



**WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO**

2003 Senate Bill 8	Assembly Substitute Amendment 1 and Assembly Amendments 1 and 2 to the Substitute Amendment
<i>Memo published:</i> March 10, 2004 <i>Contact:</i> David L. Lovell, Senior Analyst (266-1537)	

2003 Senate Bill 8 creates an exception to the Open Records Law regarding safety information for utility facilities. The bill allows an authority (a public entity holding a record subject to the Open Records Law) to withhold access to any record or portion of a record containing information regarding security measures to protect the safety of the plant, equipment, employees, or customers of the providers of electric power, natural gas, telecommunications service, public water service, or sewer service.

Assembly Substitute Amendment 1 changes the description of the records that may be withheld under the new exemption. Rather than referring to “security measures,” the substitute amendment refers to “a security system plan.” Also, rather than referring to the protection of the plant, etc., of a list of critical utility services, the substitute amendment refers to a facility or system that is “so vital to the state that the incapacity or destruction of the facility or system would have a debilitating impact on the physical or economic security of the state or on the public health, safety, or welfare.”

The substitute amendment defines “security system plan” as a plan for the physical or electronic security of the facilities or information technology systems owned or operated by a utility. It includes an extensive list of the kinds of information included in the definition of “security system plan.”

The substitute amendment defines “utility” as a cooperative association that provides heat, light, power, or water to its members or a public utility, as defined in the statutes administered by the Public Service Commission.

Assembly Amendment 1 to the substitute amendment replaces the definition of “utility” with a broader definition. It defines “utility” as **any person** that generates, transmits, or distributes electricity, transports or distributes natural gas, operates a public water system, or provides telecommunications or sewer service. This definition adds, for example, wholesale electric power producers that do not sell power directly to the public, cellular telephone service providers, and certain local water authorities.

Assembly Amendment 2 to the substitute amendment modifies the definition of “security system plan” by referring to the security of “facilities, *telecommunications systems*, and information technology systems” of a utility.

Legislative History

On January 30, 2003, the Senate passed Senate Bill 8, without amendment.

On November 25, 2003, the Assembly Committee on Energy and Utilities recommended adoption of Assembly Amendments 1 and 2 to Assembly Substitute Amendment 1, and adoption of the substitute amendment, as amended, by identical votes of Ayes, 8; Noes, 0. The committee recommended concurrence in Senate Bill 8, as amended, on a vote of Ayes, 6; Noes, 2.

On March 2, 2004, on voice votes, the Assembly adopted Assembly Amendments 1 and 2 to Assembly Substitute Amendment 1, adopted the substitute amendment, as amended, and ordered the bill to a third reading. The Assembly refused to suspend the rules and give the bill a third reading at that time on a vote of Ayes, 59; Noes, 37.

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