities.

6 2. Paragraph (c) 2. does not apply to any of the following:

7 a. Sales by a governmental subdivision of substantially all of the transmission
8 facilities owned by the governmental subdivision to a telecommunications carrier,
9 telecommunications utility or alternative telecommunication utility.

10 b. Leases entered into before the effective date of this subdivision 2. b.
11 [revisor inserts date].

12 SECTION 12. 198.12 (6) of the statutes is amended to read:

13 198.12 (6) UTILITIES, ACQUIRE, CONSTRUCT, OPERATE; WATER POWER; SALE OF
14 SERVICE; USE OF STREETS. The district shall have power and authority to own, acquire
15 and, subject to the restrictions applying to a municipality under s. 196.50 (4) (b), to
16 construct any utility or portion thereof to operate, in whole or in part, in the district,
17 and to own, acquire and, subject to ss. 196.01 to 196.53 and 196.59 to 196.76 where
18 applicable, to construct any addition to or extension of any such utility, and to own,
19 acquire and construct any water power and hydroelectric power plant, within or
20 without the district, to be operated in connection with any such utility, and to
21 operate, maintain and conduct such utility and water power and hydroelectric power
22 plant and system both within and without the district, and to furnish, deliver and
23 sell to the public and to any municipality and to the state and any state institution
24 heat, light and power service and any other service, commodity or facility which may
25 be produced or furnished thereby, and to charge and collect rates, tolls and charges

1 for the same. For said purposes the district is granted and shall have and exercise
2 the right freely to use and occupy any public highway, street, way or place reasonably
3 necessary to be used or occupied for the maintenance and operation of such utility
4 or any part thereof, subject, however, to such local police regulations as may be
5 imposed by any ordinance adopted by the governing body of the municipality in
6 which such highway, street, way or place is located.

7 **SECTION 13.** 198.22 (6) of the statutes is amended to read:

8 198.22 (6) **ACQUISITION; CONSTRUCTION; OPERATION; SALE OF SERVICE; USE OF**
9 **STREETS.** The district shall have power and authority to own, acquire, and, subject
10 to the restrictions applying to a municipality under s. 196.50 (4) (b), to construct any
11 water utility or portion thereof, to operate, in whole or in part, in the district and to
12 construct any addition or extension to any such utility. For such purpose the district
13 is granted and shall have and exercise the right freely to use and occupy any public
14 highway, street, way or place reasonably necessary to be used or occupied for the
15 construction, operation or maintenance of such utility or any part thereof, subject,
16 however, to the obligation of the district to replace said grounds in the same condition
17 as they previously were in.

18 **SECTION 14. Initial applicability.**

19 (1) The treatment of section 196.50 (4) (c) of the statutes first applies to services
20 provided or sold or facilities transferred under contracts entered into, extended,
21 modified or renewed on the effective date of this subsection.

22 **(END)**

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0334/4ins
MDK:.....

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INSERT 5-5:

2

b. A governmental subdivision to which the commission has, before the
effective date of this subd. ^{subdivision} 1. b. . . . [revisor inserts date], issued a determination
under s. 196.203 (2), 1997 stats., a certificate under s. 196.499 (15), 1997 stats., or
a certificate of authority under s. 196.50 (2), 1997 stats.

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**ASSEMBLY SUBSTITUTE AMENDMENT,
TO 1999 ASSEMBLY BILL 747**

By
WED
3/15
4:00pm

AM NOT
RUN

Regen

1 **AN ACT to renumber** 196.203 (2) and 196.50 (2) (c); **to renumber and amend**
2 196.499 (15) and 196.50 (4); **to amend** 196.50 (4) (title), 198.12 (6) and 198.22
3 (6); and **to create** 196.203 (2) (b), 196.499 (15) (b), 196.50 (2) (c) 2., 196.50 (4)
4 (a), 196.50 (4) (c) and 196.50 (4) (d) of the statutes; **relating to:** prohibiting
5 certain governmental subdivisions from providing or selling certain
6 telecommunications services and Internet access services and from making
7 certain transfers of telecommunications transmission facilities.

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

8 **SECTION 1.** 196.203 (2) of the statutes is renumbered 196.203 (2) (a).

9 **SECTION 2.** 196.203 (2) (b) of the statutes is created to read:

10 196.203 (2) (b) The commission may not issue a determination under par. (a)
11 to a governmental subdivision, as defined in s. 196.50 (4) (a) 1.

INSERT 1-11

1 **SECTION 3.** 196.499 (15) of the statutes is renumbered 196.499 (15) (a) and
2 amended to read:

3 196.499 (15) (a) A telecommunications carrier that is not authorized to provide
4 intrastate telecommunications service on January 1, 1994, may not commence the
5 construction of any plant, extension or facility, or provide intrastate
6 telecommunications service directly or indirectly to the public, unless the
7 telecommunications carrier obtains a certificate from the commission authorizing
8 the telecommunications carrier to provide intrastate telecommunications. The
9 Except as provided in par. (b), the commission may issue a certificate if the
10 telecommunications carrier demonstrates that it possesses sufficient technical,
11 financial and managerial resources to provide intrastate telecommunications
12 services. A telecommunications carrier that is authorized to provide intrastate
13 telecommunications service on January 1, 1994, is not required to be recertified
14 under this ~~subsection~~ paragraph.

15 **SECTION 4.** 196.499 (15) (b) of the statutes is created to read:

16 196.499 (15) (b) The commission may not issue a certificate under par. (a) to
17 a governmental subdivision, as defined in s. 196.50 (4) (a) 1.

18 **SECTION 5.** 196.50 (2) (c) of the statutes is renumbered 196.50 (2) (c) 1.

19 **SECTION 6.** 196.50 (2) (c) 2. of the statutes is created to read:

20 196.50 (2) (c) 2. The commission may not issue a certificate of authority under
21 this subsection to a governmental subdivision, as defined in s. 196.50 (4) (a) 1.

22 **SECTION 7.** 196.50 (4) (title) of the statutes is amended to read:

23 196.50 (4) (title) ~~MUNICIPALITY~~ MUNICIPALITIES AND GOVERNMENTAL SUBDIVISIONS
24 **RESTRAINED.**

1 SECTION 8. 196.50 (4) of the statutes is renumbered 196.50 (4) (b) and amended
2 to read:

3 196.50 (4) (b) No municipality may construct any public utility that is not a
4 telecommunications utility or alternative telecommunications utility if there is in
5 operation under an indeterminate permit in the municipality a public utility
6 engaged in similar service ~~other than a telecommunications service~~, unless it secures
7 from the commission a declaration, after a public hearing of all parties interested,
8 that public convenience and necessity require the municipal public utility.

9 SECTION 9. 196.50 (4) (a) of the statutes is created to read:

10 196.50 (4) (a) In this subsection:

11 1. "Governmental subdivision" means a political subdivision, an
12 instrumentality or corporation of a political subdivision or a combination or subunit
13 of any of the foregoing, but does not include a public library board or public library
14 system.

15 2. "Internet access service" means a service that enables a user to obtain access
16 to content, information, electronic mail or any other service offered over the Internet.

17 2e. "Local governmental unit" means any of the following:

18 a. A political subdivision.

19 b. A special purpose district.

20 c. An instrumentality or corporation of a political subdivision or special
21 purpose district.

22 d. A combination or subunit of any person specified in subd. 2e. a. to c.

23 e. A combination of a state agency and any person specified in subd. 2e. a. to

24 d.

1 2m. "Member of the public" means any person except a governmental
2 subdivision.

3 2r. "Political subdivision" means any city, village, town or county.

4 2w. "State agency" means any office, department, independent agency,
5 institution of higher education, association, society or other body in state
6 government created or authorized to be created by the constitution or any law,
7 including the legislature and courts.

8 3. "Transfer" means to sell, lease or transfer for consideration of any interest
9 in ownership, title or right to use.

10 3m. "Transmission facility" means any plant or equipment used to transmit a
11 telecommunications service by wire, optics, radio signal or other means.
12 "Transmission facility" does not include any conduit, pole, tower or other structure
13 that supports the plant or equipment used to transmit the telecommunications
14 service.

15 **SECTION 10.** 196.50 (4) (c) of the statutes is created to read:

16 196.50 (4) (c) Except as provided in par. (d), no governmental subdivision may
17 do any of the following:

18 1. Provide a telecommunications service in this state directly or indirectly to
19 a member of the public.

20 2. Transfer a transmission facility in this state to another person if the facility
21 is used to furnish a telecommunications service directly or indirectly to a member of
22 the public.

23 3. Sell an Internet access service directly or indirectly to a member of the public.

24 **SECTION 11.** 196.50 (4) (d) of the statutes is created to read:

25 196.50 (4) (d) 1. Paragraph (c) 1., 2. and 3. does not apply to any of the following:

INSERT 5-6 J

1 a. A governmental subdivision that provides a telecommunications service,
2 transfers a transmission facility or sells an Internet access service to a local
3 governmental unit, state agency, federally recognized Indian tribe or band located
4 in this state or volunteer fire company or fire department organized under ch. 213,
5 under a contract or agreement under s. 66.30 or a similar contract or agreement for
6 the sharing of services or facilities.

~~7 b. A governmental subdivision ~~to which the commission has~~, before the
8 effective date of this subdivision 1. b. [revisor inserts date], issued a determination
9 under s. 196.203 (2), 1997 stats., a certificate under s. 196.499 (15), 1997 stats., or
10 a certificate of authority under s. 196.50 (2), 1997 stats.~~

11 2. Paragraph (c) 2. does not apply to any of the following:

12 a. Sales by a governmental subdivision of substantially all of the transmission
13 facilities owned by the governmental subdivision to a telecommunications carrier,
14 telecommunications utility or alternative telecommunication utility.

15 b. Leases entered into before the effective date of this subdivision 2. b.
16 [revisor inserts date].

17 **SECTION 12.** 198.12 (6) of the statutes is amended to read:

18 198.12 (6) UTILITIES, ACQUIRE, CONSTRUCT, OPERATE; WATER POWER; SALE OF
19 SERVICE; USE OF STREETS. The district shall have power and authority to own, acquire
20 and, subject to the restrictions applying to a municipality under s. 196.50 (4) (b), to
21 construct any utility or portion thereof to operate, in whole or in part, in the district,
22 and to own, acquire and, subject to ss. 196.01 to 196.53 and 196.59 to 196.76 where
23 applicable, to construct any addition to or extension of any such utility, and to own,
24 acquire and construct any water power and hydroelectric power plant, within or
25 without the district, to be operated in connection with any such utility, and to

1 operate, maintain and conduct such utility and water power and hydroelectric power
2 plant and system both within and without the district, and to furnish, deliver and
3 sell to the public and to any municipality and to the state and any state institution
4 heat, light and power service and any other service, commodity or facility which may
5 be produced or furnished thereby, and to charge and collect rates, tolls and charges
6 for the same. For said purposes the district is granted and shall have and exercise
7 the right freely to use and occupy any public highway, street, way or place reasonably
8 necessary to be used or occupied for the maintenance and operation of such utility
9 or any part thereof, subject, however, to such local police regulations as may be
10 imposed by any ordinance adopted by the governing body of the municipality in
11 which such highway, street, way or place is located.

12 **SECTION 13.** 198.22 (6) of the statutes is amended to read:

13 198.22 (6) **ACQUISITION; CONSTRUCTION; OPERATION; SALE OF SERVICE; USE OF**
14 **STREETS.** The district shall have power and authority to own, acquire, and, subject
15 to the restrictions applying to a municipality under s. 196.50 (4) **(b)**, to construct any
16 water utility or portion thereof, to operate, in whole or in part, in the district and to
17 construct any addition or extension to any such utility. For such purpose the district
18 is granted and shall have and exercise the right freely to use and occupy any public
19 highway, street, way or place reasonably necessary to be used or occupied for the
20 construction, operation or maintenance of such utility or any part thereof, subject,
21 however, to the obligation of the district to replace said grounds in the same condition
22 as they previously were in.

23 **SECTION 14. Initial applicability.**

1

INSERT I-11:

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Not, unless, before March 1, 2000, the governmental subdivision petitioned for a
3 determination that the governmental subdivision is an alternative
4 telecommunications utility described in s. 196.01 (1d) (f).[✓]

5

INSERT 5-6:

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ff b. A governmental subdivision that, before March 1, 2000, has petitioned for
7 or been issued a determination under s. 196.203 (2) (a)[✓] or s. 196.203 (2), 1997 stats.,
8 that the governmental subdivision is an alternative telecommunications utility
9 described in s. 196.01 (Id) (f).[✓]

Friday
3/17
6:00pm

MDK:wlj&cmh:jf
LRBs0334/6

1999 - 2000 LEGISLATURE

ASSEMBLY SUBSTITUTE AMENDMENT,
TO 1999 ASSEMBLY BILL 747

RM NOT
RUN

Regen

1 AN ACT *to renumber* 196.203 (2) and 196.50 (2) (c); *to renumber and amend*
2 196.499 (15) and 196.50 (4); *to amend* 196.50 (4) (title), 198.12 (6) and 198.22
3 (6); and *to create* 196.203 (2) (b), 196.499 (15) (b), 196.50 (2) (c) 2., 196.50 (4)
4 (a), 196.50 (4) (c) and 196.50 (4) (d) of the statutes; **relating to:** prohibiting
5 certain governmental subdivisions from providing or selling certain
6 telecommunications services and Internet access services and from making
7 certain transfers of telecommunications transmission facilities.

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

8 SECTION 1. 196.203 (2) of the statutes is renumbered 196.203 (2) (a).

9 SECTION 2. 196.203 (2) (b) of the statutes is created to read:

10 196.203 (2) (b) The commission may not issue a determination under par. (a)

11 to a governmental subdivision, as defined in s. 196.50 (4) (a) 1, unless, before March

12 1, 2000, the governmental subdivision petitioned for a determination that the

1 governmental subdivision is an alternative telecommunications utility described in
2 s. 196.01 (1d) (f).

3 SECTION 3. 196.499 (15) of the statutes is renumbered 196.499 (15) (a) and
4 amended to read:

5 196.499 (15) (a) A telecommunications carrier that is not authorized to provide
6 intrastate telecommunications service on January 1, 1994, may not commence the
7 construction of any plant, extension or facility, or provide intrastate
8 telecommunications service directly or indirectly to the public, unless the
9 telecommunications carrier obtains a certificate from the commission authorizing
10 the telecommunications carrier to provide intrastate telecommunications. ~~The~~
11 Except as provided in par. (b), the commission may issue a certificate if the
12 telecommunications carrier demonstrates that it possesses sufficient technical,
13 financial and managerial resources to provide intrastate telecommunications
14 services. A telecommunications carrier that is authorized to provide intrastate
15 telecommunications service on January 1, 1994, is not required to be recertified
16 under this ~~subsection~~ paragraph.

17 SECTION 4. 196.499 (15) (b) of the statutes is created to read:

18 196.499 (15) (b) The commission may not issue a certificate under par. (a) to
19 a governmental subdivision, as defined in s. 196.50 (4) (a) 1.

20 SECTION 5. 196.50 (2) (c) of the statutes is renumbered 196.50 (2) (c) 1.

21 SECTION 6. 196.50 (2) (c) 2. of the statutes is created to read:

22 196.50 (2) (c) 2. The commission may not issue a certificate of authority under
23 this subsection to a governmental subdivision, as defined in s. 196.50 (4) (a) 1.

24 SECTION 7. 196.50 (4) (title) of the statutes is amended to read:

1 196.50 (4) (title) ~~MUNICIPALITY~~ MUNICIPALITIES AND GOVERNMENTAL SUBDIVISIONS
2 **RESTRAINED.**

3 **SECTION 8.** 196.50 (4) of the statutes is renumbered 196.50 (4) (b) and amended
4 to read:

5 196.50 (4) (b) No municipality may construct any public utility that is not a
6 telecommunications utility or alternative telecommunications utility if there is in
7 operation under an indeterminate permit in the municipality a public utility
8 engaged in similar service ~~other than a telecommunications service~~, unless it secures
9 from the commission a declaration, after a public hearing of all parties interested,
10 that public convenience and necessity require the municipal public utility

11 **SECTION 9.** 196.50 (4) (a) of the statutes is created to read:

12 196.50 (4) (a) In this subsection:

13 1. “Governmental subdivision” means a political subdivision, an
14 instrumentality or corporation of a political subdivision or a combination or subunit
15 of any of the foregoing, but does not include a public library board or public library
16 system.

17 2. “Internet access service” means a service that enables a user to obtain access
18 to content, information, electronic mail or any other service offered over the Internet.

19 2e. “Local governmental unit” means any of the following:

20 a. A political subdivision.

21 b. A special purpose district.

22 c. An instrumentality or corporation of a political subdivision or special
23 purpose district.

24 d. A combination or subunit of any person specified in subd. 2e. a. to c.

1 e. A combination of a state agency and any person specified in subd. 2e. a. to
2 d.

3 2m. "Member of the public" means any person except a governmental
4 subdivision.

5 2r. "Political subdivision" means any city, village, town or county.

6 2w. "State agency" means any office, department, independent agency,
7 institution of higher education, association, society or other body in state
8 government created or authorized to be created by the constitution or any law,
9 including the legislature and courts.

10 3. "Transfer" means to sell, lease or transfer for consideration of any interest
11 in ownership, title or right to use.

12 3m. "Transmission facility" means any plant or equipment used to transmit a
13 telecommunications service by wire, optics, radio signal or other means
14 "Transmission facility" does not include any conduit, pole, tower or other structure
15 that supports the plant or equipment used to transmit the telecommunications
16 service.

17 **SECTION 10.** 196.50 (4) (c) of the statutes is created to read:

18 196.50 (4) (c) Except as provided in par. (d), no governmental subdivision may
19 do any of the following:

20 1. Provide a telecommunications service in this state directly or indirectly to
21 a member of the public.

22 2. Transfer a transmission facility in this state to another person if the facility
23 is used to furnish a telecommunications service directly or indirectly to a member of
24 the public.

25 3. Sell an Internet access service directly or indirectly to a member of the public.

INSERT 5-8

1 SECTION 11. 196.50 (4) (d) of the statutes is created to read:

2 196.50 (4) (d) 1. Paragraph(c) 1., 2. and 3. does not apply to any of the following:

3 a. A governmental subdivision that provides a telecommunications service,
4 transfers a transmission facility or sells an Internet access service to a local
5 governmental unit, state agency, federally recognized Indian tribe or band located
6 in this state or volunteer fire company or fire department organized under ch. 213,
7 under a contract or agreement under s. 66.30 or a similar contract or agreement for
8 the sharing of services or facilities.

~~9 b. A governmental subdivision that, before March 1, 2000, has petitioned for
10 or been issued a determination under s. 196.203 (2) (a) or s. 196.203 (2), 1997 stats.,
11 that the governmental subdivision is an alternative telecommunications utility
12 described in s. 196.01 (1d)-(f).~~

13 2. Paragraph (c) 2. does not apply to any of the following:

14 a. Sales by a governmental subdivision of substantially all of the transmission
15 facilities owned by the governmental subdivision to a telecommunications carrier,
16 telecommunications utility or alternative telecommunication utility.

17 b. Leases entered into before the effective date of this subdivision 2. b.
18 [revisor inserts date].

19 SECTION 12. 198.12 (6) of the statutes is amended to read:

20 198.12 (6) UTILITIES, ACQUIRE, CONSTRUCT, OPERATE; WATER POWER; SALE OF
21 SERVICE; USE OF STREETS. The district shall have power and authority to own, acquire
22 and, subject to the restrictions applying to a municipality under s. 196.50 (4) (b), to
23 construct any utility or portion thereof to operate, in whole or in part, in the district,
24 and to own, acquire and, subject to ss. 196.01 to 196.53 and 196.59 to 196.76 where
25 applicable, to construct any addition to or extension of any such utility, and to own,

1 acquire and construct any water power and hydroelectric power plant, within or
2 without the district, to be operated in connection with any such utility, and to
3 operate, maintain and conduct such utility and water power and hydroelectric power
4 plant and system both within and without the district, and to furnish, deliver and
5 sell to the public and to any municipality and to the state and any state institution
6 heat, light and power service and any other service, commodity or facility which may
7 be produced or furnished thereby, and to charge and collect rates, tolls and charges
8 for the same. For said purposes the district is granted and shall have and exercise
9 the right freely to use and occupy any public highway, street, way or place reasonably
10 necessary to be used or occupied for the maintenance and operation of such utility
11 or any part thereof, subject, however, to such local police regulations as may be
12 imposed by any ordinance adopted by the governing body of the municipality in
13 which such highway, street, way or place is located.

14 **SECTION 13.** 198.22 (6) of the statutes is amended to read:

15 198.22 (6) **ACQUISITION; CONSTRUCTION; OPERATION; SALE OF SERVICE; USE OF**
16 **STREETS.** The district shall have power and authority to own, acquire, and, subject
17 to the restrictions applying to a municipality under s. 196.50 (4) (b), to construct any
18 water utility or portion thereof, to operate, in whole or in part, in the district and to
19 construct any addition or extension to any such utility. For such purpose the district
20 is granted and shall have and exercise the right freely to use and occupy any public
21 highway, street, way or place reasonably necessary to be used or occupied for the
22 construction, operation or maintenance of such utility or any part thereof, subject,
23 however, to the obligation of the district to replace said grounds in the same condition
24 as they previously were in.

25 **SECTION 14. Initial applicability.**

199942000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0334/6ins
MDK:.....

INSERT 5-8

1 b. A governmental subdivision to which the commission has issued a
2 determination under s. 196.203 (2), 1997 stats., a certificate under s. 196.499 (15),
3 1997 stats., or a certificate of authority under s. 196.50 (2), 1997 stats., and that, on
4 the effective date of this subdivision 1. b. [✓] [revisor inserts date], is providing
5 telecommunications service as an alternative telecommunications utility,
6 telecommunications carrier or telecommunications utility.