

SENATE BILL 272 (LRB -3352)

An Act to renumber and amend 196.204 (5) (a); to amend 196.203 (1) and 196.204 (5) (b); and to create 66.0419 (3m), 66.0422 and 196.204 (5) (ag) of the statutes; relating to: local government telecommunications utilities and public hearings for ordinances and resolutions authorizing local government cable television, telecommunications, and Internet access facilities. (FE)

2003

10-08. S. Introduced by Senators **Kanavas, Kedzie, Plale, Stepp, Reynolds, M. Meyer, S. Fitzgerald, Wirch, Leibham, A. Lasee, Breske, Brown, Carpenter and Welch**; cosponsored by Representatives **Montgomery, Vrakas, Suder, J. Fitzgerald, F. Lasee, Owens, Gundrum, Schneider, Shilling, D. Meyer, Hundertmark, Stone, Huebsch, Gronemus, Pettis, Grothman, Nass, Seratti, LeMahieu, Hines, Friske, Van Roy, J. Wood, Musser and Jeskewitz.**

10-08. S. Read first time and referred to committee on Transportation and Information Infrastructure 404

10-16. S. Fiscal estimate received.

10-29. S. Public hearing held.

11-10. S. Executive action taken.

11-11. S. Report introduction and adoption of Senate Amendment 1 recommended by committee on Transportation and Information Infrastructure, Ayes 5, Noes 0 (**LRB a1756**) 475

11-11. S. Report introduction and adoption of Senate Amendment 2 recommended by committee on Transportation and Information Infrastructure, Ayes 5, Noes 0 (**LRB a1707**) 475

11-11. S. Report passage as amended recommended by committee on Transportation and Information Infrastructure, Ayes 5, Noes 0 475

11-11. S. Available for scheduling.

11-12. S. Placed on calendar 11-13-2003 by committee on Senate Organization.

11-13. S. Read a second time 486

11-13. S. Senate amendment 1 **adopted** 486

11-13. S. Senate amendment 2 **adopted** 486

11-13. S. Senate amendment 3 offered by Senator Decker (**LRB a1821**) 486

11-13. S. Senate amendment 3 rejected, Ayes 21, Noes 11 486

11-13. S. Ordered to a third reading 486

11-13. S. Rules suspended 486

11-13. S. Read a third time and **passed**, Ayes 23, Noes 9 486

11-13. S. Ordered immediately messaged 489

11-20. A. Received from Senate 551

11-20. A. Read first time and referred to committee on Energy and Utilities 552

12-09. A. Public hearing held.

2004

02-03. A. Assembly amendment 1 offered by Representative Albers (**LRB a2004**) 660

02-16. A. Assembly substitute amendment 1 offered by Representative Montgomery (**LRB s0351**) 701

02-17. A. Executive action taken.

02-23. A. LRB correction (Senate Amendment 1) 716

02-25. A. Report concurrence recommended by committee on Energy and Utilities, Ayes 7, Noes 5 733

02-25. A. Referred to committee on Rules 733

02-25. A. Placed on calendar 3-2-2004 by committee on Rules.

03-02. A. Read a second time 794

03-02. A. Assembly amendment 2 offered by Representative Bies (**LRB a2464**) 776

03-02. A. Assembly amendment 2 withdrawn and returned to author 776

03-02. A. Assembly amendment 3 offered by Representative Albers (**LRB a2467**) 776

03-02. A. Assembly amendment 3 withdrawn and returned to author 776

03-02. A. Assembly amendment 4 offered by Representative Weber (**LRB a2460**) 776

03-02. A. Assembly amendment 4 **adopted** 776

03-02. A. Assembly amendment 5 offered by Representatives Albers and Montgomery (**LRB a2498**) 776

03-02. A. Assembly amendment 5 withdrawn and returned to author 776

03-02. A. Assembly amendment 6 offered by Representatives Hebl and Ziegelbauer (**LRB a2509**) 776

03-02. A. Assembly amendment 6 laid on table, Ayes 60, Noes 36 776

03-02. A. Assembly amendment 7 offered by Representatives Montgomery and Albers (**LRB a2522**) 776

03-02. A. Assembly amendment 7 **adopted** 776

03-02. A. Assembly amendment 8 offered by Representative Kaufert (**LRB a2523**) 776

03-02. A. Assembly amendment 8 laid on table, Ayes 56, Noes 40 776

03-02. A. Ordered to a third reading 776

03-02. A. Refused to suspend rules to read a third time, Ayes 58, Noes 38 776

03-02. A. Made a special order of business at 9:05 A.M. on 3-4-2004 pursuant to AR 35 779

03-04.	A.	Point of order that motion to suspend rules and take up out of chronological order required a two-thirds vote although the bill was made a special order of business under Assembly Rule 33	791
03-04.	A.	Read a third time and concurrred in as amended	796
03-04.	A.	Ordered immediately messaged	796
03-05.	S.	Received from Assembly amended and concurrred in as amended, Assembly amendments 4 and 7 adopted.	
03-05.	S.	Available for scheduling.	
03-08.	S.	Placed on calendar 3-9-2004 by committee on Senate Organization.	
03-09.	S.	Assembly amehment 4 concurrred in .	
03-09.	S.	Assembly amendment 7 concurrred in .	
03-09.	S.	Action ordered immediately messaged.	

**2003
ENROLLED BILL**

03en S B- 272

ADOPTED DOCUMENTS:

Orig Engr SubAmdt

03 - 3352 / 1

Amendments to above (if none, write "NONE"): SA1, SA2

AA4, AA7

Corrections - show date (if none, write "NONE"): ① 2-23-04 (SA1)

② in enrollment SA 3-17-04

Topic relating

3/10/04 [Signature]
Date Enrolling Drafter

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State of Wisconsin
2003-2004 LEGISLATURE

CORRECTIONS IN:

2003 SENATE BILL 272

Prepared by the Legislative Reference Bureau
(March 17, 2004)

In enrolling, the following corrections were made:

Senate Amendment 2 to Senate Bill 272:

1. Page 1, line 4: delete "(c)" and substitute "3."

NOTE: Because Senate Amendment 1 renumbered s. 66.0419 (3m) (a) and (b) to be s. 66.0419 (3m) (a) 1. and 2., the new par. (c) from Item 2 of Senate Amendment 2 must now be subd. 3.

2. Page 1, line 5: delete "(3)" and substitute "(3d)".
3. Page 1, line 8: after "(3)," insert "(3d),".
4. Page 1, line 11: delete "(3)" and substitute "(3d)".

Assembly Amendment 4 to Senate Bill 272:

1. Page 1, line 3: delete "and (3m)" and substitute "(3m),".
2. Page 2, line 3: delete "Page 4, line 19" and substitute "Page 5, line 4".
3. Page 2, line 4: delete "4w" and substitute "5w".

Assembly Amendment 7 to Senate Bill 272:

1. Page 1, line 9: delete "(3m)" and substitute "(3n)".
2. Page 1, line 12: delete "(3m)" and substitute "(3n)".

(END)

2003 SENATE BILL 272

October 8, 2003 - Introduced by Senators KANAVAS, KEDZIE, PLALE, STEPP, REYNOLDS, M. MEYER, S. FITZGERALD, WIRCH, LEIBHAM, A. LASEE, BRESKE, BROWN, CARPENTER and WELCH, cosponsored by Representatives MONTGOMERY, VRAKAS, SUDER, J. FITZGERALD, F. LASEE, OWENS, GUNDRUM, SCHNEIDER, SHILLING, D. MEYER, HUNDERTMARK, STONE, HUEBSCH, GRONEMUS, PETTIS, GROTHMAN, NASS, SERATTI, LEMAHIEU, HINES, FRISKE, VAN ROY, J. WOOD, MUSSER and JESKEWITZ. Referred to Committee on Transportation and Information Infrastructure.

broadband
SA2 ✓
en

1 AN ACT *to renumber and amend* 196.204 (5) (a); *to amend* 196.203 (1) and
2 196.204 (5) (b); and *to create* 66.0419 (3m), 66.0422 and 196.204 (5) (ag) of the
3 statutes; **relating to:** local government telecommunications utilities and
4 public hearings for ordinances and resolutions authorizing local government
5 cable television, telecommunications, and Internet access facilities.

Analysis by the Legislative Reference Bureau

This bill prohibits a city, village, town, or county (local government) that owns and operates a cable television system from requiring nonsubscribers to pay any of the costs of the system. The prohibition also applies to any entity owned, operated, or controlled, in whole or in part, by such a local government. There is one exception to this prohibition. A local government or entity may require nonsubscribers to pay the following costs: 1) the cost of public, educational, and governmental access channels; and 2) the cost of debt service on public improvement bonds for the construction, renovation, or expansion of the local government's cable television system.

In addition, current law requires telecommunications services and basic network functions of telecommunications utilities to be priced to exceed their total service long-run incremental costs. This bill specifies that, for a telecommunications utility that is a local government, total service long-run incremental costs must take into account, by imputation or allocation, equivalent charges for all taxes, pole rentals, rights of way, licenses, and similar costs that are incurred by

SENATE BILL 272

telecommunications utilities that are not local governments. Also, under current law, the Public Service Commission (PSC) may, under certain circumstances, waive the requirement that prices must exceed total service long-run incremental costs. The bill prohibits the PSC from waiving the requirement for a telecommunications utility that is a local government. In addition, under current law, certain small telecommunications utilities are exempt from the requirement. The bill eliminates the exemption for a telecommunications utility that is a local government. Also, the bill specifies that a telecommunications utility that is a local government is subject to the requirement even if the telecommunications utility is an alternative telecommunications utility that is otherwise exempt from PSC regulation under current law.

The bill also prohibits a local government from enacting an ordinance or adopting a resolution authorizing the local government to construct, own, or operate any facility for providing cable television service, telecommunications service, or Internet access service, directly or indirectly to the public, unless certain requirements are satisfied. First, the local government must hold a public hearing and provide at least three notices of the hearing. Second, the local government must prepare a report estimating the total costs of, and revenues derived from, constructing, owning, or operating the facility. The report must include a cost-benefit analysis of the facility for a period of at least three years. At least 30 days before the public hearing, the local government must make the report available for public inspection.

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. 66.0419 (3m) of the statutes is created to read:

2 66.0419 (3m) LOCAL GOVERNMENT CABLE TELEVISION SYSTEM COSTS Except for
3 costs for any of the following, a municipality or county that owns and operates a cable
4 television system, or an entity owned or operated, in whole or in part, by such a
5 municipality or county, may not require nonsubscribers of the cable television system
6 to pay any of the costs of the cable television system:

- 7 (a) Public, educational, and governmental access channels.
- 8 2. Debt service on bonds issued under s. 66.0619 to finance the construction,
9 renovation, or expansion of a cable television system.

2-2^v SA en

SA
SA

2-9 SA 2-9B SA2

3 broadband

1 SECTION 2. 66.0422 of the statutes is created to read:

2 **66.0422 Cable television, telecommunications, and Internet access**

3 **facilities.** (1) In this section:

4 (a) "Cable service" has the meaning given in s. 66.0419 (2) (c).

5 (b) "Local government" means a county, city, village, or town.

6 (c) "Telecommunications service" has the meaning given in s. 196.01 (9m).

7 (2) ~~No local government~~ may enact an ordinance or adopt a resolution
8 authorizing the local government to construct, own, or operate any facility for
9 providing cable service, telecommunications service, or Internet access service,
10 directly or indirectly, to the public, unless all of the following are satisfied:

11 (a) The local government holds a public hearing on the proposed ordinance or
12 resolution.

13 (b) Notice of the public hearing is given by publication of a class 3 notice under
14 ch. 985 in the area affected by the proposed ordinance or resolution.

15 (c) No less than 30 days before the public hearing, the local government
16 prepares and makes available for public inspection a report estimating the total costs
17 of, and revenues derived from, constructing, owning, or operating the facility and
18 including a cost-benefit analysis of the facility for a period of at least 3 years. The
19 costs that are subject to this paragraph include personnel costs and costs of
20 acquiring, installing, maintaining, repairing, or operating any plant or equipment,
21 and include an appropriate allocated portion of costs of personnel, plant, or
22 equipment that are used to provide jointly both telecommunications services and
23 other services.

24 SECTION 3. 196.203 (1) of the statutes is amended to read:

3-23 *SA1* 3-23 *B SA2*

SA2
3-23

broadband
SA2

SENATE BILL 272

4-6 SA

1 196.203 (1) ~~Except as provided in this section, alternative~~ Alternative
 2 telecommunications utilities are exempt from all provisions of ch. 201 and this
 3 chapter, except as provided in this section and except that an alternative
 4 telecommunications utility that is a local government telecommunications utility, as
 5 defined in s. 196.204 (5) (ag) 1., is subject to s. 196.204 (5).

6 ~~SECTION 4. 196.204 (5) (a) of the statutes is renumbered 196.204 (5) (ar) and~~
 7 ~~amended to read:~~

8 196.204 (5) (ar) ~~In addition to the other requirements of this section, each~~
 9 ~~telecommunications service, relevant group of services, and basic network function~~
 10 ~~offered or used by a telecommunications utility shall be priced to exceed its total~~
 11 ~~service long-run incremental cost. For a local government telecommunications~~
 12 ~~utility, such total service long-run incremental cost shall take into account, by~~
 13 ~~imputation or allocation, equivalent charges for all taxes, pole rentals, rights of way,~~
 14 ~~licenses, and similar costs that are incurred by nongovernmental~~
 15 ~~telecommunications utilities. The commission may waive the applicability of this~~
 16 ~~paragraph to a nongovernmental telecommunications utility's basic local exchange~~
 17 ~~service if the commission determines that a waiver is consistent with the factors~~
 18 ~~under s. 196.03 (6).~~

moved to p. 5 by ccc

19 SECTION 5. 196.204 (5) (ag) of the statutes is created to read:

20 196.204 (5) (ag) In this subsection:

21 1. "Local government telecommunications utility" means a municipality or
 22 ~~SA~~ county that owns, operates, manages, or controls any plant or equipment, or that
 23 wholly owns, operates, manages, or controls any entity that owns, operates,
 24 manages, or controls any plant or equipment, used to furnish telecommunications
 25 services within the state directly or indirectly to the public.

SA



State of Wisconsin
2003-2004 LEGISLATURE

CORRECTIONS IN:

**SENATE AMENDMENT 1,
TO 2003 SENATE BILL 272**

Prepared by the Legislative Reference Bureau
(February 19, 2004)

✓ **1.** Page 3, line 3: delete that line and substitute "the factors under s. 196.03 (6).".

✓ **2.** Page 3, line 3: after that line insert:

3-3
"9m. Page 5, line 3: after that line insert:" ✓

✓ **3.** Page 3, line 4: delete that line and substitute:

"SECTION 5r. 196.204 (5) (ar) 2. of the statutes is created to read:" ✓

(END)

ENGROSSED (FOR ENROLLING ONLY)
SENATE AMENDMENT 1,

TO 2003 SENATE BILL 272

November 11, 2003 - Offered by COMMITTEE ON TRANSPORTATION AND INFORMATION
INFRASTRUCTURE.

1 At the locations indicated, amend the bill as follows:

2 1. Page 2, line 2: delete "LOCAL GOVERNMENT CABLE TELEVISION SYSTEM COSTS.
3 Except" and substitute "MUNICIPAL CABLE TELEVISION SYSTEM COSTS. (a) Except".

4 2. Page 2, line 3: delete "or county".

5 3. Page 2, line 5: delete "or county".

6 4. Page 2, line 7: delete "(a)" and substitute "1."

7 5. Page 2, line 8: delete "(b)" and substitute "2."

8 6. Page 2, line 9: after that line insert:

9 (b) Paragraph (a) does not apply to a municipality if all of the following
10 conditions apply:

11 1. On November 1, 2003, the public service commission has determined that
12 the municipality is an alternative telecommunications utility under s. 196.203.

↓
B

1 2. A majority of the governing board of the municipality votes to submit the
2 question of supporting the operation of a cable television system by the municipality
3 to the electors in an advisory referendum and a majority of the voters in the
4 municipality voting at the advisory referendum vote to support the operation of a
5 cable television system by the municipality.”

6 **7.** Page 3, line 5: delete “county.”

7 **8.** Page 3, line 23: after that line insert:

8 “(3) Subsection (2) does not apply to a local government if all of the following
9 conditions apply:

10 (a) On November 1, 2003, the public service commission has determined that
11 the local government is an alternative telecommunications utility under s. 196.203.

12 (b) A majority of the governing board of the local government votes to submit
13 the question of supporting the operation of the facility for providing cable service,
14 telecommunications service, or Internet access service, directly or indirectly to the
15 public, by the local government to the electors in an advisory referendum and a
16 majority of the voters in the local government voting at the advisory referendum vote
17 to support operation of such a facility by the local government.”.

18 **9.** Page 4, line 6: delete lines 6 to 18 and substitute:

19 “**SECTION 4g.** 196.204 (5) (a) of the statutes is renumbered 196.204 (5) (ar) 1.
20 and amended to read:

21 196.204 (5) (ar) 1. In addition to the other requirements of this section, each
22 telecommunications service, relevant group of services and basic network function
23 offered or used by a telecommunications utility shall be priced to exceed its total
24 service long-run incremental cost. The commission may waive the applicability of

3-3

1 this ~~paragraph~~ subdivision to a nongovernmental telecommunications utility's basic
2 local exchange service if the commission determines that a waiver is consistent with
3 the factors under s. 196.03 (6).)) , ccc

4 ~~SECTION 4r. 196.204 (5) (ar) 2. of the statutes is created to read:~~

5 196.204 (5) (ar) 2. For purposes of subd. 1., the total service long-run
6 incremental cost of a local government telecommunications utility shall take into
7 account, by imputation or allocation, equivalent charges for all taxes, pole rentals,
8 rights-of-way, licenses, and similar costs that are incurred by nongovernmental
9 telecommunications utilities. This subdivision does not apply to a
10 telecommunications service, relevant group of services, or basic network function if
11 all of the following conditions apply:

A

12 a. On November 1, 2003, the commission has determined that the local
13 government telecommunications utility is an alternative telecommunications utility
14 under s. 196.203.

15 b. A majority of the governing board of the local government
16 telecommunications utility votes to submit the question of supporting the operation
17 of the local government telecommunications utility to the electors in an advisory
18 referendum and a majority of the voters in the local government telecommunications
19 utility voting at the advisory referendum vote to support operation of the local
20 government telecommunications utility.”.

21 **10.** Page 4, line 21: delete “or”.

22 **11.** Page 4, line 22: delete “county”.

23 **12.** Page 5, line 17: delete lines 17 to 19.

24 (END)

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(for enrolling only)

ENG used and (3n)

**SENATE AMENDMENT 2,
TO 2003 SENATE BILL 272**

cc: subs. (3), (3m), (3n)

needs cc in enrolling

November 11, 2003 - Offered by COMMITTEE ON TRANSPORTATION AND INFORMATION INFRASTRUCTURE.

DATA AAC (AA7)
subs. (3) and (3n)

- 1 At the locations indicated, amend the bill as follows:
- 2 **1.** Page 1, line 5: delete "Internet access" and substitute "broadband".
- 3 **2.** Page 2, line 9: after that line insert:
- 4 "(c) The provision of broadband service by the cable television system, if the
- 5 requirements of s. 66.0422 (3) (a) 1., 2., or 3. are satisfied."
- 6 **3.** Page 3, line 2: delete "Internet access" and substitute "broadband".
- 7 **4.** Page 3, line 7: delete "No local government" and substitute "Except as
- 8 provided in sub. (3), no local government".
- 9 **5.** Page 3, line 9: delete "Internet access" and substitute "broadband".
- 10 **6.** Page 3, line 23: after that line insert:
- 11 "(3) (a) Subsection (2) does not apply to a facility for providing broadband
- 12 service to an area within the boundaries of a local government if any of the following
- 13 are satisfied:

1 1. The local government asks, in writing, each person that provides broadband
 2 service within the boundaries of the local government whether the person currently
 3 provides broadband service to the area or intends to provide broadband service
 4 within 9 months to the area and within 60 days after receiving the written request
 5 no person responds in writing to the local government that the person currently
 6 provides broadband service to the area or intends to provide broadband service to the
 7 area within 9 months.

8 2. The local government determines that a person who responded to a written
 9 request under subd. 1. that the person currently provides broadband service to the
 10 area did not actually provide broadband service to the area and no other person
 11 makes the response to the local government described in subd. 1.

12 3. The local government determines that a person who responded to a written
 13 request under subd. 1. that the person intended to provide broadband service to the
 14 area within 9 months did not actually provide broadband service to the area within
 15 9 months and no other person makes the response to the local government described
 16 in subd. 1.

17 (4) Notwithstanding sub. (2), a local government may enact an ordinance or
 18 adopt a resolution authorizing the local government to prepare a report specified in
 19 sub. (2) (c).

20 (5) If a local government enacts an ordinance or adopts a resolution that
 21 complies with the requirements of sub. (2), the local government must determine the
 22 cost incurred in preparing the report specified in sub. (2) (c). As soon as practicable
 23 after the local government generates revenue from a facility specified in sub. (2)

AA4
 D E AA7

1 (intro.), the local government shall use the revenues to reimburse the treasury of the
2 local government for the cost determined under this subsection.”

3 (END)

**ASSEMBLY AMENDMENT 4,
TO 2003 SENATE BILL 272**

March 2, 2004 - Offered by Representative WEBER.

1 ✓ At the locations indicated, amend the bill as follows:

ccc - in enrolling

2 1. Page 3, line 7: on page 1, line 8, of the material inserted by senate
3 amendment 2, delete "sub. (3)" and substitute "subs. (3) ~~and (3m)~~".

OK

4 ✓ 2. Page 3, line 23: after that line, on page 2 of the material inserted by senate
5 amendment 2, after line 16 insert:

6 ✓ **(3m)** Subsection (2) does not apply to a facility for providing broadband service
7 if all of the following apply:

8 (a) The municipality offers use of the facility on a nondiscriminatory basis to
9 persons who provide broadband service to end users of the service.

10 (b) The municipality itself does not use the facility to provide broadband service
11 to end users.

12 (c) The municipality determines that, at the time that the municipality
13 authorizes the construction, ownership, or operation of the facility, whichever occurs

D cert

1 first, the facility does not compete with more than one provider of broadband
2 service”.

3 **3.** Page 4, line 19: before that line insert:

4 “SECTION ~~4w~~^{5 w} 196.204 (5) (ar) 3. of the statutes is created to read:

5 196.204 (5) (ar) 3. Subdivision 2. does not apply to a telecommunications
6 service, relevant group of services, or basic network function, that is used to provide
7 broadband service and that is offered by a municipal telecommunications utility, if
8 all of the following apply:

9 a. The municipal telecommunications utility offers the telecommunications
10 service, relevant group of services, or basic network function on a nondiscriminatory
11 basis to persons who provide broadband service to end users.

12 b. The municipality does not provide to end users the telecommunications
13 service, relevant group of services, or broadband service provided by the basic
14 network function.

15 c. The municipal utility determines that, at the time that the municipal utility
16 authorizes the provision of the telecommunications service, relevant group of
17 services, or basic network function, the municipal utility’s provision of the service,
18 group of services, or function does not compete with more than one provider of
19 broadband service.”.

20 (END)

**ASSEMBLY AMENDMENT 7,
TO 2003 SENATE BILL 272**

March 2, 2004 - Offered by Representatives MONTGOMERY and ALBERS.

1 At the locations indicated, amend the bill as follows:

2 1. Page 2, line 9: on page 1, line 9, of the material inserted by senate
3 amendment 1, before that line insert:

4 ““(am) Paragraph (a) does not apply to a municipality that, on March 1, 2004,
5 was providing cable service to the public.”.

6 2. Page 2, line 9: on page 1, line 9, of the material inserted by senate
7 amendment 1, delete ““(b)” and substitute “(b)”.

8 3. Page 3, line 7: on page 1, line 8, of the material inserted by senate
9 amendment 2, delete “sub. (3)” and substitute “subs. (3) and (3m)”. CCC (3n) 3n

10 4. Page 3, line 23: after that line, on page 2 of the material inserted by senate
11 amendment 2, after line 16 insert:

12 “(3n) Subsection (2) does not apply to a local government that, on March 1,
13 2004, was providing cable service to the public.”.

Handwritten circled 'E' with a checkmark.

Handwritten circled '(3n) CCC' with checkmarks and a signature.

1 **5.** Page 4, line 6: on page 3, line 9 of the material inserted by senate
2 amendment 1, delete that line and substitute "telecommunications utilities. This
3 subdivision does not apply to a local government telecommunications utility that is
4 subject to the exemption under s. 66.0422 (3m). This subdivision also does not apply
5 to a".

6

(END)

(Handwritten notes and signatures)
A large handwritten scribble is present, including the text "(3n)", "CCC", and "in envelope". An arrow points from the word "No" towards the "(3n)" text. There are also some illegible scribbles and lines.

**ASSEMBLY AMENDMENT 7,
TO 2003 SENATE BILL 272**

March 2, 2004 - Offered by Representatives MONTGOMERY and ALBERS.

1 At the locations indicated, amend the bill as follows:

2 ✓ 1. Page 2, line 9: on page 1, line 9, of the material inserted by senate
3 amendment 1, before that line insert:

4 ~~“(am) Paragraph (a) does not apply to a municipality that, on March 1, 2004,
5 was providing cable service to the public.”~~

6 ✓ 2. Page 2, line 9: on page 1, line 9, of the material inserted by senate
7 amendment 1, delete “(b)” and substitute “(b)”.

8 3. Page 3, line 7: on page 1, line 8, of the material inserted by senate
9 amendment 2, delete “sub. (3)” and substitute “subs. (3) and (3m)”.

10 4. Page 3, line 23: after that line, on page 2 of the material inserted by senate
11 amendment 2, after line 16 insert:

12 “(3m) Subsection (2) does not apply to a local government that, on March 1,
13 2004, was providing cable service to the public.”

1 ✓ 5. Page 4, line 6: on page 3, line 9 of the material inserted by senate
2 amendment 1, delete that line and substitute "telecommunications utilities. This
3 subdivision does not apply to a local government telecommunications utility that is
4 subject to the exemption under s. 66.0422 (3m). This subdivision also does not apply
5 to a".
6

(END)

SENATE BILL 272 (LRB -3352)

An Act to renumber and amend 196.204 (5) (a); to amend 196.203 (1) and 196.204 (5) (b); and to create 66.0419 (3m), 66.0422 and 196.204 (5) (ag) of the statutes; relating to: local government telecommunications utilities and public hearings for ordinances and resolutions authorizing local government cable television, telecommunications, and Internet access facilities. (FE)

2003

10-08.	S.	Introduced by Senators Kanavas, Kedzie, Plale, Stepp, Reynolds, M. Meyer, S. Fitzgerald, Wirch, Leibham, A. Lasee, Breske, Brown, Carpenter and Welch; cosponsored by Representatives Montgomery, Vrakas, Suder, J. Fitzgerald, F. Lasee, Owens, Gundrum, Schneider, Shilling, D. Meyer, Hundertmark, Stone, Huebsch, Gronemus, Pettis, Grothman, Nass, Seratti, LeMahieu, Hines, Friske, Van Roy, J. Wood, Musser and Jeskewitz.	
10-08.	S.	Read first time and referred to committee on Transportation and Information Infrastructure	404
10-16.	S.	Fiscal estimate received.	
10-29.	S.	Public hearing held.	
11-10.	S.	Executive action taken.	
11-11.	S.	Report introduction and adoption of Senate Amendment 1 recommended by committee on Transportation and Information Infrastructure, Ayes 5, Noes 0 (LRB a1756)	475
11-11.	S.	Report introduction and adoption of Senate Amendment 2 recommended by committee on Transportation and Information Infrastructure, Ayes 5, Noes 0 (LRB a1707)	475
11-11.	S.	Report passage as amended recommended by committee on Transportation and Information Infrastructure, Ayes 5, Noes 0	475
11-11.	S.	Available for scheduling.	
11-12.	S.	Placed on calendar 11-13-2003 by committee on Senate Organization.	
11-13.	S.	Read a second time	486
11-13.	S.	Senate amendment 1 adopted	486
11-13.	S.	Senate amendment 2 adopted	486
11-13.	S.	Senate amendment 3 offered by Senator Decker (LRB a1821)	486
11-13.	S.	Senate amendment 3 rejected, Ayes 21, Noes 11	486
11-13.	S.	Ordered to a third reading	486
11-13.	S.	Rules suspended	486
11-13.	S.	Read a third time and passed, Ayes 23, Noes 9	486
11-13.	S.	Ordered immediately messaged	489
11-20.	A.	Received from Senate	551
11-20.	A.	Read first time and referred to committee on Energy and Utilities	552
12-09.	A.	Public hearing held.	

2004

02-03.	A.	Assembly amendment 1 offered by Representative Albers (LRB a2004)	660
02-16.	A.	Assembly substitute amendment 1 offered by Representative Montgomery (LRB s0351)	701
02-17.	A.	Executive action taken.	
02-23.	A.	LRB correction (Senate Amendment 1)	716
02-25.	A.	Report concurrence recommended by committee on Energy and Utilities, Ayes 7, Noes 5	733
02-25.	A.	Referred to committee on Rules	733
02-25.	A.	Placed on calendar 3-2-2004 by committee on Rules.	
03-02.	A.	Read a second time	794
03-02.	A.	Assembly amendment 2 offered by Representative Bies (LRB a2464)	776
03-02.	A.	Assembly amendment 2 withdrawn and returned to author	776
03-02.	A.	Assembly amendment 3 offered by Representative Albers (LRB a2467)	776
03-02.	A.	Assembly amendment 3 withdrawn and returned to author	776
03-02.	A.	Assembly amendment 4 offered by Representative Weber (LRB a2460)	776
03-02.	A.	Assembly amendment 4 adopted	776
03-02.	A.	Assembly amendment 5 offered by Representatives Albers and Montgomery (LRB a2498)	776
03-02.	A.	Assembly amendment 5 withdrawn and returned to author	776
03-02.	A.	Assembly amendment 6 offered by Representatives Hebl and Ziegelbauer (LRB a2509)	776
03-02.	A.	Assembly amendment 6 laid on table, Ayes 60, Noes 36	776
03-02.	A.	Assembly amendment 7 offered by Representatives Montgomery and Albers (LRB a2522)	776
03-02.	A.	Assembly amendment 7 adopted	776
03-02.	A.	Assembly amendment 8 offered by Representative Kaufert (LRB a2523)	776
03-02.	A.	Assembly amendment 8 laid on table, Ayes 56, Noes 40	776
03-02.	A.	Ordered to a third reading	776
03-02.	A.	Refused to suspend rules to read a third time, Ayes 58, Noes 38	776
03-02.	A.	Made a special order of business at 9:05 A.M. on 3-4-2004 pursuant to AR 35	779

03-04.	A.	Point of order that motion to suspend rules and take up out of chronological order required a two-thirds vote although the bill was made a special order of business under Assembly Rule 33	791
03-04.	A.	Read a third time and concurrent in as amended	796
03-04.	A.	Ordered immediately messaged	796
03-05.	S.	Received from Assembly amended and concurrent in as amended, Assembly amendments 4 and 7 adopted.	
03-05.	S.	Available for scheduling.	
03-08.	S.	Placed on calendar 3-9-2004 by committee on Senate Organization.	
03-09.	S.	Assembly amendment 4 concurrent in .	
03-09.	S.	Assembly amendment 7 concurrent in .	
03-09.	S.	Action ordered immediately messaged.	



State of Wisconsin
2003 - 2004 LEGISLATURE

LRBa1756/en
PJD:kmg:...

SENATE AMENDMENT 1,
TO 2003 SENATE BILL 272

At the locations indicated, amend the bill as follows:

2-2 ✓

1
2
3
4
5
6
7
8
9
10
11
12

✓ 1. Page 2, line 2: delete "LOCAL GOVERNMENT CABLE TELEVISION SYSTEM COSTS.

Except" and substitute "MUNICIPAL CABLE TELEVISION SYSTEM COSTS. (a) Except".

✓ 2. Page 2, line 3: delete "or county".

✓ 3. Page 2, line 5: delete "or county".

✓ 4. Page 2, line 7: delete "(a)" and substitute "1."

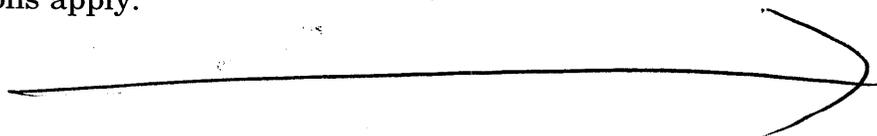
✓ 5. Page 2, line 8: delete "(b)" and substitute "2."

✓ 6. Page 2, line 9: after that line insert:

(am) Paragraph (a) does not apply to a municipality that, on March 1, 2004,
was providing cable service to the public.

(b) Paragraph (a) does not apply to a municipality if all of the following
conditions apply:

2-9



2-9

1 1. On November 1, 2003, the public service commission has determined that
2 the municipality is an alternative telecommunications utility under s. 196.203.

3 2. A majority of the governing board of the municipality votes to submit the
4 question of supporting the operation of a cable television system by the municipality
5 to the electors in an advisory referendum and a majority of the voters in the
6 municipality voting at the advisory referendum vote to support the operation of a
7 cable television system by the municipality.

8 ✓ 7. Page 3, line 5: delete "county,".

9 ✓ 8. Page 3, line 23: after that line insert:

10 "(3) Subsection (2) does not apply to a local government if all of the following
11 conditions apply:

3-23

12 (a) On November 1, 2003, the public service commission has determined that
13 the local government is an alternative telecommunications utility under s. 196.203.

14 (b) A majority of the governing board of the local government votes to submit
15 the question of supporting the operation of the facility for providing cable service,
16 telecommunications service, or Internet access service, directly or indirectly to the
17 public, by the local government to the electors in an advisory referendum and a
18 majority of the voters in the local government voting at the advisory referendum vote
19 to support operation of such a facility by the local government.

20 ✓ 9. Page 4, line 6: delete lines 6 to 18 and substitute:

21 "SECTION 4g. 196.204 (5) (a) of the statutes is renumbered 196.204 (5) (ar) 1.
22 and amended to read:

23 196.204 (5) (ar) 1. In addition to the other requirements of this section, each
24 telecommunications service, relevant group of services and basic network function

✓ 4-6



4-6 cent

1 offered or used by a telecommunications utility shall be priced to exceed its total
2 service long-run incremental cost. The commission may waive the applicability of
3 this paragraph subdivision to a nongovernmental telecommunications utility's basic
4 local exchange service if the commission determines that a waiver is consistent with
5 the factors under s. 196.03 (6). ✓

6 ✓10. Page 5, line 3: after that line insert:

7 "SECTION 5r. 196.204 (5) (ar) 2. of the statutes is created to read:

8 196.204 (5) (ar) 2. For purposes of subd. 1., the total service long-run
9 incremental cost of a local government telecommunications utility shall take into
10 account, by imputation or allocation, equivalent charges for all taxes, pole rentals,
11 rights-of-way, licenses, and similar costs that are incurred by nongovernmental
12 telecommunications utilities. This subdivision does not apply to a local government
13 telecommunications utility that is subject to the exemption under s. 66.0422 (3m).
14 This subdivision also does not apply to a telecommunications service, relevant group
15 of services, or basic network function if all of the following conditions apply:

16 a. On November 1, 2003, the commission has determined that the local
17 government telecommunications utility is an alternative telecommunications utility
18 under s. 196.203.

19 b. A majority of the governing board of the local government
20 telecommunications utility votes to submit the question of supporting the operation
21 of the local government telecommunications utility to the electors in an advisory
22 referendum and a majority of the voters in the local government telecommunications
23 utility voting at the advisory referendum vote to support operation of the local
24 government telecommunications utility.

5-3



State of Wisconsin
2003 - 2004 LEGISLATURE

LRBa1707/en
PJD:kmg:...

SENATE AMENDMENT 2,
TO 2003 SENATE BILL 272

(3d) ✓
CCC

✓
(3d) ✓
CCC

S.A. 1 mod. para. to be subd.

1 At the locations indicated, amend the bill as follows:

✓ 1. Page 1, line 5: delete "Internet access" and substitute "broadband".

3 2. Page 2, line 9: after that line insert:

✓ 4 CCC
2-2B
3. The provision of broadband service by the cable television system, if the requirements of s. 66.0422 (a) 1., 2., or 3. are satisfied.

6 ✓ 3. Page 3, line 2: delete "Internet access" and substitute "broadband".

7 ✓ 4. Page 3, line 7: delete "No local government" and substitute "Except as provided in subs. (3), (3m), and (3n), no local government".

3-8

✓ 5. Page 3, line 9: delete "Internet access" and substitute "broadband".

10 ✓ 6. Page 3, line 23: after that line insert:

11 (3) (a) Subsection (2) does not apply to a facility for providing broadband
12 service to an area within the boundaries of a local government if any of the following
13 are satisfied:

(4) (3d) ✓
CCC

3-23B

3-23B

Conf

1 1. The local government asks, in writing, each person that provides broadband
 2 service within the boundaries of the local government whether the person currently
 3 provides broadband service to the area or intends to provide broadband service
 4 within 9 months to the area and within 60 days after receiving the written request
 5 no person responds in writing to the local government that the person currently
 6 provides broadband service to the area or intends to provide broadband service to the
 7 area within 9 months.

8 2. The local government determines that a person who responded to a written
 9 request under subd. 1. that the person currently provides broadband service to the
 10 area did not actually provide broadband service to the area and no other person
 11 makes the response to the local government described in subd. 1.

12 3. The local government determines that a person who responded to a written
 13 request under subd. 1. that the person intended to provide broadband service to the
 14 area within 9 months did not actually provide broadband service to the area within
 15 9 months and no other person makes the response to the local government described
 16 in subd. 1.

17 **(3m)** Subsection (2) does not apply to a facility for providing broadband service
 18 if all of the following apply:

19 (a) The municipality offers use of the facility on a nondiscriminatory basis to
 20 persons who provide broadband service to end users of the service.

21 (b) The municipality itself does not use the facility to provide broadband service
 22 to end users.

23 (c) The municipality determines that, at the time that the municipality
 24 authorizes the construction, ownership, or operation of the facility, whichever occurs
 25 first, the facility does not compete with more than one provider of broadband service.

3 - 23 B Conf

1 **(3n)** Subsection (2) does not apply to a local government that, on March 1, 2004,
2 was providing cable service to the public.

3 **(4)** Notwithstanding sub. (2), a local government may enact an ordinance or
4 adopt a resolution authorizing the local government to prepare a report specified in
5 sub. (2) (c).

6 **(5)** If a local government enacts an ordinance or adopts a resolution that
7 complies with the requirements of sub. (2), the local government must determine the
8 cost incurred in preparing the report specified in sub. (2) (c). As soon as practicable
9 after the local government generates revenue from a facility specified in sub. (2)
10 (intro.), the local government shall use the revenues to reimburse the treasury of the
11 local government for the cost determined under this subsection.

12

(END)



ASSEMBLY AMENDMENT 4,
TO 2003 SENATE BILL 272

1 At the locations indicated, amend the bill as follows:

2 ✓ 1. Page ⁵4, line ⁴19: before that line insert:

3 ~~SECTION 4w.~~ ⁵196.204 (5) (ar) 3. of the statutes is created to read:

4-19

4 196.204 (5) (ar) 3. Subdivision 2. does not apply to a telecommunications
5 service, relevant group of services, or basic network function, that is used to provide
6 broadband service and that is offered by a municipal telecommunications utility, if
7 all of the following apply:

8 a. The municipal telecommunications utility offers the telecommunications
9 service, relevant group of services, or basic network function on a nondiscriminatory
10 basis to persons who provide broadband service to end users.

11 b. The municipality does not provide to end users the telecommunications
12 service, relevant group of services, or broadband service provided by the basic
13 network function.

4-19 cont

1 c. The municipal utility determines that, at the time that the municipal utility
2 authorizes the provision of the telecommunications service, relevant group of
3 services, or basic network function, the municipal utility's provision of the service,
4 group of services, or function does not compete with more than one provider of
5 broadband service.

6

(END)

**ASSEMBLY AMENDMENT 7,
TO 2003 SENATE BILL 272**

*All items now pending on
expressed versions
7 SA1, SA2*

March 2, 2004 - Offered by Representatives MONTGOMERY and ALBERS.

1 At the locations indicated, amend the bill as follows:

2 ✓ **1.** Page 2, line 9: on page 1, line 9, of the material inserted by senate
3 amendment 1, before that line insert:

4 ““(am) Paragraph (a) does not apply to a municipality that, on March 1, 2004,
5 was providing cable service to the public.”.

6 ✓ **2.** Page 2, line 9: on page 1, line 9, of the material inserted by senate
7 amendment 1, delete ““(b)” and substitute “(b)”.

8 ✓ **3.** Page 3, line 7: on page 1, line 8, of the material inserted by senate
9 amendment 2, delete “sub. (3)” and substitute “subs. (3) and (3m)”.

10 ✓ **4.** Page 3, line 23: after that line, on page 2 of the material inserted by senate
11 amendment 2, after line 16 insert:

12 “(3m) Subsection (2) does not apply to a local government that, on March 1,
13 2004, was providing cable service to the public.”.

1 ✓ 5. Page 4, line 6: on page 3, line 9 of the material inserted by senate
2 amendment 1, delete that line and substitute "telecommunications utilities. This
3 subdivision does not apply to a local government telecommunications utility that is
4 subject to the exemption under s. 66.0422 (3m). This subdivision also does not apply
5 to a".

6 (END)

ccc

a2522/1

AA7

to SB-272-3352

In enrolling, the following
corrections were made:

#. Page 1, line 9: delete "(3m)" and
substitute "(3n)".

#. Page 1, line 12: delete "(3m)" and
substitute "(3n)".

KMG:

ccc

LRB a2460/2

AA4

to SB-272

In enrolling, the following correction
was made:

#. Page 1, line 3: delete "and (3m)" and
substitute ", (3m)".

KMG.

AA4 to
SB-272

#. Page 2, line 3: delete
"Page 4, line 19" and
substitute "Page 5, line 4".

#. Page 2, line 4: delete
"4^(B)W" and substitute
"5^(B)W".

KMG

S. Amdt. 2

SB - 272

In enrolling, the following corrections were made:

#. ~~on~~ Page 1, line 5: delete "(3)" and substitute "(3d)".

#. Page 1, line 8: after "(3)," insert "(3d),".

#. Page 1, line 11: delete "(3)" and substitute "(3d)".

KMG



CORRECTIONS IN:

2003 SENATE BILL 272

Prepared by the Legislative Reference Bureau
(March 16, 2004)

47

In enrolling, the following corrections were made:

Senate Amendment 2 to Senate Bill 272:

- ✓ 1. Page 1, line 5: delete "(3)" and substitute "(3d)".
- ✓ 2. Page 1, line 8: after "(3)," insert "(3d)".
- ✓ 3. Page 1, line 11: delete "(3)" and substitute "(3d)".

Assembly Amendment 4 to Senate Bill 272:

- ✓ 1. Page 1, line 3: delete "and (3m)" and substitute "(3m)".
- ✓ 2. Page 2, line 3: delete "Page 4, line 19" and substitute "Page 5, line 4".
- ✓ 3. Page 2, line 4: delete "4w" and substitute "5w".

Assembly Amendment 7 to Senate Bill 272:

- ✓ 1. Page 1, line 9: delete "(3m)" and substitute "(3n)".
- ✓ 2. Page 1, line 12: delete "(3m)" and substitute "(3n)".

(END)

✓ #. Page 1, line 4: delete "(c)" and substitute "3."

Item 2 of

NOTE: Because Senate Amendment 1 renumbered s. 66.0419 (3m) (a) and (b) to be s. 66.0419 (3m) (a) 1. and 2., the new par. (c) from Senate Amendment 2 must now be subd. 3.



State of Wisconsin
2003-2004 LEGISLATURE

CORRECTIONS IN:

2003 SENATE BILL 272

Prepared by the Legislative Reference Bureau
(March 17, 2004)

In enrolling, the following corrections were made:

Senate Amendment 2 to Senate Bill 272:

1. Page 1, line 4: delete "(c)" and substitute "3."

NOTE: Because Senate Amendment 1 renumbered s. 66.0419 (3m) (a) and (b) to be s. 66.0419 (3m) (a) 1. and 2., the new par. (c) from Item 2 of Senate Amendment 2 must now be subd. 3.

2. Page 1, line 5: delete "(3)" and substitute "(3d)".
3. Page 1, line 8: after "(3)," insert "(3d)".
4. Page 1, line 11: delete "(3)" and substitute "(3d)".

Assembly Amendment 4 to Senate Bill 272:

1. Page 1, line 3: delete "and (3m)" and substitute "(3m)".
2. Page 2, line 3: delete "Page 4, line 19" and substitute "Page 5, line 4".
3. Page 2, line 4: delete "4w" and substitute "5w".

Assembly Amendment 7 to Senate Bill 272:

1. Page 1, line 9: delete "(3m)" and substitute "(3n)".
2. Page 1, line 12: delete "(3m)" and substitute "(3n)".

(END)