

## 2013 DRAFTING REQUEST

### Bill

Received: 12/11/2013 Received By: mkunkel  
Wanted: As time permits Same as LRB: -3779  
For: Robert Cowles (608) 266-9174 By/Representing: Scott Rausch  
May Contact: Drafter: mkunkel  
Subject: Criminal Law - miscellaneous Addl. Drafters: chanaman  
Public Util. - electric  
Public Util. - gas and water  
Public Util. - misc. Extra Copies: EVM  
Public Util. - telco

Submit via email: YES  
Requester's email: Sen.Cowles@legis.wisconsin.gov  
Carbon copy (CC) to:

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### Pre Topic:

No specific pre topic given

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### Topic:

PSC certificates, definition of transmission facility, customer notice in water utility cases, utility rate schedules, telecommunications utility accident reporting, pay telephone and cable television telecommunications providers, line tampering

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### Instructions:

Compile -3577, -3578, -3607, -3616, -3617, -3624, -3626, -3652, and -3654

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### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	mkunkel 1/3/2014	csicilia 1/3/2014	rschlue 1/3/2014	_____	sbasford 12/12/2013		
/2				_____	srose 1/3/2014	srose 1/3/2014	

FE Sent For:

↳ Not  
Needed

<END>

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Sen. Cowles

PA please jacket  
12  
-MDK

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/1	mkunkel 12/12/2013	csicilia 12/12/2013	rschluet 12/12/2013		sbasford 12/12/2013		

FE Sent For:

1314  
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/1	mkunkel	lgs	12/12 B		==		

FE Sent For:

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**Kunkel, Mark**

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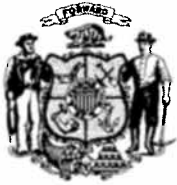
**From:** Spencer, Matt  
**Sent:** Wednesday, December 11, 2013 1:42 PM  
**To:** Kunkel, Mark  
**Cc:** Smith, Ryan  
**Subject:** LRB 3780 and LRB 3779

Please release LRB 3780 and 3779 to Sen. Cowles office for a companion bill.

Thank you.

Matthew Spencer  
Office of Representative Mike Kuglitsch  
(608) 267-5158

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3816



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-3779/1

MDK:cjs:rs

O-note

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2013 BILL

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1 AN ACT *to repeal* 196.01 (1d) (a), 196.01 (1d) (b), 196.01 (1r), 196.01 (4m), 196.01  
2 (12), 196.193 (4) (a) to (d), 196.203 (1m) and 196.21; *to renumber and amend*  
3 196.193 (4) (intro.); *to amend* 13.92 (4) (c), 13.92 (4) (d), 13.92 (4) (e), 13.92 (4)  
4 (f), 20.395 (3) (jh), 35.93 (2) (b) 4., 35.93 (2) (c) 1., 35.93 (3), 35.93 (3) (e) (intro.),  
5 35.93 (3) (e) 1., 101.862 (4) (f), 196.19 (3), 196.19 (4), 196.192 (3) (b), 196.194,  
6 196.49 (5g) (a) (intro.), 196.491 (3) (g), 196.50 (2) (i), 197.10 (4), 227.01 (13)  
7 (intro.), 227.11 (2) (intro.), 227.27 (2) and 941.40 (3) and (4) (b); and *to create*  
8 13.92 (4) (bm), 196.20 (1) (title), 196.20 (2) (title), 196.20 (2m) (title), 196.20 (4)  
9 (title), 196.20 (7) (title), 196.20 (8) and 227.265 of the statutes; **relating to:**  
10 Public Service Commission certificates for certain activities; tampering with  
11 telecommunications or electric wires; regulation of pay telephone service  
12 providers and cable television telecommunications service providers; accident  
13 reporting by telecommunications utilities; the definition of transmission

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1 facility; availability of public utility rate schedules; notice for water public  
2 utility rate revisions; and rule-making procedures.

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

This bill makes changes regarding all of the following: 1) Public Service Commission (PSC) certificates required for certain activities; 2) filing requirements for public utility rate schedules; 3) water public utility rate changes; 4) telecommunications regulation; 4) legislative repeal or modification of agency rules; and 5) tampering with telecommunications or electric wires.

***PSC certificates.*** Current law prohibits a public utility from beginning construction or providing service in a municipality, unless the public utility obtained a certificate from the PSC authorizing the public utility to transact public utility business. Current law also prohibits a public utility from beginning certain projects involving new or existing plants, equipment, property, or facilities, unless the public utility has complied with applicable PSC rules and orders. In addition, current law allows the PSC to prohibit a public utility from proceeding with such a project until the PSC certifies that public convenience and necessity require the project. Current law also includes exemptions that are based on the gross cost of the project and the type of public utility that proposes the project. The bill provides that those exemptions do not apply to the first prohibition described in the foregoing, but do apply to the second and third prohibitions.

Current law also generally prohibits a person from commencing construction of certain large electric generating facilities or high-voltage transmission lines without obtaining a certificate of public convenience and necessity (CPCN) from the PSC. After a person files an application for a CPCN, the PSC must determine whether the application is complete. If the PSC fails to make such a determination within a specified deadline, the application is considered to be complete. Current law requires the PSC to take final action on the application within 180 days after the application is determined or considered to be complete. If the PSC fails to take final action within that deadline, the PSC is considered to have issued a CPCN to the applicant. However, current law also allows the PSC to petition the circuit court for Dane County for an extension of the deadline for no more than an additional 180 days. Upon a showing of good cause, the court may extend the deadline. If the PSC fails to take final action within the extended deadline, the PSC is considered to have issued the CPCN. The bill eliminates the requirement for the PSC to petition the court for a deadline extension. Instead, the bill allows the chairperson of the PSC to extend the deadline for no more than an additional 180 days for good cause. As under current law, if the PSC fails to take final action within the extended deadline, the PSC is considered to have issued the CPCN.

***Public utility rate schedules.*** Under current law, certain public utilities must file schedules with the PSC showing their rates for service. Current law requires the PSC to determine the portion of a public utility's rate schedule that is necessary for public use and the public utility must print a copy of that portion in

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plain type. The bill requires the copy to be produced, rather than printed, in plain type. Current law also requires a public utility to keep the copy on file, in a form and place readily accessible to the public, at every station or office where customers make payments. The bill changes the foregoing requirement so that a public utility must keep the copy on file at the public utility and make the copy available to the public by making it available at locations where customer payments are accepted, on the public utility's Internet site, or in a form and place that is otherwise readily accessible to the public.

***Water public utility rate changes.*** The bill requires a water public utility to inform its customers when the public utility files an application to the PSC to authorize a rate revision that would result in a rate increase. The bill's requirements are similar to requirements under the PSC's rules that apply to water and other types of public utilities. The bill requires a water public utility to inform customers about the application and the general nature and effect of the filing by providing a notice that includes the following: 1) the amount of the rate revision; 2) the anticipated effective date; 3) the anticipated impact on customer bills for representative customer classes, including residential customers; 4) instructions on how a customer may contact the PSC about the revision; and 5) any other information required by the PSC. The bill requires a water public utility to post the notice at the utility, and allows the utility to publish the notice on its Internet site. Also, if the water public utility issues monthly customer bills, the utility must include the notice on its bill or in a bill insert over one complete billing cycle. If the water public utility does not issue monthly customer bills, the utility must provide the notice to customers by a special mailing or advertisement in a newspaper having general circulation in the utility's service area. The bill also requires a water public utility to file proof of compliance with the foregoing requirements with the PSC. In addition, if a hearing is held on the water public utility's application for revised rates, the utility must file proof of compliance at least three days before the hearing.

Current law allows the PSC to authorize certain rate increases for municipal water public utilities without holding a hearing. Under the bill, if a municipal water public utility applies for such authorization, the utility must comply with the notice requirements described above. In addition, the notice must include a statement that a hearing is not required for the proposed rate increase.

***Telecommunications regulation.*** Current law exempts telecommunications utilities from a variety of requirements that apply to other public utilities. The bill creates an additional exemption. Under current law, the PSC has the authority to require public utilities to record or report certain accidents. The bill exempts telecommunications utilities from that authority. The bill also repeals an obsolete definition of "transmission facility" relating to telecommunications service.

Under current law, no person may provide service as an alternative telecommunications utility (ATU) unless the PSC certifies that the person is an ATU. Current law defines ATU to include the following: 1) cable television telecommunications service providers (CTTSPs); 2) telecommunications resellers; 3) pay telephone service providers; and 4) other telecommunications providers that the



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PSC finds offer service that is available from other telecommunications providers. Current law defines a CTTSP as a telecommunications provider that receives a specified percentage of its gross income from the operation of a cable television system. Current law also requires a CTTSP to file annual statements regarding gross income with the PSC. Current law defines “pay telephone service provider” as a person who owns or leases a pay telephone located on property owned or leased by that person and who otherwise does not offer any telecommunications service to the public.

The bill revises the definition of ATU so that it does not include CTTSPs or pay telephone service providers. The bill also repeals the annual filing requirement for CTTSPs, as well as the PSC’s administrative rules regarding CTTSPs. In addition, the bill provides that a former CTTSP that the PSC certified as an ATU before the bill’s effective date is considered certified as an ATU on the basis that the person offers telecommunications service available from other telecommunications providers. The bill also requires the PSC to issue a certification specifying that the former CTTSP is an ATU on that basis.

***Legislative repeal or modification of agency rules.*** Current law sets forth a procedure for the promulgation of administrative rules (rules). Generally, that procedure consists of the following steps:

1. The agency planning to promulgate the rule prepares a statement of the scope of the proposed rule, which the governor and the agency head must approve before any state employee or official may perform any activity in connection with the drafting of the proposed rule.

2. The agency drafts the proposed rule, together with an economic impact analysis, plain language analysis, and fiscal estimate for the proposed rule, and submits those materials to the Legislative Council Staff for review.

3. Subject to certain exceptions, a public hearing is held on the proposed rule.

4. The final draft of the proposed rule is submitted to the governor for approval.

5. The final draft of the proposed rule, together with an economic impact analysis, plain language analysis, and fiscal estimate for the proposed rule, are submitted to the legislature for review by one standing committee in each house and by the Joint Committee for Review of Administrative Rules.

6. The proposed rule is filed with the Legislative Reference Bureau (LRB) for publication in the Wisconsin Administrative Code (code) and the Wisconsin Administrative Register (register), and, subject to certain exceptions, the rule becomes effective on the first day of the first month beginning after publication.

Under the bill, if a bill that repeals or modifies a rule is enacted, the ordinary rule-making procedures under current law do not apply. Instead, the LRB must publish the repeal or modification, in the code and the register, and the repeal or modification, subject to certain exceptions, takes effect on the first day of the first month beginning after publication.

***Tampering with telecommunications or electric wires.*** Under current law, a person who intentionally destroys, disturbs, interferes with, or injures the property of any telegraph, telecommunications, electric light, or electric power company is guilty of a Class B misdemeanor and a person who intentionally makes

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a physical electrical connection with any property of any telecommunications or electric power company is guilty of a Class A misdemeanor. The bill adds telegraph companies and electric light companies to the second offense for consistency.

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

1           **SECTION 1.** 13.92 (4) (bm) of the statutes is created to read:

2           13.92 (4) (bm) If 2 or more rules filed under s. 227.20 or modified under s.  
3           227.265 affect the same unit of the Wisconsin administrative code without taking  
4           cognizance of the effect thereon of the other rules and if the legislative reference  
5           bureau finds that there is no mutual inconsistency in the changes made by each such  
6           rule, the legislative reference bureau shall incorporate the changes made by each  
7           rule into the text of the unit and document the incorporation in a note to the unit.  
8           For each such incorporation, the legislative reference bureau shall include in a  
9           correction bill a provision formally validating the incorporation. Section 227.27 (2)  
10          is not affected by printing decisions made by the legislative reference bureau under  
11          this paragraph.

12          **SECTION 2.** 13.92 (4) (c) of the statutes is amended to read:

13          13.92 (4) (c) The legislative reference bureau may insert in the Wisconsin  
14          administrative code a note explaining any change made under par. (b) or (bm).

15          **SECTION 3.** 13.92 (4) (d) of the statutes is amended to read:

16          13.92 (4) (d) Sections 227.114, 227.116, 227.135, and 227.14 to 227.24 do not  
17          apply to any change made by the legislative reference bureau under par. (b) or (bm).

18          **SECTION 4.** 13.92 (4) (e) of the statutes is amended to read:

19          13.92 (4) (e) The legislative reference bureau shall prepare and keep on file a  
20          record of each change made under par. (b) or (bm).

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1           **SECTION 5.** 13.92 (4) (f) of the statutes is amended to read:

2           13.92 (4) (f) The legislative reference bureau shall notify the agency involved  
3 of each change made under par. (b) or (bm).

4           **SECTION 6.** 20.395 (3) (jh) of the statutes is amended to read:

5           20.395 (3) (jh) *Utility facilities within highway rights-of-way, state funds.*  
6 From the general fund, all moneys received from telecommunications providers, as  
7 defined in s. 196.01 (8p), or cable television telecommunications service providers,  
8 as defined in s. 196.01 (1r), 2011 stats., for activities related to locating,  
9 accommodating, operating, or maintaining utility facilities within highway  
10 rights-of-way, for such purposes.

11           **SECTION 7.** 35.93 (2) (b) 4. of the statutes, as affected by 2013 Wisconsin Act 20,  
12 is amended to read:

13           35.93 (2) (b) 4. Copies of all rules filed with the legislative reference bureau  
14 under s. 227.20 (1) or modified under s. 227.265 since the compilation of the  
15 preceding register, including emergency rules filed under s. 227.24 (3).

16           **SECTION 8.** 35.93 (2) (c) 1. of the statutes, as affected by 2013 Wisconsin Act 20,  
17 is amended to read:

18           35.93 (2) (c) 1. Each chapter of the Wisconsin administrative code that has been  
19 affected by rules filed with legislative reference bureau under s. 227.20 (1) or  
20 modified under s. 227.265, in accordance with sub. (3) (e) 1.

21           **SECTION 9.** 35.93 (3) of the statutes is amended to read:

22           35.93 (3) The legislative reference bureau shall compile and deliver to the  
23 department for printing copy for a register which shall contain all the rules filed  
24 under s. 227.20 or modified under s. 227.265 since the compilation of rules for the  
25 preceding issue of the register was made and those executive orders which are to be

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1 in effect for more than 90 days or an informative summary thereof. The complete  
2 register shall be compiled and published before the first day of each month and a  
3 notice section of the register shall be compiled and published before the 15th day of  
4 each month. Each issue of the register shall contain a title page with the name  
5 “Wisconsin administrative register”, the number and date of the register, and a table  
6 of contents. Each page of the register shall also contain the date and number of the  
7 register of which it is a part in addition to the other necessary code titles and page  
8 numbers. The legislative reference bureau may include in the register such  
9 instructions or information as in the bureau’s judgment will help the user to correctly  
10 make insertions and deletions in the code and to keep the code current.

11 **SECTION 10.** 35.93 (3) (e) (intro.) of the statutes, as affected by 2013 Wisconsin  
12 Act 20, is amended to read:

13 35.93 (3) (e) (intro.) The legislative reference bureau shall incorporate into the  
14 appropriate chapters of the Wisconsin administrative code each permanent rule filed  
15 with the legislative reference bureau under s. 227.20 (1) or modified under s. 227.265  
16 and, for each chapter of the administrative code affected by a rule, do all of the  
17 following:

18 **SECTION 11.** 35.93 (3) (e) 1. of the statutes, as affected by 2013 Wisconsin Act  
19 20, is amended to read:

20 35.93 (3) (e) 1. Publish the chapter in the appropriate end-of-month register  
21 in accordance with the filing deadline for publication established in the rules  
22 procedures manual published under s. 227.15 (7) ~~or~~, in an end-of-month register  
23 agreed to by the submitting agency and the legislative reference bureau, or, in the  
24 case of a rule modified under s. 227.265, in the end-of-month register for the month  
25 in which the bill modifying the rule is enacted.

**BILL****SECTION 12**

1           **SECTION 12.** 101.862 (4) (f) of the statutes, as created by 2007 Wisconsin Act  
2 63, is amended to read:

3           101.862 (4) (f) A person engaged in installing, repairing, or maintaining  
4 electrical wiring of transmission facilities, as defined in s. 196.01 (12), 2011 stats.

5           **SECTION 13.** 196.01 (1d) (a) of the statutes is repealed.

6           **SECTION 14.** 196.01 (1d) (b) of the statutes is repealed.

7           **SECTION 15.** 196.01 (1r) of the statutes is repealed.

8           **SECTION 16.** 196.01 (4m) of the statutes is repealed.

9           **SECTION 17.** 196.01 (12) of the statutes is repealed.

10          **SECTION 18.** 196.19 (3) of the statutes is amended to read:

11          196.19 (3) A copy of as much of the schedules filed under sub. (1) as the  
12 commission determines necessary for the use of the public shall be ~~printed~~ produced  
13 in plain type, and kept on file ~~in every~~ at the public utility station ~~or office where~~  
14 ~~payments are made by consumers, and made available to the public at least 10 days~~  
15 ~~before the schedules take effect, unless the commission prescribes a shorter time~~  
16 ~~period. In making a copy available to the public, a public utility may make the copy~~  
17 ~~available at locations where customer payments are accepted, on the public utility's~~  
18 ~~Internet site, or in a form and place that is otherwise~~ readily accessible to the public.

19          **SECTION 19.** 196.19 (4) of the statutes is amended to read:

20          196.19 (4) If a schedule of joint rates or charges is in force between public  
21 utilities, the schedule shall be ~~printed and~~ filed with the commission under sub. (1).  
22 The commission shall determine the portion of the schedule necessary for the use of  
23 the public. The public utilities shall ~~file~~ make the portion of the schedule available  
24 to the public as provided under sub. (3).

25          **SECTION 20.** 196.192 (3) (b) of the statutes is amended to read:

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1           196.192 (3) (b) Nothing in s. 196.20, ~~196.21~~, 196.22, 196.37, 196.60 or 196.604  
2 prohibits the commission from approving a filing under sub. (2) or approving  
3 market-based rates under par. (a).

4           **SECTION 21.** 196.193 (4) (intro.) of the statutes is renumbered 196.193 (4) and  
5 amended to read:

6           196.193 (4) NOTICE REQUIREMENTS. A utility seeking an increase in rates under  
7 this section shall notify all customers, ~~upon a form approved by the commission, by~~  
8 ~~newspaper publication or by mail.~~ The utility shall include a copy of the issued notice  
9 in its filing of an application under this section. ~~The notice shall include all of the~~  
10 ~~following: as required under s. 196.20 (8).~~

11           **SECTION 22.** 196.193 (4) (a) to (d) of the statutes are repealed.

12           **SECTION 23.** 196.194 of the statutes is amended to read:

13           **196.194 Gas utility individual contracts.** Nothing in ss. 196.03, 196.19,  
14 196.20, ~~196.21~~, 196.22, 196.37, 196.60, 196.604 and 196.625 prohibits the  
15 commission from approving the filing of a tariff which permits a gas utility to enter  
16 into an individual contract with an individual customer if the term of the contract  
17 is no more than 5 years, or a longer period approved by the commission, and if the  
18 commission determines that substitute gas services are available to customers or  
19 potential customers of the gas utility and the absence of such a tariff will cause the  
20 gas utility to be disadvantaged in competing for business. A tariff filed under this  
21 section shall include the condition that any such contract shall be compensatory. The  
22 tariff shall include any other condition and procedure required by the commission in  
23 the public interest. Within 20 days after a contract authorized under this section or  
24 an amendment to such a contract has been executed, the gas utility shall submit the  
25 contract to the commission. The commission shall give notice to any person, upon

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1 request, that a contract authorized under this section has been received by the  
2 commission. The notice shall identify the gas utility that has entered into the  
3 contract. Within 6 months after receiving substantial evidence that a contract may  
4 be noncompensatory, or upon its own motion, the commission shall investigate and  
5 determine whether the contract is compensatory. If the commission determines that  
6 the contract is noncompensatory, the commission may make appropriate  
7 adjustments in the rates or tariffs of the gas utility that has entered into the contract,  
8 in addition to other remedies under this chapter. The dollar amount of the  
9 adjustment may not be less than the amount by which the contract was found to be  
10 noncompensatory.

11 **SECTION 24.** 196.20 (1) (title) of the statutes is created to read:

12 196.20 (1) (title) IN GENERAL.

13 **SECTION 25.** 196.20 (2) (title) of the statutes is created to read:

14 196.20 (2) (title) RATE DECREASES.

15 **SECTION 26.** 196.20 (2m) (title) of the statutes is created to read:

16 196.20 (2m) (title) RATE INCREASES.

17 **SECTION 27.** 196.20 (4) (title) of the statutes is created to read:

18 196.20 (4) (title) ELECTRIC UTILITY AUTOMATIC ADJUSTMENT CLAUSES.

19 **SECTION 28.** 196.20 (7) (title) of the statutes is created to read:

20 196.20 (7) (title) ELECTRIC UTILITY MITIGATION PAYMENTS.

21 **SECTION 29.** 196.20 (8) of the statutes is created to read:

22 196.20 (8) CUSTOMER NOTICE IN WATER UTILITY RATE CASES. (a) When a water  
23 public utility files an application with the commission for a rate revision that, if  
24 authorized, would result in a rate increase, the water public utility shall inform its

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1 customers of the application and the general nature and effect of the filing by  
2 providing a notice that includes all of the following:

3 1. The amount of the rate revision and its anticipated effective date.

4 2. The anticipated impact on customer bills for representative customer  
5 classes, including residential customers, if the rate revision is authorized.

6 3. Instructions on how a customer may contact the commission about the  
7 application.

8 4. If the application is filed for a rate increase under s. 196.193, a statement  
9 that the application is subject to that section and that a hearing is not required.

10 5. Any other information that the commission requires to be included in the  
11 notice.

12 (b) 1. A water public utility shall provide the notice required under par. (a) to  
13 its customers by posting the notice at the utility and by including the notice on its  
14 bill or in a bill insert over one complete billing cycle, except that if the utility does not  
15 issue monthly customer bills, the utility shall provide the notice to customers by a  
16 special mailing or by means of a display advertisement in a newspaper having  
17 general circulation in the utility's service area.

18 2. A water public utility may also publish the notice required under par. (a) on  
19 its Internet site.

20 (c) A water public utility shall file with the commission proof of compliance with  
21 this subsection. If a hearing is held on the application described in par. (a) (intro.),  
22 the utility shall file the proof of compliance with the commission at least 3 days before  
23 the hearing.

24 **SECTION 30.** 196.203 (1m) of the statutes is repealed.

25 **SECTION 31.** 196.21 of the statutes is repealed.



**BILL**

1           **SECTION 32.** 196.49 (5g) (a) (intro.) of the statutes is amended to read:

2           196.49 (5g) (a) (intro.) A public utility is exempt from the requirement to obtain  
3 a certification or approval of the commission under ~~this section sub. (2) or (3)~~ before  
4 beginning a proposed project if the estimated gross cost of the proposed project is not  
5 more than one of the following cost thresholds:

6           **SECTION 33.** 196.491 (3) (g) of the statutes is amended to read:

7           196.491 (3) (g) The commission shall take final action on an application filed  
8 under par. (a) 1. within 180 days after the application is determined or considered  
9 to be complete under par. (a) 2. If the commission fails to take final action within the  
10 180-day period, the commission is considered to have issued a certificate of public  
11 convenience and necessity with respect to the application, unless the ~~commission,~~  
12 ~~within the 180-day period, petitions the circuit court for Dane County for an~~  
13 ~~extension of time for taking final action on the application and the court grants an~~  
14 ~~extension. Upon a showing of good cause, the court may extend the 180-day~~  
15 chairperson of the commission extends the time period for no more than an  
16 additional 180 days for good cause. If the commission fails to take final action within  
17 the extended period, the commission is considered to have issued a certificate of  
18 public convenience and necessity with respect to the application.

19           **SECTION 34.** 196.50 (2) (i) of the statutes is amended to read:

20           196.50 (2) (i) A telecommunications utility certified under this subsection is  
21 exempt from ss. 196.02 (2) and (6), 196.05, 196.06, 196.07, 196.08, 196.09, 196.10,  
22 196.12, 196.13, 196.16, 196.18, 196.19, 196.20, ~~196.21~~, 196.219 (3) (c), (e), (g), and (L),  
23 (4d), (4m), and (5), 196.24, 196.395 (1), 196.49, 196.52, 196.58, 196.60, 196.64,  
24 196.72, 196.78, and 196.79 and, except with respect to wholesale  
25 telecommunications service, is exempt from s. 196.219 (4).

**BILL**

1           **SECTION 35.** 197.10 (4) of the statutes is amended to read:

2           197.10 (4) Insofar as the use, operation, service, management, control, sale,  
3           lease, purchase, extension, improvement, rates, value or earnings of the properties  
4           of the public utility or provisions looking toward the ultimate acquisition of the same  
5           are made subject to the terms of any contract provided for in sub. (1), and so long as  
6           said contract remains in force, the following sections of the statutes shall be  
7           inapplicable to the same: ss. 196.02 (1) and (2), 196.05, 196.09, 196.10, 196.11,  
8           196.15, 196.16, 196.19 (6), 196.20, ~~196.21~~, 196.22, 196.26, 196.28, 196.30, 196.37,  
9           196.39, 196.40, 196.58, 196.70, 197.01 (2) to (4), 197.02, 197.03, 197.04, 197.05,  
10          197.06, 197.08 and 197.09; provided that nothing in any contract made hereunder  
11          shall operate to prevent an appeal to the public service commission by any person,  
12          other than a party to said contract, upon any complaint alleging that any rate, fare,  
13          charge or classification, or any joint rate, or any regulation, act or practice relating  
14          to the production, transmission, delivery or furnishing of gas, heat, light or power,  
15          or any service in connection therewith, is unjustly discriminatory, or that any such  
16          service is inadequate or cannot be obtained. Upon said appeal the commission shall,  
17          as provided by law, determine and by order fix a rate, fare, charge, classification, joint  
18          rate or regulation, act or practice or service to be imposed, observed or followed in the  
19          future in lieu of that found to be unjustly discriminatory or inadequate.

20          **SECTION 36.** 227.01 (13) (intro.) of the statutes is amended to read:

21          227.01 (13) (intro.) “Rule” means a regulation, standard, statement of policy,  
22          or general order of general application which has the effect of law and which is issued  
23          by an agency to implement, interpret, or make specific legislation enforced or  
24          administered by the agency or to govern the organization or procedure of the agency.  
25          “Rule” includes a modification of a rule under s. 227.265. “Rule” does not include, and

**BILL****SECTION 36**

1 s. 227.10 does not apply to, any action or inaction of an agency, whether it would  
2 otherwise meet the definition under this subsection, which:

3 **SECTION 37.** 227.11 (2) (intro.) of the statutes is amended to read:

4 227.11 (2) (intro.) Rule-making authority is expressly conferred on an agency  
5 as follows:

6 **SECTION 38.** 227.265 of the statutes is created to read:

7 **227.265 Repeal or modification of rules.** If a bill to repeal or modify a rule  
8 is enacted, the procedures under ss. 227.114 to 227.21 and 227.26 do not apply.  
9 Instead, the legislative reference bureau shall publish the repeal or modification in  
10 the Wisconsin administrative code and register as required under s. 35.93, and the  
11 repeal or modification shall take effect as provided in s. 227.22.

12 **SECTION 39.** 227.27 (2) of the statutes is amended to read:

13 227.27 (2) The code shall be prima facie evidence in all courts and proceedings  
14 as provided by s. 889.01, but this does not preclude reference to or, in case of a  
15 discrepancy, control over a rule filed with the legislative reference bureau ~~or the~~  
16 ~~secretary of state~~ under s. 227.20 or modified under s. 227.265, and the certified copy  
17 of a rule shall also and in the same degree be prima facie evidence in all courts and  
18 proceedings.

19 **SECTION 40.** 941.40 (3) and (4) (b) of the statutes are amended to read:

20 941.40 (3) Any person who, for any purpose, intentionally makes or causes to  
21 be made a physical electrical connection with any wire, cable, conductor, ground,  
22 equipment, facility, or other property of any telegraph, telecommunications, electric  
23 light, or electric power company, including a cooperative association organized under  
24 ch. 185, is guilty of a Class A misdemeanor.

**BILL**

1           (4) (b) Subsections (2) and (3) do not apply to a person who acts with the  
2 permission of the telegraph, telecommunications, electric light, or electric power  
3 company, including a cooperative association organized under ch. 185, ~~that is~~  
4 ~~affected or~~ that owns the wire, pole, cable, conductor, ground, equipment, facility, or  
5 other ~~affected~~ property ~~or with the permission of the person who owns the property~~  
6 ~~on which the wire, pole, cable, conductor, ground, equipment, facility, or other~~  
7 ~~affected property is located.~~

8           **SECTION 41.** PSC ch. 171 of the administrative code is repealed.

9           **SECTION 42. Nonstatutory provisions.**

10          (1) CABLE TELEVISION TELECOMMUNICATIONS SERVICE PROVIDERS.

11          (a) In this subsection, "cable television telecommunications provider" means  
12 a person whom the public service commission has, prior to the effective date of this  
13 paragraph, certified as an alternative telecommunications utility defined in section  
14 196.01 (1d) (a), 2011 stats.

15          (b) On the effective date of this paragraph, a cable television  
16 telecommunications service provider is considered certified as an alternative  
17 telecommunications utility defined in section 196.01 (1d) (f) of the statutes,  
18 notwithstanding the absence of a finding required under section 196.01 (1d) (f). The  
19 public service commission shall issue a certification as an alternative  
20 telecommunications utility defined in section 196.01 (1d) (f) to each such cable  
21 television telecommunications service provider.

22          **SECTION 43. Initial applicability.**

23          (1) AVAILABILITY OF PUBLIC UTILITY SCHEDULES. The treatment of sections 196.19  
24 (3) and (4) and 196.21 of the statutes first applies to schedules that are filed on the  
25 effective date of this subsection.

**BILL**

1 (2) WATER UTILITY RATE REVISIONS. The treatment of sections 196.20 (8) and  
2 196.193 (4) (intro.) and (a) to (d) of the statutes first applies to applications for rate  
3 revisions filed on the effective date of this subsection.

4 (3) PROJECT CERTIFICATES AND APPROVALS. The treatment of section 196.49 (5g)  
5 (a) (intro.) of the statutes first applies to projects that begin on the effective date of  
6 this subsection.

7 (4) CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY; DEADLINE EXTENSION.  
8 The treatment of section 196.491 (3) (g) of the statutes first applies to applications  
9 received on the effective date of this subsection.

10 (5) TAMPERING WITH TELECOMMUNICATIONS OR ELECTRIC WIRES. The treatment of  
11 section 941.40 (3) and (4) (b) of the statutes first applies to an act committed on the  
12 effective date of this subsection.

13 **SECTION 44. Effective dates.** This act takes effect on the day after publication,  
14 except as follows:

15 (1) The treatment of section 35.93 (2) (b) 4. and (c) 1. and (3) (e) (intro.) and 1.  
16 of the statutes takes effect on January 1, 2015.

17 (2) The treatment of section 101.862 (4) (f) of the statutes takes effect on April  
18 1, 2014.

19 (END)

A handwritten signature, "d. note", is written in cursive and enclosed within a hand-drawn black oval.

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3816/1dn

MDK: /:...

y<sup>3</sup>

*- late -*

Sen. Farrow:

This is a companion to LRB-3779/1.

Mark D. Kunkel  
Senior Legislative Attorney  
Phone: (608) 266-0131  
E-mail: [mark.kunkel@legis.wisconsin.gov](mailto:mark.kunkel@legis.wisconsin.gov)

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3816/1dn  
MDK:cjs:rs

December 12, 2013

Sen. Farrow:

This is a companion to LRB-3779/1.

Mark D. Kunkel  
Senior Legislative Attorney  
Phone: (608) 266-0131  
E-mail: [mark.kunkel@legis.wisconsin.gov](mailto:mark.kunkel@legis.wisconsin.gov)

## Kunkel, Mark

---

**From:** Smith, Ryan  
**Sent:** Friday, January 03, 2014 12:32 PM  
**To:** LRB.Legal  
**Cc:** Kunkel, Mark  
**Subject:** RE: LRB 3780 and LRB 3779

Stefanie,

Yep, Sen. Farrow had it. Thanks. What are the odds on getting the re-drafted LRB 3816 back today?

Thanks,

Ryan Smith

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**From:** LRB.Legal  
**Sent:** Friday, January 03, 2014 12:05 PM  
**To:** Smith, Ryan  
**Cc:** Kunkel, Mark  
**Subject:** RE: LRB 3780 and LRB 3779

Ryan:  
LRB-3817/1 was jacketed on December 13. You will have to find out if Sen. Farrow's office has the jacket or if it was already turned over to the Chief Clerk.

Stefanie

--

Stefanie Rose  
Program Assistant  
Wisconsin Legislative Reference Bureau  
[Stefanie.Rose@legis.wisconsin.gov](mailto:Stefanie.Rose@legis.wisconsin.gov)

---

**From:** Smith, Ryan  
**Sent:** Friday, January 03, 2014 11:55 AM  
**To:** Kunkel, Mark  
**Cc:** LRB.Legal  
**Subject:** RE: LRB 3780 and LRB 3779

Mark,

I understand that Rep. Kuglitsch has requested changes to their LRB 3779/1. Sen. Cowles would like to get LRB 3816/1 re-drafted and jacketed to match their 3779/2. We would also like to get 3817/1 jacketed. I'd like to get those over to the Chief Clerk today still, if possible.

---

**From:** Kunkel, Mark  
**Sent:** Thursday, December 12, 2013 9:25 AM  
**To:** Smith, Ryan  
**Cc:** Spencer, Matt  
**Subject:** RE: LRB 3780 and LRB 3779

Sen. Farrow's LRB-3816/1 is the companion to LRB-3779/1. It will to you later today.



Sen. Farrow's LRB-3817/1 is the companion to LRB-3780/1.

---

**From:** Smith, Ryan  
**Sent:** Thursday, December 12, 2013 9:19 AM  
**To:** Kunkel, Mark  
**Cc:** Spencer, Matt  
**Subject:** RE: LRB 3780 and LRB 3779

Mark,

Could you let me know when you come up with LRB#s for the Senate versions of these bills, we want to get the co-sponsorship memos out quickly.

Thanks,

Ryan Smith  
Chief of Staff  
Office of Sen. Robert Cowles  
800-334-1465

---

**From:** Spencer, Matt  
**Sent:** Wednesday, December 11, 2013 1:42 PM  
**To:** Kunkel, Mark  
**Cc:** Smith, Ryan  
**Subject:** LRB 3780 and LRB 3779

Please release LRB 3780 and 3779 to Sen. Cowles office for a companion bill.

Thank you.

Matthew Spencer  
Office of Representative Mike Kuglitsch  
(608) 267-5158



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-3779/2  
MDK:cjs&wlj:im

*0-NOTE*

**2013 ASSEMBLY BILL 595**

*Today  
by 3pm*

*slays*  
*381612*  
*AM for W  
all  
MN*

January 8, 2014 - Introduced by Representatives KUGLITSCH, BIES, KAHL, KLEEFISCH, KULP, OHNSTAD and PETRYK, cosponsored by Senators COWLES, FARROW and SCHULTZ. Referred to Committee on Energy and Utilities.

*SA*

*Ger Cat*

1 AN ACT *to repeal* 196.01 (1d) (a), 196.01 (1d) (b), 196.01 (1r), 196.01 (4m), 196.01  
2 (12), 196.203 (1m) and 196.21; *to amend* 13.92 (4) (c), 13.92 (4) (d), 13.92 (4) (e),  
3 13.92 (4) (f), 20.395 (3) (jh), 35.93 (2) (b) 4., 35.93 (2) (c) 1., 35.93 (3), 35.93 (3)  
4 (e) (intro.), 35.93 (3) (e) 1., 101.862 (4) (f), 196.19 (3), 196.19 (4), 196.192 (3) (b),  
5 196.194, 196.49 (5g) (a) (intro.), 196.491 (3) (g), 196.50 (2) (i), 197.10 (4), 227.01  
6 (13) (intro.), 227.11 (2) (intro.), 227.27 (2) and 941.40 (3) and (4) (b); and *to*  
7 *create* 13.92 (4) (bm) and 227.265 of the statutes; **relating to:** Public Service  
8 Commission certificates for certain activities; tampering with  
9 telecommunications or electric wires; regulation of pay telephone service  
10 providers and cable television telecommunications service providers; accident  
11 reporting by telecommunications utilities; the definition of transmission

**ASSEMBLY BILL 595**

1 facility; availability of public utility rate schedules; and rule-making  
2 procedures.

---

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

This bill makes changes regarding all of the following: 1) Public Service Commission (PSC) certificates required for certain activities; 2) filing requirements for public utility rate schedules; 3) water public utility rate changes; 4) telecommunications regulation; 4) legislative repeal or modification of agency rules; and 5) tampering with telecommunications or electric wires.

***PSC certificates.*** Current law prohibits a public utility from beginning construction or providing service in a municipality, unless the public utility obtained a certificate from the PSC authorizing the public utility to transact public utility business. Current law also prohibits a public utility from beginning certain projects involving new or existing plants, equipment, property, or facilities, unless the public utility has complied with applicable PSC rules and orders. In addition, current law allows the PSC to prohibit a public utility from proceeding with such a project until the PSC certifies that public convenience and necessity require the project. Current law also includes exemptions that are based on the gross cost of the project and the type of public utility that proposes the project. The bill provides that those exemptions do not apply to the first prohibition described in the foregoing, but do apply to the second and third prohibitions.

Current law also generally prohibits a person from commencing construction of certain large electric generating facilities or high-voltage transmission lines without obtaining a certificate of public convenience and necessity (CPCN) from the PSC. After a person files an application for a CPCN, the PSC must determine whether the application is complete. If the PSC fails to make such a determination within a specified deadline, the application is considered to be complete. Current law requires the PSC to take final action on the application within 180 days after the application is determined or considered to be complete. If the PSC fails to take final action within that deadline, the PSC is considered to have issued a CPCN to the applicant. However, current law also allows the PSC to petition the circuit court for Dane County for an extension of the deadline for no more than an additional 180 days. Upon a showing of good cause, the court may extend the deadline. If the PSC fails to take final action within the extended deadline, the PSC is considered to have issued the CPCN. The bill eliminates the requirement for the PSC to petition the court for a deadline extension. Instead, the bill allows the chairperson of the PSC to extend the deadline for no more than an additional 180 days for good cause. As under current law, if the PSC fails to take final action within the extended deadline, the PSC is considered to have issued the CPCN.

***Public utility rate schedules.*** Under current law, certain public utilities must file schedules with the PSC showing their rates for service. Current law requires the PSC to determine the portion of a public utility's rate schedule that is necessary for public use and the public utility must print a copy of that portion in

**ASSEMBLY BILL 595**

plain type. The bill requires the copy to be produced, rather than printed, in plain type. Current law also requires a public utility to keep the copy on file, in a form and place readily accessible to the public, at every station or office where customers make payments. The bill changes the foregoing requirement so that a public utility must keep the copy on file at the public utility and make the copy available to the public by making it available at locations where customer payments are accepted, on the public utility's Internet site, or in a form and place that is otherwise readily accessible to the public.

**Telecommunications regulation.** Current law exempts telecommunications utilities from a variety of requirements that apply to other public utilities. The bill creates an additional exemption. Under current law, the PSC has the authority to require public utilities to record or report certain accidents. The bill exempts telecommunications utilities from that authority. The bill also repeals an obsolete definition of "transmission facility" relating to telecommunications service.

Under current law, no person may provide service as an alternative telecommunications utility (ATU) unless the PSC certifies that the person is an ATU. Current law defines ATU to include the following: 1) cable television telecommunications service providers (CTTSPs); 2) telecommunications resellers; 3) pay telephone service providers; and 4) other telecommunications providers that the PSC finds offer service that is available from other telecommunications providers. Current law defines a CTTSP as a telecommunications provider that receives a specified percentage of its gross income from the operation of a cable television system. Current law also requires a CTTSP to file annual statements regarding gross income with the PSC. Current law defines "pay telephone service provider" as a person who owns or leases a pay telephone located on property owned or leased by that person and who otherwise does not offer any telecommunications service to the public.

The bill revises the definition of ATU so that it does not include CTTSPs or pay telephone service providers. The bill also repeals the annual filing requirement for CTTSPs, as well as the PSC's administrative rules regarding CTTSPs. In addition, the bill provides that a former CTTSP that the PSC certified as an ATU before the bill's effective date is considered certified as an ATU on the basis that the person offers telecommunications service available from other telecommunications providers. The bill also requires the PSC to issue a certification specifying that the former CTTSP is an ATU on that basis.

**Legislative repeal or modification of agency rules.** Current law sets forth a procedure for the promulgation of administrative rules (rules). Generally, that procedure consists of the following steps:

1. The agency planning to promulgate the rule prepares a statement of the scope of the proposed rule, which the governor and the agency head must approve before any state employee or official may perform any activity in connection with the drafting of the proposed rule.

**ASSEMBLY BILL 595**

2. The agency drafts the proposed rule, together with an economic impact analysis, plain language analysis, and fiscal estimate for the proposed rule, and submits those materials to the Legislative Council Staff for review.

3. Subject to certain exceptions, a public hearing is held on the proposed rule.

4. The final draft of the proposed rule is submitted to the governor for approval.

5. The final draft of the proposed rule, together with an economic impact analysis, plain language analysis, and fiscal estimate for the proposed rule, are submitted to the legislature for review by one standing committee in each house and by the Joint Committee for Review of Administrative Rules.

6. The proposed rule is filed with the Legislative Reference Bureau (LRB) for publication in the Wisconsin Administrative Code (code) and the Wisconsin Administrative Register (register), and, subject to certain exceptions, the rule becomes effective on the first day of the first month beginning after publication.

Under the bill, if a bill that repeals or modifies a rule is enacted, the ordinary rule-making procedures under current law do not apply. Instead, the LRB must publish the repeal or modification, in the code and the register, and the repeal or modification, subject to certain exceptions, takes effect on the first day of the first month beginning after publication.

***Tampering with telecommunications or electric wires.*** Under current law, a person who intentionally destroys, disturbs, interferes with, or injures the property of any telegraph, telecommunications, electric light, or electric power company is guilty of a Class B misdemeanor and a person who intentionally makes a physical electrical connection with any property of any telecommunications or electric power company is guilty of a Class A misdemeanor. The bill adds telegraph companies and electric light companies to the second offense for consistency.

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

1           **SECTION 1.** 13.92 (4) (bm) of the statutes is created to read:  
2           13.92 (4) (bm) If 2 or more rules filed under s. 227.20 or modified under s.  
3           227.265 affect the same unit of the Wisconsin administrative code without taking  
4           cognizance of the effect thereon of the other rules and if the legislative reference  
5           bureau finds that there is no mutual inconsistency in the changes made by each such  
6           rule, the legislative reference bureau shall incorporate the changes made by each  
7           rule into the text of the unit and document the incorporation in a note to the unit.  
8           For each such incorporation, the legislative reference bureau shall include in a

**ASSEMBLY BILL 595**

1 correction bill a provision formally validating the incorporation. Section 227.27 (2)  
2 is not affected by printing decisions made by the legislative reference bureau under  
3 this paragraph.

4 **SECTION 2.** 13.92 (4) (c) of the statutes is amended to read:

5 13.92 (4) (c) The legislative reference bureau may insert in the Wisconsin  
6 administrative code a note explaining any change made under par. (b) or (bm).

7 **SECTION 3.** 13.92 (4) (d) of the statutes is amended to read:

8 13.92 (4) (d) Sections 227.114, 227.116, 227.135, and 227.14 to 227.24 do not  
9 apply to any change made by the legislative reference bureau under par. (b) or (bm).

10 **SECTION 4.** 13.92 (4) (e) of the statutes is amended to read:

11 13.92 (4) (e) The legislative reference bureau shall prepare and keep on file a  
12 record of each change made under par. (b) or (bm).

13 **SECTION 5.** 13.92 (4) (f) of the statutes is amended to read:

14 13.92 (4) (f) The legislative reference bureau shall notify the agency involved  
15 of each change made under par. (b) or (bm).

16 **SECTION 6.** 20.395 (3) (jh) of the statutes is amended to read:

17 20.395 (3) (jh) *Utility facilities within highway rights-of-way, state funds.*  
18 From the general fund, all moneys received from telecommunications providers, as  
19 defined in s. 196.01 (8p), or cable television telecommunications service providers,  
20 as defined in s. 196.01 (1r), 2011 stats., for activities related to locating,  
21 accommodating, operating, or maintaining utility facilities within highway  
22 rights-of-way, for such purposes.

23 **SECTION 7.** 35.93 (2) (b) 4. of the statutes, as affected by 2013 Wisconsin Act 20,  
24 is amended to read:

**ASSEMBLY BILL 595****SECTION 7**

1           35.93 (2) (b) 4. Copies of all rules filed with the legislative reference bureau  
2 under s. 227.20 (1) or modified under s. 227.265 since the compilation of the  
3 preceding register, including emergency rules filed under s. 227.24 (3).

4           **SECTION 8.** 35.93 (2) (c) 1. of the statutes, as affected by 2013 Wisconsin Act 20,  
5 is amended to read:

6           35.93 (2) (c) 1. Each chapter of the Wisconsin administrative code that has been  
7 affected by rules filed with legislative reference bureau under s. 227.20 (1) or  
8 modified under s. 227.265, in accordance with sub. (3) (e) 1.

9           **SECTION 9.** 35.93 (3) of the statutes is amended to read:

10           35.93 (3) The legislative reference bureau shall compile and deliver to the  
11 department for printing copy for a register which shall contain all the rules filed  
12 under s. 227.20 or modified under s. 227.265 since the compilation of rules for the  
13 preceding issue of the register was made and those executive orders which are to be  
14 in effect for more than 90 days or an informative summary thereof. The complete  
15 register shall be compiled and published before the first day of each month and a  
16 notice section of the register shall be compiled and published before the 15th day of  
17 each month. Each issue of the register shall contain a title page with the name  
18 “Wisconsin administrative register”, the number and date of the register, and a table  
19 of contents. Each page of the register shall also contain the date and number of the  
20 register of which it is a part in addition to the other necessary code titles and page  
21 numbers. The legislative reference bureau may include in the register such  
22 instructions or information as in the bureau’s judgment will help the user to correctly  
23 make insertions and deletions in the code and to keep the code current.

24           **SECTION 10.** 35.93 (3) (e) (intro.) of the statutes, as affected by 2013 Wisconsin  
25 Act 20, is amended to read:

**ASSEMBLY BILL 595**

1           35.93 (3) (e) (intro.) The legislative reference bureau shall incorporate into the  
2 appropriate chapters of the Wisconsin administrative code each permanent rule filed  
3 with the legislative reference bureau under s. 227.20 (1) or modified under s. 227.265  
4 and, for each chapter of the administrative code affected by a rule, do all of the  
5 following:

6           **SECTION 11.** 35.93 (3) (e) 1. of the statutes, as affected by 2013 Wisconsin Act  
7 20, is amended to read:

8           35.93 (3) (e) 1. Publish the chapter in the appropriate end-of-month register  
9 in accordance with the filing deadline for publication established in the rules  
10 procedures manual published under s. 227.15 (7) ~~or~~, in an end-of-month register  
11 agreed to by the submitting agency and the legislative reference bureau, or, in the  
12 case of a rule modified under s. 227.265, in the end-of-month register for the month  
13 in which the bill modifying the rule is enacted.

14           **SECTION 12.** 101.862 (4) (f) of the statutes, as created by 2007 Wisconsin Act  
15 63, is amended to read:

16           101.862 (4) (f) A person engaged in installing, repairing, or maintaining  
17 electrical wiring of transmission facilities, as defined in s. 196.01 (12), 2011 stats.

18           **SECTION 13.** 196.01 (1d) (a) of the statutes is repealed.

19           **SECTION 14.** 196.01 (1d) (b) of the statutes is repealed.

20           **SECTION 15.** 196.01 (1r) of the statutes is repealed.

21           **SECTION 16.** 196.01 (4m) of the statutes is repealed.

22           **SECTION 17.** 196.01 (12) of the statutes is repealed.

23           **SECTION 18.** 196.19 (3) of the statutes is amended to read:

24           196.19 (3) A copy of as much of the schedules filed under sub. (1) as the  
25 commission determines necessary for the use of the public shall be ~~printed~~ produced



**ASSEMBLY BILL 595****SECTION 18**

1 in plain type, and kept on file ~~in every~~ at the public utility station or office where  
2 payments are made by consumers, and made available to the public at least 10 days  
3 before the schedules take effect, unless the commission prescribes a shorter time  
4 period. In making a copy available to the public, a public utility may make the copy  
5 available at locations where customer payments are accepted, on the public utility's  
6 Internet site, or in a form and place that is otherwise readily accessible to the public.

7 **SECTION 19.** 196.19 (4) of the statutes is amended to read:

8 196.19 (4) If a schedule of joint rates or charges is in force between public  
9 utilities, the schedule shall be ~~printed and~~ filed with the commission under sub. (1).  
10 The commission shall determine the portion of the schedule necessary for the use of  
11 the public. The public utilities shall ~~file~~ make the portion of the schedule available  
12 to the public as provided under sub. (3).

13 **SECTION 20.** 196.192 (3) (b) of the statutes is amended to read:

14 196.192 (3) (b) Nothing in s. 196.20, ~~196.21,~~ 196.22, 196.37, 196.60 or 196.604  
15 prohibits the commission from approving a filing under sub. (2) or approving  
16 market-based rates under par. (a).

17 **SECTION 21.** 196.194 of the statutes is amended to read:

18 **196.194 Gas utility individual contracts.** Nothing in ss. 196.03, 196.19,  
19 196.20, ~~196.21,~~ 196.22, 196.37, 196.60, 196.604 and 196.625 prohibits the  
20 commission from approving the filing of a tariff which permits a gas utility to enter  
21 into an individual contract with an individual customer if the term of the contract  
22 is no more than 5 years, or a longer period approved by the commission, and if the  
23 commission determines that substitute gas services are available to customers or  
24 potential customers of the gas utility and the absence of such a tariff will cause the  
25 gas utility to be disadvantaged in competing for business. A tariff filed under this

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1 section shall include the condition that any such contract shall be compensatory. The  
2 tariff shall include any other condition and procedure required by the commission in  
3 the public interest. Within 20 days after a contract authorized under this section or  
4 an amendment to such a contract has been executed, the gas utility shall submit the  
5 contract to the commission. The commission shall give notice to any person, upon  
6 request, that a contract authorized under this section has been received by the  
7 commission. The notice shall identify the gas utility that has entered into the  
8 contract. Within 6 months after receiving substantial evidence that a contract may  
9 be noncompensatory, or upon its own motion, the commission shall investigate and  
10 determine whether the contract is compensatory. If the commission determines that  
11 the contract is noncompensatory, the commission may make appropriate  
12 adjustments in the rates or tariffs of the gas utility that has entered into the contract,  
13 in addition to other remedies under this chapter. The dollar amount of the  
14 adjustment may not be less than the amount by which the contract was found to be  
15 noncompensatory.

16 **SECTION 22.** 196.203 (1m) of the statutes is repealed.

17 **SECTION 23.** 196.21 of the statutes is repealed.

18 **SECTION 24.** 196.49 (5g) (a) (intro.) of the statutes is amended to read:

19 196.49 (5g) (a) (intro.) A public utility is exempt from the requirement to obtain  
20 a certification or approval of the commission under ~~this section~~ sub. (2) or (3) before  
21 beginning a proposed project if the estimated gross cost of the proposed project is not  
22 more than one of the following cost thresholds:

23 **SECTION 25.** 196.491 (3) (g) of the statutes is amended to read:

24 196.491 (3) (g) The commission shall take final action on an application filed  
25 under par. (a) 1. within 180 days after the application is determined or considered

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1 to be complete under par. (a) 2. If the commission fails to take final action within the  
2 180-day period, the commission is considered to have issued a certificate of public  
3 convenience and necessity with respect to the application, unless the ~~commission,~~  
4 ~~within the 180-day period, petitions the circuit court for Dane County for an~~  
5 ~~extension of time for taking final action on the application and the court grants an~~  
6 ~~extension. Upon a showing of good cause, the court may extend the 180-day~~  
7 chairperson of the commission extends the time period for no more than an  
8 additional 180 days for good cause. If the commission fails to take final action within  
9 the extended period, the commission is considered to have issued a certificate of  
10 public convenience and necessity with respect to the application.

11 **SECTION 26.** 196.50 (2) (i) of the statutes is amended to read:

12 196.50 (2) (i) A telecommunications utility certified under this subsection is  
13 exempt from ss. 196.02 (2) and (6), 196.05, 196.06, 196.07, 196.08, 196.09, 196.10,  
14 196.12, 196.13, 196.16, 196.18, 196.19, 196.20, ~~196.21~~, 196.219 (3) (c), (e), (g), and (L),  
15 (4d), (4m), and (5), 196.24, 196.395 (1), 196.49, 196.52, 196.58, 196.60, 196.64,  
16 196.72, 196.78, and 196.79 and, except with respect to wholesale  
17 telecommunications service, is exempt from s. 196.219 (4).

18 **SECTION 27.** 197.10 (4) of the statutes is amended to read:

19 197.10 (4) Insofar as the use, operation, service, management, control, sale,  
20 lease, purchase, extension, improvement, rates, value or earnings of the properties  
21 of the public utility or provisions looking toward the ultimate acquisition of the same  
22 are made subject to the terms of any contract provided for in sub. (1), and so long as  
23 said contract remains in force, the following sections of the statutes shall be  
24 inapplicable to the same: ss. 196.02 (1) and (2), 196.05, 196.09, 196.10, 196.11,  
25 196.15, 196.16, 196.19 (6), 196.20, ~~196.21~~, 196.22, 196.26, 196.28, 196.30, 196.37,

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1 196.39, 196.40, 196.58, 196.70, 197.01 (2) to (4), 197.02, 197.03, 197.04, 197.05,  
2 197.06, 197.08 and 197.09; provided that nothing in any contract made hereunder  
3 shall operate to prevent an appeal to the public service commission by any person,  
4 other than a party to said contract, upon any complaint alleging that any rate, fare,  
5 charge or classification, or any joint rate, or any regulation, act or practice relating  
6 to the production, transmission, delivery or furnishing of gas, heat, light or power,  
7 or any service in connection therewith, is unjustly discriminatory, or that any such  
8 service is inadequate or cannot be obtained. Upon said appeal the commission shall,  
9 as provided by law, determine and by order fix a rate, fare, charge, classification, joint  
10 rate or regulation, act or practice or service to be imposed, observed or followed in the  
11 future in lieu of that found to be unjustly discriminatory or inadequate.

12 **SECTION 28.** 227.01 (13) (intro.) of the statutes is amended to read:

13 227.01 (13) (intro.) “Rule” means a regulation, standard, statement of policy,  
14 or general order of general application which has the effect of law and which is issued  
15 by an agency to implement, interpret, or make specific legislation enforced or  
16 administered by the agency or to govern the organization or procedure of the agency.  
17 “Rule” includes a modification of a rule under s. 227.265. “Rule” does not include, and  
18 s. 227.10 does not apply to, any action or inaction of an agency, whether it would  
19 otherwise meet the definition under this subsection, which:

20 **SECTION 29.** 227.11 (2) (intro.) of the statutes is amended to read:

21 227.11 (2) (intro.) Rule-making authority is expressly conferred on an agency  
22 as follows:

23 **SECTION 30.** 227.265 of the statutes is created to read:

24 **227.265 Repeal or modification of rules.** If a bill to repeal or modify a rule  
25 is enacted, the procedures under ss. 227.114 to 227.21 and 227.26 do not apply.

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1 Instead, the legislative reference bureau shall publish the repeal or modification in  
2 the Wisconsin administrative code and register as required under s. 35.93, and the  
3 repeal or modification shall take effect as provided in s. 227.22.

4 **SECTION 31.** 227.27 (2) of the statutes is amended to read:

5 227.27 (2) The code shall be prima facie evidence in all courts and proceedings  
6 as provided by s. 889.01, but this does not preclude reference to or, in case of a  
7 discrepancy, control over a rule filed with the legislative reference bureau ~~or the~~  
8 ~~secretary of state~~ under s. 227.20 or modified under s. 227.265, and the certified copy  
9 of a rule shall also and in the same degree be prima facie evidence in all courts and  
10 proceedings.

11 **SECTION 32.** 941.40 (3) and (4) (b) of the statutes are amended to read:

12 941.40 (3) Any person who, for any purpose, intentionally makes or causes to  
13 be made a physical electrical connection with any wire, cable, conductor, ground,  
14 equipment, facility, or other property of any telegraph, telecommunications, electric  
15 light, or electric power company, including a cooperative association organized under  
16 ch. 185, is guilty of a Class A misdemeanor.

17 (4) (b) Subsections (2) and (3) do not apply to a person who acts with the  
18 permission of the telegraph, telecommunications, electric light, or electric power  
19 company, including a cooperative association organized under ch. 185, ~~that is~~  
20 ~~affected or~~ that owns the wire, pole, cable, conductor, ground, equipment, facility, or  
21 other affected property ~~or with the permission of the person who owns the property~~  
22 ~~on which the wire, pole, cable, conductor, ground, equipment, facility, or other~~  
23 ~~affected property is located.~~

24 **SECTION 33.** PSC ch. 171 of the administrative code is repealed.

25 **SECTION 34. Nonstatutory provisions.**

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1 (1) CABLE TELEVISION TELECOMMUNICATIONS SERVICE PROVIDERS.

2 (a) In this subsection, “cable television telecommunications provider” means  
3 a person whom the public service commission has, prior to the effective date of this  
4 paragraph, certified as an alternative telecommunications utility defined in section  
5 196.01 (1d) (a), 2011 stats.

6 (b) On the effective date of this paragraph, a cable television  
7 telecommunications service provider is considered certified as an alternative  
8 telecommunications utility defined in section 196.01 (1d) (f) of the statutes,  
9 notwithstanding the absence of a finding required under section 196.01 (1d) (f). The  
10 public service commission shall issue a certification as an alternative  
11 telecommunications utility defined in section 196.01 (1d) (f) to each such cable  
12 television telecommunications service provider.

13 **SECTION 35. Initial applicability.**

14 (1) AVAILABILITY OF PUBLIC UTILITY SCHEDULES. The treatment of sections 196.19  
15 (3) and (4) and 196.21 of the statutes first applies to schedules that are filed on the  
16 effective date of this subsection.

17 (2) PROJECT CERTIFICATES AND APPROVALS. The treatment of section 196.49 (5g)  
18 (a) (intro.) of the statutes first applies to projects that begin on the effective date of  
19 this subsection.

20 (3) CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY; DEADLINE EXTENSION.  
21 The treatment of section 196.491 (3) (g) of the statutes first applies to applications  
22 received on the effective date of this subsection.

23 (4) TAMPERING WITH TELECOMMUNICATIONS OR ELECTRIC WIRES. The treatment of  
24 section 941.40 (3) and (4) (b) of the statutes first applies to an act committed on the  
25 effective date of this subsection.



**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3816/2dn

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Sen. Cowles: / /

This version is identical to its companion, AB-595 (LRB-3779/2).

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