



State of Wisconsin  
1999 - 2000 LEGISLATURE

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**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 1999 ASSEMBLY BILL 747**

March 8, 2000 - Offered by COMMITTEE ON INFORMATION POLICY.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18           a. A political subdivision.

19           b. A special purpose district.

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

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

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

24           d.

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

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

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

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

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

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

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

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

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

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

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

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

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

7           b. A governmental subdivision to which the commission has issued a  
8 determination under s. 196.203 (2), 1997 stats., a certificate under s. 196.499 (15),  
9 1997 stats., or a certificate of authority under s. 196.50 (2), 1997 stats., and that, on  
10 the effective date of this subdivision 1. b. .... [revisor inserts date], is providing  
11 telecommunications service as an alternative telecommunications utility,  
12 telecommunications carrier or telecommunications utility.

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

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

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

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

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

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

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

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

25 **SECTION 14. Initial applicability.**

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

4                                 **(END)**