



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2005 Senate Bill 498

**Assembly Substitute
Amendment 1**

Memo published: April 25, 2006

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2005 Senate Bill 498 relates to the “diggers hotline”, the state system for informing excavators of the location of various transmission facilities, including water, sewer, natural gas, electric, and telecommunications facilities.

Under current law, upon notice of a planned excavation, the owner of transmission facilities must mark the location of its facilities in the area of the planned excavation to enable the excavator to locate the facilities without endangering the security of the facilities or the public.

Senate Bill 498

Senate Bill 498, as amended and passed by the Senate, requires a local government to mark the location of laterals that are in the public right-of-way and connected to its water and sewer facilities, as well as the facilities themselves. Laterals are generally owned by the property served, not the local government that owns the water or sewer facilities. *In lieu of marking the laterals*, Senate Bill 498 allows a local government to provide the excavator with information regarding the location of laterals, as shown in maps, drawings, diagrams, or other records, that are readily available. If the local government has no such records, it may “certify” this to the excavator, in which case it will be considered to have fulfilled its duty to mark the facilities.

The Senate bill also provides a local unit of government or other person that, in good faith, provides or creates information on the location of laterals or an excavator that relies on such information, is immune from civil liability resulting from damage to underground facilities attributable to erroneous information.

Senate Bill 498 as amended also provides that the person installing the facilities must ensure that newly constructed facilities have a locating wire or other means of identifying the facilities. The original bill imposed that obligation on the local unit of government.

Assembly Substitute Amendment 1

Assembly Substitute Amendment 1 to 2005 Senate Bill 498 includes the following changes in the bill as amended and passed in the Senate.

1. The substitute amendment *permits* a local governmental unit to charge a reasonable fee for marking laterals in the public right-of-way. The Senate bill did not include any authority for a local unit of government to charge any fees for marking.
2. The substitute amendment clarifies that, with regard to information, a local unit of government may “make available to an excavator, for inspection and making copies, information on the location of such laterals as shown on maps, drawings, diagrams, or other records, that are readily available. The Senate bill required the local unit of government to “provide an excavator with information on the location of such laterals as shown on maps, drawings, diagrams, or other records that are readily available.”
3. The substitute amendment authorizes a local unit of government to provide “written notice” instead of “a notice certifying” that there is no information on existing laterals.
4. The substitute amendment deletes the provision in the Senate version granting civil immunity for the provision of or reliance on erroneous information.
5. The substitute amendment creates an initial applicability section that first applies the act to excavation notices relating to *trenchless borings* that are received on the first day of the *second month* beginning after the effective date of the subsection. In addition, the provision would first apply with respect to *all other excavation notices*, to excavation notices that are received on the first day of the *36th month* beginning after the effective date of the law.

Legislative History

The Senate adopted Senate Amendment 1 to Senate Amendment 1 to Senate Bill 498 on a voice vote on March 7, 2006 and adopted Senate Amendment 1, as amended, on a voice vote the same day. The Senate voted to pass the bill, as amended, on a vote of Ayes, 30; Noes, 2, on March 7, 2006. The bill was referred to the Assembly Committee on Labor and a public hearing on the bill was held on March 29, 2006. Representative Nass introduced Assembly Substitute Amendment 1 on April 13, 2006. That committee, at an executive session held on April 25, 2006, adopted Assembly Substitute Amendment 1 on a vote of Ayes, 9; Noes, 0, and recommended concurrence in the bill, as amended, on a vote of Ayes, 9; Noes, 0.

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