



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2007 ASSEMBLY BILL 728**

February 26, 2008 – Offered by COMMITTEE ON HOMELAND SECURITY AND STATE
PREPAREDNESS.

- 1 **AN ACT to amend** 19.37 (1m); and **to create** 19.36 (14) of the statutes; **relating**
2 **to:** withholding sensitive utility information from public inspection.

Analysis by the Legislative Reference Bureau

Under current law, with certain exceptions, a state or local governmental entity is required to permit a requester to inspect records created or kept by the entity. This substitute amendment creates another exception for any portion of a record containing information regarding the plant, equipment, or operations of a utility that is so vital to the state that the incapacity or destruction of the plant or equipment, or the disruption of the operations, would have a debilitating impact on the physical or economic security of the state or on public health, safety, or welfare. The substitute amendment 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.

The substitute amendment allows the Public Service Commission (PSC) to review determinations by other state and local governmental entities to withhold access to any portion of a record under the substitute amendment. If a state or local governmental entity denies a requester access to a portion of a record under the substitute amendment, the requester may, no later than five business days after the denial, make a written request to the PSC to review the denial. The requester must include with its request for PSC review a copy of any written statement provided by the state or local governmental entity explaining the reasons for the denial. No later

than ten business days after receiving a request, the PSC must complete its review and notify both the requester and the state or local governmental authority in writing of the PSC's determination. If the PSC determines that the state or local governmental authority may not withhold access to the portion of the record under the substitute amendment, the state or local governmental authority must, no later than five business days after receiving notification of the PSC's determination, allow the requester access to the portion.

The substitute amendment also extends a deadline that applies to incarcerated and committed persons for bringing an action for mandamus regarding a state or local governmental entity's withholding of access to records. The extension applies only if the PSC reviews a state or local governmental determination under the substitute amendment.

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

1 **SECTION 1.** 19.36 (14) of the statutes is created to read:

2 **19.36 (14) SENSITIVE UTILITY INFORMATION.** (a) In this subsection, “utility” means
3 a person that generates, transmits, or distributes electricity, transports or
4 distributes natural gas, operates a public water system, or provides
5 telecommunications or sewer service.

6 (b) 1. Subject to subd. 2., an authority may withhold access to any portion of
7 a record that contains information regarding the plant, equipment, or operations of
8 a utility that is so vital to the state that the incapacity or destruction of the plant or
9 equipment, or the disruption of the operations, would have a debilitating impact on
10 the physical or economic security of the state or on public health, safety, or welfare.

11 2. If an authority, other than the public service commission, determines to
12 withhold access to any portion of a record under subd. 1., the requester may, no later
13 than 5 business days after the authority notifies the requester of the authority's
14 determination, request in writing that the public service commission review the
15 authority's determination. A requester shall include with such a request a copy of

1 the written statement, if any, provided to the requester by the authority under s.
2 19.35 (4) (b). No later than 10 business days after receiving a written request, the
3 public service commission shall complete its review and notify the authority and the
4 requester in writing of the public service commission's determination regarding
5 whether access to the portion may be withheld under subd. 1. If the public service
6 commission determines that access to the portion may not be withheld under subd.
7 1., the authority shall, no later than 5 business days after receiving the public service
8 commission's determination, allow the requester access to the portion.

9 **SECTION 2.** 19.37 (1m) of the statutes is amended to read:

10 19.37 **(1m)** TIME FOR COMMENCING ACTION. No action for mandamus under sub.
11 (1) to challenge the denial of a request for access to a record or part of a record may
12 be commenced by any committed or incarcerated person later than 90 days after the
13 date that the request is denied by the authority having custody of the record or part
14 of the record or, if the public service commission has notified the committed or
15 incarcerated person under s. 19.36 (14) (b) 2. that the commission has determined
16 that any portion of a record may be withheld under s. 19.36 (14) (b) 1., later than 90
17 days after the date that the person receives the commission's determination.

18 (END)