

# State of Wisconsin



2017 Assembly Bill 532

Date of enactment: **January 31, 2018**

Date of publication\*: **February 1, 2018**

## 2017 WISCONSIN ACT 136

AN ACT *to repeal* 196.025 (4), 196.025 (5), 196.192 (2) (am) and 201.10 (1); *to renumber* 16.95 (12), 182.0175 (1) (bt) and 182.0175 (1) (bv); *to renumber and amend* 16.955, 182.0175 (2) (am) 3., 182.0175 (3) (a) (title), 182.0175 (3) (a), 182.0175 (3) (b), 196.192 (2) (bm) and 196.218 (3) (a) 2s.; *to amend* 20.155 (1) (q), 20.155 (3) (r), 20.155 (3) (rm), 20.255 (1) (q), 20.255 (3) (q), 20.255 (3) (qm), 20.255 (3) (r), 20.285 (1) (q), 20.505 (4) (s), 26.03 (1v) (b), 101.80 (1g), 182.0175 (2) (am) (title), 182.0175 (2) (am) 7., 182.0175 (2) (bm) (title), 182.0175 (2m) (b) (intro.), 182.0175 (4), 182.0175 (5), 196.192 (2) (c), 196.192 (3m), 196.193 (3), 196.218 (3) (a) 2e. a., b. and c., 196.218 (3) (a) 2m., 196.49 (5g) (ag), 196.49 (5g) (ar) 2m. b., 196.49 (5g) (ar) 2m. c., 196.491 (4) (c) 1m. (intro.), 196.491 (4) (c) 1m. a., 196.491 (4) (c) 1m. b., 196.595 (1) (c), 196.595 (2) (b) (intro.), 1. and 2., 196.595 (2) (b) 3., 4. and 5., 201.10 (2), 348.17 (3) and 348.17 (4); *to repeal and recreate* 20.505 (4) (s) and 182.0175 (3) (title); and *to create* 59.693 (11), 182.0175 (1) (aa), 182.0175 (1) (ab), 182.0175 (1) (ac), 182.0175 (1) (ag), 182.0175 (1) (bq), 182.0175 (1) (br), 182.0175 (1) (bw), 182.0175 (1) (by), 182.0175 (1) (bz), 182.0175 (1m) (d) 8. to 12., 182.0175 (2) (as) (title), 182.0175 (3) (bc), (bg), (br) and (c), 182.0175 (3) (d) 2., 182.0175 (3) (e), 182.0175 (3) (f), 182.0175 (3) (g), 182.0175 (3g), 196.025 (7), 196.026, 196.192 (2) (bm) 1. and 2., 196.218 (3) (a) 2s. a., 196.595 (2) (b) 2g. and 2r. and 196.595 (2m) of the statutes; **relating to:** one-call system enforcement and other requirements, Public Service Commission authority regarding state energy policy, settlements between parties in Public Service Commission dockets, various public utility regulatory requirements, the regulation of utility facilities under a county construction site erosion control and storm water management zoning ordinance, granting rule-making authority, making appropriations, and providing a penalty.

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

**SECTION 1.** 16.95 (12) of the statutes is renumbered 196.025 (7) (a) 3.

**SECTION 2.** 16.955 of the statutes is renumbered 196.029, and 196.029 (1), (3) (a), (b) and (c) and (4) (a), (b) and (d), as renumbered, are amended to read:

196.029 (1) INFORMATION. If the governor determines that a disruption of energy supplies poses a serious risk to the economic well-being, health or welfare of the citizens of this state, the governor may issue an order

declaring an energy alert. Upon declaration of an energy alert by the governor, the ~~department~~ commission may issue general or special orders, as defined in s. 101.01 (7), or promulgate emergency rules under ch. 227 to compel disclosure of information required for purposes of this section. Any person, or agent of the person, who produces, imports or sells, coal or other forms of fuel, other than electricity, natural gas or wood, who is subject to an emergency rule or general or special order of the ~~department~~ commission within reasonable time limits specified in the order shall file or furnish such reports, information,

\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

data, copies of extracts of originals as the department commission deems necessary relating to existing and future energy supplies, including but not limited to record of sales in years for 1970 and thereafter, storage capacity, supplies on hand and anticipated supplies, and anticipated demand. To the extent that the reports and data requested by the department commission are presently available from other state or federal agencies, the department commission shall coordinate its data reporting requirements with the agencies to avoid duplication of reporting.

(3) (a) Any person, or agent of a person, who produces, imports or sells, coal or other forms of fuel, other than electricity, natural gas or wood, who fails to provide information requested by the department commission at the time and in the manner specified by the department commission shall forfeit an amount not to exceed \$1,000. Each day the violation of this section continues from the day notice has been received constitutes a separate offense.

(b) Upon request of the department commission, the attorney general or the district attorney of the proper county may aid in any investigation, enforce any request of the department commission for information under this section or seek forfeitures for violations of this section.

(c) Upon request of the department commission, the attorney general or the district attorney of the proper county may apply to any court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating this section.

(4) (a) The department commission or any of its authorized agents may, in relation to any matter arising under this section, conduct hearings, administer oaths, issue subpoenas and take testimony.

(b) The witnesses subpoenaed by the department commission or its agent and officers who serve subpoenas shall be entitled to the fees allowed in courts of record. The fees shall be audited and paid by the state in the same manner as other expenses of the department commission are audited and paid. No witness subpoenaed at the instance of any party other than the department commission is entitled to payment of fees by the state, unless the department commission certifies that the testimony of the witness was material.

(d) A record of all hearings shall be kept by the department commission. All hearings shall be public.

**SECTION 2b.** 20.155 (1) (q) of the statutes, as affected by 2017 Wisconsin Act 59, is amended to read:

20.155 (1) (q) *Universal telecommunications service; broadband service.* From the universal service fund, the amounts in the schedule for the promotion of broadband service and universal telecommunications service for the purposes specified in s. 196.218 (5) (a) 1., 4., 8., 9., and 10. ~~Notwithstanding s. 20.001 (3) (a), the unencumbered balance on June 30 of each year shall be~~

~~transferred to the appropriation account under sub. (3) (r).~~

**SECTION 2d.** 20.155 (3) (r) of the statutes, as affected by 2017 Wisconsin Act 59, is amended to read:

20.155 (3) (r) ~~*Broadband expansion grants; transfer funding.* From the universal service fund, all moneys transferred from the appropriation accounts under par. (rm), sub. (1) (q), and ss. 20.255 (1) (q) and (3) (q), (qm), and (r), 20.285 (1) (q) and 20.505 (4) (s), under s. 196.218 (3) (a) 2s. a., 2015 Wisconsin Act 55, section 9236 (1v), and under 2017 Wisconsin Act 59, section 9237 (1) and (2) (a), for broadband expansion grants under s. 196.504.~~

**SECTION 2e.** 20.155 (3) (rm) of the statutes, as created by 2017 Wisconsin Act 59, is amended to read:

20.155 (3) (rm) *Broadband grants; other funding.* From the universal service fund, as a continuing appropriation, all moneys transferred under s. 196.218 (3) (a) 2s. b., for broadband expansion grants under s. 196.504. ~~Notwithstanding s. 20.001 (3) (e), the unencumbered balance on June 30 of each year shall be transferred to the appropriation account under sub. (3) (r).~~

**SECTION 2h.** 20.255 (1) (q) of the statutes, as affected by 2017 Wisconsin Act 59, is amended to read:

20.255 (1) (q) *Digital learning collaborative.* From the universal service fund, the amounts in the schedule for a digital learning collaborative for the statewide web academy and for the delivery of digital content and collaborative instruction under s. 115.28 (53) and (54). ~~Notwithstanding s. 20.001 (3) (a), the unencumbered balance on June 30 of each year shall be transferred to the appropriation account under s. 20.155 (3) (r).~~

**SECTION 2L.** 20.255 (3) (q) of the statutes, as affected by 2017 Wisconsin Act 59, is amended to read:

20.255 (3) (q) *Periodical and reference information databases; Newline for the Blind.* From the universal service fund, the amounts in the schedule for the Newline for the Blind, provided by the Regional Library for the Blind and Physically Handicapped, and to contract for periodical and reference information databases under s. 115.28 (26). ~~Notwithstanding s. 20.001 (3) (a), the unencumbered balance on June 30 of each year shall be transferred to the appropriation account under s. 20.155 (3) (r).~~

**SECTION 2m.** 20.255 (3) (qm) of the statutes, as affected by 2017 Wisconsin Act 59, is amended to read:

20.255 (3) (qm) *Aid to public library systems.* From the universal service fund, the amounts in the schedule for state aid to public library systems under s. 43.24. ~~Notwithstanding s. 20.001 (3) (a), the unencumbered balance on June 30 of each year shall be transferred to the appropriation account under s. 20.155 (3) (r).~~

**SECTION 2o.** 20.255 (3) (r) of the statutes, as affected by 2017 Wisconsin Act 59, is amended to read:

20.255 (3) (r) *Library service contracts.* From the universal service fund, the amounts in the schedule for

library service contracts under s. 43.03 (6) and (7). ~~Notwithstanding s. 20.001 (3) (a), the unencumbered balance on June 30 of each year shall be transferred to the appropriation account under s. 20.155 (3) (r).~~

**SECTION 2r.** 20.285 (1) (q) of the statutes, as affected by [2017 Wisconsin Act 59](#), is amended to read:

20.285 (1) (q) *Telecommunications services.* From the universal service fund, the amounts in the schedule to provide telecommunications services as specified in s. 196.218 (5) (a) 6. ~~Notwithstanding s. 20.001 (3) (a), the unencumbered balance on June 30 of each year shall be transferred to the appropriation account under s. 20.155 (3) (r).~~

**SECTION 2u.** 20.505 (4) (s) of the statutes is amended to read:

20.505 (4) (s) *Telecommunications access for educational agencies, infrastructure grants, and teacher training grants.* Biennially, from the universal service fund, the amounts in the schedule to make payments to telecommunications providers under contracts under s. 16.971 (13), (14), and (15) to the extent that the amounts due are not paid from the appropriation under sub. (1) (is), to make payments to telecommunications providers under contracts under s. 16.971 (16) to the extent that the amounts due are not paid from the appropriation under sub. (1) (kL), to make grants to school district consortia under s. 16.997 (7), to make information technology infrastructure grants under s. 16.9945, and to make educational technology teacher training grants under s. 16.996. ~~Notwithstanding s. 20.001 (3) (b), the unencumbered balance on June 30 of each odd-numbered year shall be transferred to the appropriation account under s. 20.155 (3) (r).~~

**SECTION 2y.** 20.505 (4) (s) of the statutes, as affected by [2017 Wisconsin Acts 59](#) and .... (this act), is repealed and recreated to read:

20.505 (4) (s) *Telecommunications access for educational agencies, infrastructure grants, and teacher training grants.* Biennially, from the universal service fund, the amounts in the schedule to make payments to telecommunications providers under contracts under s. 16.971 (13), (14), and (15) to the extent that the amounts due are not paid from the appropriation under sub. (1) (is), to make payments to telecommunications providers under contracts under s. 16.971 (16) to the extent that the amounts due are not paid from the appropriation under sub. (1) (kL), to make grants to school district consortia under s. 16.997 (7), and to make educational technology teacher training grants under s. 16.996.

**SECTION 3.** 26.03 (1v) (b) of the statutes is amended to read:

26.03 (1v) (b) An electric cooperative, as defined in s. ~~196.025 (5) (ag)~~ [101.80 \(1g\)](#).

**SECTION 4.** 59.693 (11) of the statutes is created to read:

59.693 (11) **UTILITY FACILITIES.** (a) In this subsection, “facility” means any property or equipment of a public utility, as defined in s. 196.01 (5), or a cooperative association organized under ch. 185 for the purpose of producing or furnishing heat, light, or power to its members only, that is used for the transmission, delivery, or furnishing of natural gas, heat, light, or power.

(b) The construction and maintenance of a facility is considered to satisfy the requirements of this section and any county ordinance enacted under this section if any of the following applies:

1. The department has issued all required permits or approvals authorizing the construction or maintenance under ch. 30, 31, 281, or 283.

2. No department permit or approval under subd. 1. is required for the construction or maintenance and the construction or maintenance is conducted in a manner that employs best management practices to infiltrate or otherwise control storm water runoff from the facility.

**SECTION 5.** 101.80 (1g) of the statutes is amended to read:

101.80 (1g) “Electric cooperative” ~~has the meaning given in s. 196.025 (5) (ag)~~ means a cooperative association organized under ch. 185 for the purpose of generating, distributing, or furnishing electric energy at retail or wholesale to its members only.

**SECTION 6.** 182.0175 (1) (aa) of the statutes is created to read:

182.0175 (1) (aa) “Agricultural activity” has the meaning given in s. 101.10 (1) (a).

**SECTION 7.** 182.0175 (1) (ab) of the statutes is created to read:

182.0175 (1) (ab) “Commission” means the public service commission.

**SECTION 8.** 182.0175 (1) (ac) of the statutes is created to read:

182.0175 (1) (ac) “Complainant” means a person who files a complaint under sub. (3) (bg) 1. or 2.

**SECTION 9.** 182.0175 (1) (ag) of the statutes is created to read:

182.0175 (1) (ag) “Damage prevention fund” means the fund established under sub. (1m) (d) 11.

**SECTION 10.** 182.0175 (1) (bq) of the statutes is created to read:

182.0175 (1) (bq) “One-call system” means the system established under sub. (1m) (a).

**SECTION 11.** 182.0175 (1) (br) of the statutes is created to read:

182.0175 (1) (br) “Panel” means the panel appointed under sub. (1m) (d) 8.

**SECTION 12.** 182.0175 (1) (bt) of the statutes is renumbered 182.0175 (1) (bo).

**SECTION 13.** 182.0175 (1) (bv) of the statutes is renumbered 182.0175 (1) (bx).

**SECTION 14.** 182.0175 (1) (bw) of the statutes is created to read:

182.0175 (1) (bw) "Political subdivision" means a city, village, town, or county.

**SECTION 15.** 182.0175 (1) (by) of the statutes is created to read:

182.0175 (1) (by) "Respondent" means a person or a person's agent who is alleged in a complaint filed under sub. (3) (bg) 1. or 2. to have taken an action that the person or agent knew or should have known was in violation of this section.

**SECTION 16.** 182.0175 (1) (bz) of the statutes is created to read:

182.0175 (1) (bz) "State agency" has the meaning given in s. 16.004 (12) (a).

**SECTION 17.** 182.0175 (1m) (d) 8. to 12. of the statutes are created to read:

182.0175 (1m) (d) 8. Appoint a panel consisting of the following 7 members to carry out the duties specified in sub. (3) (bg) and (br):

- a. Two transmission facility owners.
- b. Two excavators.
- c. One employee of the operational center established under par. (a).
- d. One member who represents the interests of a political subdivision.
- e. One person employed as an underground line locator.

9. Establish policies, procedures, and forms as necessary to implement the requirements under sub. (3) (bg) and (br).

10. Provide for the production and administration of the educational course under sub. (3) (br) 4.

11. Establish and maintain a damage prevention fund consisting of fees under sub. (3) (br) 4. and (c) 5. and surcharges under sub. (3) (d) 2.

12. Use the damage prevention fund at the one-call system's discretion to pay the cost of producing and administering the educational course under sub. (3) (br) 4. or providing for public outreach and underground utility damage prevention awareness programs.

**SECTION 18.** 182.0175 (2) (am) (title) of the statutes is amended to read:

182.0175 (2) (am) (title) *Excavation notice and other duties.*

**SECTION 19.** 182.0175 (2) (am) 3. of the statutes is renumbered 182.0175 (2) (as) 1. and amended to read:

182.0175 (2) (as) 1. ~~Maintain~~ An excavator shall maintain an estimated minimum clearance of 18 inches between a marking for an unexposed underground transmission facility that is marked under sub. (2m) and the cutting edge or point of any power-operated excavating or ~~earth-moving~~ earthmoving equipment, except as is necessary at the beginning of the excavation process to penetrate and remove the surface layer of pavement.

2. When ~~the an~~ underground transmission facility becomes exposed or if ~~the a~~ transmission facility is already exposed, the excavator may reduce the clearance to 2 times the known limit of control of the cutting edge or point of the equipment or 12 inches, whichever is greater.

**SECTION 20.** 182.0175 (2) (am) 7. of the statutes is amended to read:

182.0175 (2) (am) 7. Immediately notify the owner of a transmission facility if an inspection reveals that the transmission facility has been or may have been struck, damaged, dislocated, or disrupted and, if flammable, toxic, or corrosive gas or liquid has escaped that may endanger life, cause bodily harm, or result in damage to property, promptly make a report to the 911 emergency telephone number.

**SECTION 21.** 182.0175 (2) (as) (title) of the statutes is created to read:

182.0175 (2) (as) (title) *Minimum clearance.*

**SECTION 22.** 182.0175 (2) (bm) (title) of the statutes is amended to read:

182.0175 (2) (bm) (title) *Notice contents.*

**SECTION 23.** 182.0175 (2m) (b) (intro.) of the statutes is amended to read:

182.0175 (2m) (b) *Facilities marking.* (intro.) A person owning transmission facilities, upon receipt of an excavation notice, shall mark in a reasonable manner the locations of transmission facilities at the area described in the notice to enable the excavator to locate the transmission facilities without endangering the security of the facilities or the public. For purposes of this paragraph, transmission facilities are marked in a reasonable manner if the owner of the transmission facilities locates and marks the transmission facilities to a level of accuracy and precision consistent with national standards. Except as provided in par. (bm), if the person is a local governmental unit and if the excavation notice relates to sewer or water facilities owned by the local governmental unit, the local governmental unit shall also mark the locations within the public right-of-way of all laterals connected to the sewer or water facilities at the area described in the notice. The marking of facilities shall be completed within 3 working days after receipt of the notice, or if notice is given more than 10 days before excavation is scheduled to begin, marking shall be completed at least 3 working days before excavation is scheduled to begin. If the approximate location of a transmission facility is marked with paint, flags, stakes or other physical means, the following color coding of lines, cables or conduits shall comply with the uniform color code adopted by the American National Standards Institute:

**SECTION 24.** 182.0175 (3) (title) of the statutes is repealed and recreated to read:

182.0175 (3) (title) ENFORCEMENT FOR NATURAL GAS AND OTHER HAZARDOUS MATERIALS.

**SECTION 25.** 182.0175 (3) (a) (title) of the statutes is renumbered 182.0175 (3) (d) (title) and amended to read:

182.0175 (3) (d) (title) *Forfeitures; surcharges.*

**SECTION 26.** 182.0175 (3) (a) of the statutes is renumbered 182.0175 (3) (d) 1. and amended to read:

182.0175 (3) (d) 1. Any In a consent agreement under par. (c) 2. or order issued under par. (c) 4., the commission may directly assess a forfeiture of no more than \$25,000 for each violation of this section against a person who willfully and knowingly violates knew or should have known that the person's action was in violation of this section may be required to forfeit \$2,000 for each offense. Each day of continued violation constitutes a separate offense violation. No person may be required by the commission to forfeit an amount exceeding \$500,000 for a single persisting violation. The commission shall remit the forfeitures to the secretary of administration for deposit in the school fund. No other forfeiture may be imposed for violating this section.

**SECTION 27.** 182.0175 (3) (b) of the statutes is renumbered 182.0175 (3r) and amended to read:

182.0175 (3r) MISDEMEANOR. Whoever intentionally removes, moves, or obliterates a transmission facilities marking placed by the transmission facilities owner may be fined not more than \$500 or imprisoned for not more than 30 days or both. This paragraph subsection does not apply to an excavator who removes or obliterates markings during an excavation.

**SECTION 28.** 182.0175 (3) (bc), (bg), (br) and (c) of the statutes are created to read:

182.0175 (3) (bc) *Applicability.* 1. This subsection applies to violations involving transmission facilities that transport natural gas or other hazardous materials.

2. Except as provided in subd. 3., this subsection does not apply to violations by any of the following:

a. A residential property owner or tenant whose violation of this section results from an excavation on property owned or leased by the residential property owner or tenant.

b. A person whose violation of this section results from an excavation performed while the person is engaged in an agricultural activity.

3. Subdivision 2. does not apply to an excavation performed by or on behalf of a person engaged in the business of performing excavations for the public.

(bg) *Complaints.* 1. Except as provided in subd. 4., any of the following may file a written complaint with the panel that a person other than a state agency has taken an action that the person knew or should have known was in violation of this section:

a. The one-call system.

b. The department of transportation or a political subdivision, if property under the jurisdiction of the department or political subdivision is affected by an alleged violation of this section.

c. A transmission facility owner, excavator, or underground line locator whose property or activities are affected by an alleged violation of this section.

2. Except as provide in subd. 4., a person specified in subd. 1. a. to c. may file a written complaint with the commission that a state agency has taken an action that the state agency knew or should have known was in violation of this section. If the complaint also involves a respondent that is not a state agency, the commission may consider and determine the complaint against each respondent separately and at such times as the commission prescribes.

3. A written complaint under subd. 1. or 2. shall include all of the following

a. A short plain statement of the complaint that identifies the transaction or occurrence or series of transactions or occurrences for which the complaint arises and that shows that the person or state agency has taken an action that the person or state agency knew or should have known was in violation of this section.

b. A statement of the provisions of statutes, rules, or commission orders that the person's or state agency's action allegedly violated.

c. Copies of all records and papers on which the complaint is founded.

4. No person may file a complaint under subd. 1. or 2. more than 120 days after the person discovers an alleged violation of this section, except that the panel or commission may for good cause shown allow filing no later than one year after the discovery of the alleged violation.

5. No complaint filed under subd. 1. or 2. may be dismissed solely because of the absence of direct damage to the complainant.

(br) *Panel duties.* 1. Upon receipt of a complaint filed under par. (bg) 1., the panel shall provide the respondent, by certified mail, a statement of the complaint and a notice requiring the respondent to file a response with the panel within 20 days after the date of service of the notice. The notice shall also advise the respondent of the amount of the fee required for completion of the educational course under subd. 4. Upon request of the respondent, the panel may extend the period for filing the response. The panel may consolidate complaints where appropriate. In the response, the respondent shall admit or deny the violation or aiding in a violation that is alleged in the complaint or advise the panel that, based on the respondent's satisfaction of the complaint, the complainant has agreed to dismiss the complaint.

2. Within the period specified in subd. 3., the panel shall determine by majority vote whether there is probable cause to believe that the respondent has taken an action that the respondent knew or should have known was in violation of this section or whether to dismiss the complaint. The panel shall dismiss a complaint for lack

of probable cause or at the request of the complainant. Except as provided in subd. 4., if the panel determines there is probable cause to believe that a respondent has taken an action that the respondent knew or should have known was in violation of this section, the panel shall refer the complaint to the commission and include the complaint and the response of the respondent.

3. The panel shall make a determination regarding probable cause under subd. 2. within one of the following periods:

a. If a respondent files a response within the period specified or extended under subd. 1., within 20 days after the respondent files the response.

b. If a respondent fails to file a response within the period specified in subd. 1. and the panel has not extended the period under subd. 1., within 40 days after the panel's service of the notice under subd. 1.

c. If the panel has extended the period under subd. 1. and the respondent fails to file a response within the extended period, within 20 days after expiration of the extended period.

4. If the panel determines there is probable cause to believe that a respondent has taken an action that the respondent knew or should have known was in violation of this section, the panel may allow the respondent to attend an educational course in lieu of providing notice of probable violation to the commission under subd. 2. The one-call system shall require a respondent who agrees to attend the educational course to pay a fee before completion of the course for recovering a portion of the cost of producing the educational course and the direct cost of administering the educational course for the respondent. The one-call system shall deposit any fees collected in the damage prevention fund.

(c) *Commission duties.* 1. Upon the filing of a complaint under par. (bg) 2. or receipt of a referral under par. (br) 2., the commission may, with or without notice, investigate the complaint as it considers necessary to determine if sufficient cause exists to warrant a hearing on the complaint. If the commission determines that sufficient cause exists to warrant a hearing on the complaint, the commission shall set the matter for a public hearing upon 10 days' notice and treat the complaint as a contested case. If the commission determines that sufficient cause does not exist to warrant a hearing on the complaint, and within 30 days of that determination the complainant or respondent disputes that determination, the commission shall treat the complaint as a contested case.

2. At any time before the commission issues an order under subd. 4., the commission and the respondent may agree to dismiss the complaint by joint execution of a consent agreement. A consent agreement shall become effective when the commission issues an order approving the consent agreement.

3. A consent agreement under subd. 2. may assess against the respondent a forfeiture under par. (d) 1.,

require the respondent to attend the educational course under par. (br) 4., or do both. Each consent agreement under subd. 2. shall include all of the following:

a. An admission by the respondent of all jurisdictional facts.

b. An express waiver of any further procedural steps and of the right to seek judicial review or otherwise challenge or contest the validity of the commission's order approving the consent agreement.

c. A statement of the actions required of the respondent and the time by which the actions shall be completed.

4. If a complaint is treated as a contested case under subd. 1. and not dismissed under a consent agreement under subd. 2., the commission shall determine whether probable cause exists to believe the respondent has taken an action that the respondent knew or should have known was in violation of this section. If the commission determines that the respondent has taken an action that the respondent knew or should have known was in violation of this section, the commission may issue an order that assesses a forfeiture under par. (d) 1., requires the respondent to attend the educational course under par. (br) 4., or does both. The commission may not issue an order under this subdivision without a hearing.

5. If a consent agreement under subd. 2. or order under subd. 4. requires a respondent to attend the educational course under par. (br) 4., the consent agreement or order shall also require the respondent to pay the one-call system a fee determined by the one-call system for the educational course, which the one-call system shall deposit in the damage prevention fund.

**SECTION 29.** 182.0175 (3) (d) 2. of the statutes is created to read:

182.0175 (3) (d) 2. For each forfeiture assessed under subd. 1., the commission shall require the person assessed to pay a surcharge equal to 10 percent of the amount of the forfeiture to the one-call system, which the one-call system shall deposit in the damage prevention fund. If the amount of a forfeiture is reduced on appeal, the amount of the surcharge shall be proportionately reduced.

**SECTION 30.** 182.0175 (3) (e) of the statutes is created to read:

182.0175 (3) (e) *Lawful and reasonable orders and determinations.* After the effective date of any order or determination of the commission under this section, the order or determination shall be on its face lawful and reasonable unless a court determines otherwise under s. 227.57.

**SECTION 31.** 182.0175 (3) (f) of the statutes is created to read:

182.0175 (3) (f) *Judicial review.* Judicial review of an order of the commission under par. (c) 4. may be had by any person aggrieved in the manner prescribed in ch. 227.

**SECTION 32.** 182.0175 (3) (g) of the statutes is created to read:

182.0175 (3) (g) *Rules.* The commission may promulgate rules implementing the requirements under pars. (c) to (e).

**SECTION 33.** 182.0175 (3g) of the statutes is created to read:

182.0175 (3g) **OTHER FORFEITURES.** (a) 1. This subsection applies to violations involving transmission facilities that do not transport natural gas or other hazardous materials.

2. Except as provided in subd. 3., this subsection does not apply to violations by any of the following:

a. A residential property owner or tenant whose violation of this section results from an excavation on property owned or leased by the residential property owner or tenant.

b. A person whose violation of this section results from an excavation performed while the person is engaged in an agricultural activity.

3. Subdivision 2. does not apply to an excavation performed by or on behalf of a person engaged in the business of performing excavations for the public.

(b) Any person who willfully and knowingly violates this section may be required to forfeit \$2,000 for each offense. Each day of continued violation constitutes a separate offense.

**SECTION 34.** 182.0175 (4) of the statutes is amended to read:

182.0175 (4) **RIGHT OF ACTION.** This Except as provided in sub. (3) (d) 1. and (e), this section shall not affect any right of action or penalty which this state or any person may have.

**SECTION 35.** 182.0175 (5) of the statutes is amended to read:

182.0175 (5) **RIGHT TO INJUNCTION.** If any person engages in or is likely to engage in excavation inconsistent with this section and which results or is likely to result in damage to transmission facilities, the person who owns or operates the facilities may seek injunctive relief in the circuit court for the county in which the transmission facilities are located. If the transmission facilities are owned or operated by a public utility as defined in s. 196.01 (5), including a telecommunications carrier, as defined in s. 196.01 (8m), and the public utility does not seek injunctive relief, the attorney general, upon request of the ~~public service~~ commission, shall seek injunctive relief in the circuit court for the county in which the transmission facilities are located.

**SECTION 36.** 196.025 (4) of the statutes is repealed.

**SECTION 37.** 196.025 (5) of the statutes is repealed.

**SECTION 38.** 196.025 (7) of the statutes is created to read:

196.025 (7) **STATE ENERGY OFFICE.** (a) The commission shall do all of the following:

1. In cooperation with the other state agencies, collect, analyze, interpret, and maintain the comprehensive data needed for effective state agency energy planning and effective review of those plans by the governor and the legislature.

2. Administer federal energy grants, when so designated by the governor pursuant to s. 16.54.

(b) The commission may provide technical assistance to units of government other than the state to assist in the planning and implementation of energy efficiency and renewable resources and may charge for those services. The commission may request technical and staff assistance from other state agencies in providing technical assistance to those units of government.

(c) The commission may require a public utility to provide energy billing and use data regarding public schools, if the commission determines that the data is necessary to provide technical assistance in the planning and implementation of energy efficiency and renewable resources in public schools, including those with the highest energy costs.

**SECTION 39.** 196.026 of the statutes is created to read:

**196.026 Settlements.** (1) All parties to dockets before the commission are encouraged to enter into settlements when possible.

(2) In this section, “docket” means an investigation, proceeding, or other matter opened by a vote of the commission, except for rule making.

(3) Parties to a docket may agree upon some or all of the facts. The agreement shall be evidenced by a written stipulation filed with the commission or entered upon the record. The stipulation shall be regarded and used as evidence in the docket.

(4) Parties to a docket may agree upon a resolution of some or all of the issues. When a written settlement agreement is proposed by some of the parties, those parties shall submit to the commission the settlement agreement and any documents, testimony, or exhibits, including record citations if there is a record, and any other matters those parties consider relevant to the proposed settlement and serve a copy of the settlement agreement upon all parties to the docket.

(5) If a proposed settlement agreement is not supported by all parties, the settling parties shall convene at least one conference with notice and opportunity to participate provided to all parties for the purpose of discussing the proposed settlement agreement. A nonsettling party may waive its right to the conference provided in this subsection.

(6) Within 30 days of service of a settlement agreement under sub. (4), each party to the docket shall respond in writing by filing and serving on all parties the party’s agreement, objection, or nonobjection to the settlement agreement. Failure to respond in writing within 30 days of service, unless a different time is set by the



commission for good cause, shall constitute nonobjection to the settlement agreement. A party objecting to a settlement agreement shall state all objections with particularity and shall specify how the party would be adversely affected by each provision of the settlement agreement to which the party objects.

(7) The commission may approve a settlement agreement under sub. (4) if all of following conditions are met:

(a) All of the following have been given a reasonable opportunity to present evidence and arguments in opposition to the settlement agreement:

1. Each party that has filed an objection or nonobjection to the settlement agreement under sub. (6).

2. Each party whose failure to respond in writing constitutes a nonobjection to the settlement agreement under sub. (6).

(b) The commission finds that the public interest is adequately represented by the parties who entered into the settlement agreement.

(c) The commission finds that the settlement agreement represents a fair and reasonable resolution to the docket, is supported by substantial evidence on the record as a whole, and complies with applicable law, including that any rates resulting from the settlement agreement are just and reasonable.

(8) The commission may approve a settlement agreement under sub. (4) in whole or in part and with conditions deemed necessary by the commission. If the settlement agreement does not resolve all of the issues in the docket, the commission shall decide the remaining issues in accordance with applicable law and procedure.

**SECTION 40.** 196.192 (2) (am) of the statutes, as affected by 2017 Wisconsin Act 58, is repealed.

**SECTION 41.** 196.192 (2) (bm) of the statutes, as affected by 2017 Wisconsin Act 58, is renumbered 196.192 (2) (bm) (intro.) and amended to read:

196.192 (2) (bm) (intro.) The Except as provided in par. (br), the commission shall approve market-based rates that are consistent with the options specified in par. (am), except that the for each investor-owned electric public utility that satisfy all of the following:

(br) The commission may not approve a market-based rate under par. (bm) unless the commission determines that the rate will not harm shareholders of the investor-owned electric public utility or customers who are not subject to the rate.

**SECTION 42.** 196.192 (2) (bm) 1. and 2. of the statutes are created to read:

196.192 (2) (bm) 1. The rates result in customers receiving market-based compensation for voluntary interruptions of firm load during peak periods of electric use.

2. The rates include market-based pricing options and options for individual contracts that allow a retail customer, through service from its existing public utility,

to receive market benefits and take market risks for the customer's purchases of capacity or energy.

**SECTION 43.** 196.192 (2) (c) of the statutes, as affected by 2017 Wisconsin Act 58, is amended to read:

196.192 (2) (c) Subject to any approval of the commission that is necessary, an electric public utility that is not an investor-owned electric public utility may implement market-based rates approved under par. (bm) ~~or implement the options in filings under par. (am) that are approved by the commission.~~

**SECTION 44.** 196.192 (3m) of the statutes, as affected by 2017 Wisconsin Act 58, is amended to read:

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

**SECTION 45.** 196.193 (3) of the statutes is amended to read:

196.193 (3) DETERMINATION OF AN OVERALL RATE OF RETURN. Not later than March 1 annually, the commission shall set the overall rate of return to be applicable to municipally owned water public utilities or municipally owned combined water and sewer public utilities for rate increases under this section. ~~The overall rate of return shall be equal to the simple average, rounded to the nearest tenth of 1 percent, of commission shall consider the interest rates listed for state and local bonds in the Federal Reserve Statistical Release H-15 (S19) published by the federal reserve board, for the last quarter of the prior year, plus 2 percent setting the overall rate of return.~~ The overall rate of return need not be defined by rule.

**SECTION 45d.** 196.218 (3) (a) 2e. a., b. and c. of the statutes, as created by 2017 Wisconsin Act 59, are amended to read:

196.218 (3) (a) 2e. a. The commission shall estimate the amount of unencumbered balances under s. 20.155 (1) (q) and (3) (rm) for that fiscal year ~~that will transfer to the appropriation account under s. 20.155 (3) (r).~~

b. The department of public instruction shall provide the commission with the department's estimate of the total amount of unencumbered balances under s. 20.255 (1) (q) and (3) (q), (qm), and (r) for that fiscal year ~~that will transfer to the appropriation account under s. 20.155 (3) (r).~~

c. The Board of Regents of the University of Wisconsin System shall provide the commission with the board's estimate of the amount of unencumbered balance under s. 20.285 (1) (q) for that fiscal year ~~that will transfer to the appropriation account under s. 20.155 (3) (r).~~

**SECTION 45h.** 196.218 (3) (a) 2m. of the statutes, as created by 2017 Wisconsin Act 59, is amended to read:

196.218 (3) (a) 2m. No later than 30 days after the close of a fiscal biennium, the department of administration shall provide the commission with the department's



estimate of the amount of unencumbered balance under s. 20.505 (4) (s) for that fiscal biennium ~~that will transfer to the appropriation account under s. 20.155 (3) (t).~~

**SECTION 45p.** 196.218 (3) (a) 2s. of the statutes, as created by **2017 Wisconsin Act 59**, is renumbered 196.218 (3) (a) 2s. (intro.) and amended to read:

196.218 (3) (a) 2s. (intro.) Thirty days after the close of a fiscal year or as soon as practicable thereafter, the commission shall determine the sum of the estimates specified in subd. 2e. a., b., and c. If the close of a fiscal year is also the close of a fiscal biennium, the sum shall include the estimate specified in subd. 2m. In the subsequent fiscal year, ~~the commission shall transfer all of the following apply:~~

b. There is transferred from the universal service fund to the appropriation account under s. 20.155 (3) (rm) an amount equal to \$2,000,000 less the sum determined under this subdivision subd. 2s. (intro.).

**SECTION 45t.** 196.218 (3) (a) 2s. a. of the statutes is created to read:

196.218 (3) (a) 2s. a. There is transferred from the universal service fund to the appropriation account under s. 20.155 (3) (r) an amount equal to the sum determined under subd. 2s. (intro.).

**SECTION 46.** 196.49 (5g) (ag) of the statutes is amended to read:

196.49 (5g) (ag) In this subsection, “rebuild” means the replacement of all or part of an existing electric transmission line and associated facilities ~~to increase the line’s capacity to carry current at the same voltage, including conductors, insulators, transformers, or structures, for operation at the same voltage.~~

**SECTION 47.** 196.49 (5g) (ar) 2m. b. of the statutes is amended to read:

196.49 (5g) (ar) 2m. b. The Not more than one-half mile of the centerline of the rebuilt electric transmission line is located within more than 60 feet on either side of the centerline of an existing electric transmission line operating at a nominal voltage of 69 kilovolts or more. In this subd. 2m. b., “centerline” has the meaning given in s. 196.491 (4) (c) 1e.

**SECTION 48.** 196.49 (5g) (ar) 2m. c. of the statutes is amended to read:

196.49 (5g) (ar) 2m. c. The project requires the acquisition in total of one-half mile or less of rights-of-way from landowners from which rights-of-way ~~were would~~ not be required to be acquired for the existing electric transmission line specified in subd. 2m. b.

**SECTION 49.** 196.491 (4) (c) 1m. (intro.) of the statutes is amended to read:

196.491 (4) (c) 1m. (intro.) Except as provided in subd. 1s., a certificate under sub. (3) is not required for a person to construct a high-voltage transmission line designed for operation at a nominal voltage of less than 345 kilovolts if not more than one-half mile of the centerline of the new high-voltage transmission line is located

within more than 60 feet on either side of the centerline of an existing electric transmission line operating at a nominal voltage of 69 kilovolts or more and the applicant demonstrates all of the following apply:

**SECTION 50.** 196.491 (4) (c) 1m. a. of the statutes is amended to read:

196.491 (4) (c) 1m. a. ~~That the~~ The project will not have undue adverse environmental impacts.

**SECTION 51.** 196.491 (4) (c) 1m. b. of the statutes is amended to read:

196.491 (4) (c) 1m. b. ~~That the~~ The new high-voltage transmission line requires the acquisition in total of one-half mile or less of rights-of-way from landowners from which rights-of-way ~~were would~~ not be required to be acquired for the existing electric transmission line.

**SECTION 52.** 196.595 (1) (c) of the statutes is amended to read:

196.595 (1) (c) “Public utility” in this section means any public utility, as defined in s. 196.01, engaged in the transmission, delivery, or furnishing of natural gas by means of pipes or mains, heat, light, water, or power. “Public utility” does not include any cooperative association organized under ch. 185.

**SECTION 52d.** 196.595 (2) (b) (intro.), 1. and 2. of the statutes are amended to read:

196.595 (2) (b) (intro.) Produces a demonstrated, direct and substantial benefit for ratepayers. Advertising which produces a direct and substantial benefit for ratepayers is limited to advertising which does any of the following:

1. Demonstrates energy or water conservation methods;
2. Conveys safety information on the use of energy;

**SECTION 52h.** 196.595 (2) (b) 2g. and 2r. of the statutes are created to read:

196.595 (2) (b) 2g. Conveys health or safety information related to a water system or the use of water, including information on preventing frozen water laterals.

2r. Identifies the public utility on public utility property or the location of public utility property.

**SECTION 52p.** 196.595 (2) (b) 3., 4. and 5. of the statutes are amended to read:

196.595 (2) (b) 3. Demonstrates methods of reducing ratepayer costs;

4. Otherwise directly and substantially benefits ratepayers;

5. Is required by law, administrative rule, or permit.

**SECTION 52t.** 196.595 (2m) of the statutes is created to read:

196.595 (2m) Notwithstanding sub. (2), a public utility may charge its ratepayers for expenditures for reasonable direct communication to ratepayers that will be directly and substantially impacted by ongoing or future water public utility operations or construction.

**SECTION 53.** 201.10 (1) of the statutes is repealed.

**SECTION 54.** 201.10 (2) of the statutes is amended to read:

201.10 (2) ~~The fee provisions of sub. (1) shall not apply, but the provisions of sub. (3) shall apply,~~ to the issuance, renewal or assumption by a public service corporation which is a public utility as defined in the federal power act, of evidences of indebtedness maturing not more than one year after the date of issue, renewal or assumption thereof.

**SECTION 55.** 348.17 (3) of the statutes is amended to read:

348.17 (3) During an energy emergency, after consultation with the ~~department of administration~~ public service commission, the department may waive the divisible load limitation of s. 348.25 (4) and authorize for a period not to exceed 30 days the operation of overweight vehicles having a registered gross weight of 50,000 pounds or more and carrying energy resources or fuel or milk commodities designated by the governor or a designee, regardless of the highways involved, to conserve energy. Such authorization may only allow weights not more than 10 percent greater than the gross axle and axle combination weight limitations, and not more than 15 percent greater than the gross vehicle weight limitations under ss. 348.15 and 348.16. Nothing in this subsection shall be construed to permit the department to waive the requirements of ss. 348.05 to 348.07. This subsection does not apply to vehicles on highways designated as

parts of the national system of interstate and defense highways, except for the I 39 corridor and the I 41 corridor.

**SECTION 56.** 348.17 (4) of the statutes is amended to read:

348.17 (4) During an energy emergency, after consultation with the ~~department of administration~~ public service commission, the department may authorize motor vehicles that have a gross weight of 26,000 pounds or less and that are transporting propane or heating oil for delivery to residences, businesses, or other end users to exceed any special weight limitation imposed under ss. 348.17 (1) and 349.16 (1) (a) and (2) in connection with the thawing of frozen highways. Any person operating a motor vehicle as authorized under this subsection shall, to the extent practicable, deliver propane or heating oil at times of the day when the highways used are the least vulnerable.

**SECTION 57. Initial applicability.**

(1) SETTLEMENTS. The treatment of section 196.026 of the statutes first applies to docketed, as defined in section 196.026 (2) of the statutes, that are first opened on the effective date of this subsection.

**SECTION 57m. Effective dates.** This act takes effect on the day after publication, except as follows:

(1) The repeal and recreation of section 20.505 (4) (s) of the statutes takes effect on July 1, 2019.

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