

1999 SENATE BILL 385

February 16, 2000 – Introduced by Senators SHIBILSKI, BRESKE and MOEN, cosponsored by Representatives HUEBSCH, MUSSER, FREESE, WALKER, GOETSCH, HANDRICK, KELSO, POWERS, STONE, SUDER and PLOUFF. Referred to Health, Utilities, Veterans and Military Affairs.

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 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 educational service agency may not provide a telecommunications service in this state as a telecommunications utility, alternative telecommunications utility or telecommunications carrier. A “telecommunications utility” is defined under current law as a person that manages or controls any plant or equipment used to furnish telecommunications services within the state directly or indirectly to the public. A “telecommunications carrier” is similar to a telecommunications utility, except that a carrier does not provide basic local exchange service, except on a resale basis. An

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“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

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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:

23 196.50 **(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.

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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.

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

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

6 196.50 (4) (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 the public.

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

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

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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 facilities transferred under contracts entered into, extended, modified or
21 renewed on the effective date of this subsection.

22 (END)