



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-4211/1
MDK:ahe

2019 BILL

1 **AN ACT** *to renumber* 182.0175 (1) (aa), (ab), (ac), (ag), (am), (b), (bm), (bo), (bq),
2 (br), (bu), (bw), (bx), (by), (bz), (c) and (d); *to amend* 182.0175 (2) (as) 1.,
3 182.0175 (2) (as) 2. and 182.0175 (2m) (a) 3.; *to repeal and recreate* 182.0175
4 (2) (as) (title); and *to create* 182.0175 (1) (m), 182.0175 (1) (n), 182.0175 (1) (r),
5 182.0175 (1) (t) and 182.0175 (2) (as) 1g. and 1r. of the statutes; **relating to:**
6 excavating with power equipment in the vicinity of underground transmission
7 facilities.

Analysis by the Legislative Reference Bureau

This bill creates requirements for excavating with power equipment in the vicinity of underground transmission facilities. Current law requires excavators to provide advance notice to the state's one-call system, commonly known as digger's hotline, and comply with other requirements for excavations, including requirements for minimum clearance between power-operated excavating or earthmoving equipment (power equipment) and underground transmission facilities. Current law also requires persons who own transmission facilities that are affected by advance notices to mark the location of the facilities, except for those facilities on private property that do not cross a public right-of-way.

The bill defines "power equipment" to exclude "vacuum equipment," which the bill defines as excavating equipment that uses high-pressure water or air in

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conjunction with a vacuum. As under current law, the bill requires an excavator to maintain an estimated clearance of 18 inches between the cutting edge or point of any power equipment and the marking of a transmission facility made by the facility's owner in response to an advance notice, except that an excavator may use power equipment as is necessary at the beginning of the excavation process to penetrate and remove the surface layer of pavement.

The bill creates new requirements for excavating with power equipment within a "tolerance zone," which the bill defines as the area that is within 18 inches horizontally from each side of a transmission facility marking made by the facility's owner. The bill allows an excavator to use power equipment within a tolerance zone as is necessary at the beginning of the excavation process to penetrate and remove the surface layer of pavement. However, before any other use of power equipment within a tolerance zone, the bill requires an excavator to excavate without power equipment one or more potholes in the tolerance zone to visually confirm the location of the underground transmission facility. The bill defines "pothole" as a hole with a depth that is 18 inches below a planned excavation grade or that allows visual confirmation of the location of an underground transmission facility, whichever is less. Subject to a restriction described below, after the location of an underground transmission facility is visually confirmed, the bill allows an excavator to excavate with power equipment in an area that is no more than 15 feet horizontally from the pothole. In any other area within the tolerance zone that is outside that 15-foot limit, the bill prohibits excavating with power equipment unless the other area is no more than 15 feet horizontally from another pothole excavated without power equipment that visually confirms the location of the underground transmission facility. An excavation within or outside the 15-foot limit must stay at least 18 inches above the elevation of the top of an underground transmission facility at its exposed location.

If, after excavating potholes in the tolerance zone without power equipment, an excavator is unable to visually confirm the location of a marked underground transmission facility, the bill allows the excavator to request the assistance of the facility's owner by calling the one-call system and requesting emergency locator service. The bill requires the facility's owner to cooperate with the excavator to determine the exact location of the underground transmission facility. The transmission facility owner must provide such cooperation no later than one hour after the excavator requests the owner's assistance.

The bill also creates a restriction on using power equipment that applies to an exposed underground transmission facility. The bill requires an excavator to maintain a minimum clearance of 18 inches between the cutting edge or point of any power equipment and the exterior surface of an exposed facility. This restriction replaces the minimum clearance requirements under current law.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

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1 **SECTION 1.** 182.0175 (1) (aa), (ab), (ac), (ag), (am), (b), (bm), (bo), (bq), (br), (bu),
2 (bw), (bx), (by), (bz), (c) and (d) of the statutes are renumbered 182.0175 (1) (a), (bg),
3 (cm), (dm), (e), (f), (g), (h), (i), (j), (k), (L), (o), (p), (q), (s) and (v).

4 **SECTION 2.** 182.0175 (1) (m) of the statutes is created to read:

5 182.0175 (1) (m) “Pothole” means a hole that has a depth that allows visual
6 confirmation of the location of an underground transmission facility or that is 18
7 inches below a planned excavation grade, whichever is less.

8 **SECTION 3.** 182.0175 (1) (n) of the statutes is created to read:

9 182.0175 (1) (n) “Power equipment” means power-operated excavating or
10 earthmoving equipment, other than vacuum equipment.

11 **SECTION 4.** 182.0175 (1) (r) of the statutes is created to read:

12 182.0175 (1) (r) “Tolerance zone” means the area that is within 18 inches
13 horizontally from each side of a transmission facility marking that is made under
14 sub. (2m) (b).

15 **SECTION 5.** 182.0175 (1) (t) of the statutes is created to read:

16 182.0175 (1) (t) “Vacuum equipment” means excavating equipment that uses
17 high-pressure water or air in conjunction with a vacuum.

18 **SECTION 6.** 182.0175 (2) (as) (title) of the statutes is repealed and recreated to
19 read:

20 182.0175 (2) (as) (title) *Power equipment restrictions.*

21 **SECTION 7.** 182.0175 (2) (as) 1. of the statutes is amended to read:

22 182.0175 (2) (as) 1. An excavator shall maintain an estimated minimum
23 clearance of 18 inches between a marking for an unexposed underground
24 transmission facility that is marked under sub. (2m) and the cutting edge or point
25 of any ~~power-operated excavating or earthmoving equipment~~ power equipment,

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1 except as is necessary at the beginning of the excavation process to penetrate and
2 remove the surface layer of pavement.

3 **SECTION 8.** 182.0175 (2) (as) 1g. and 1r. of the statutes are created to read:

4 182.0175 (2) (as) 1g. Except as is necessary at the beginning of the excavation
5 process to penetrate and remove the surface layer of pavement, before excavating
6 with power equipment in a tolerance zone, an excavator shall excavate without
7 power equipment one or more potholes in the tolerance zone to visually confirm the
8 location of an underground transmission facility. Subject to subd. 2., after the
9 location of an underground transmission facility is visually confirmed, all of the
10 following apply:

11 a. The excavator may excavate with power equipment within an area that is
12 no more than 15 feet horizontally from the pothole, if the excavation stays at least
13 18 inches above the elevation of the top of the facility at the exposed location.

14 b. Excavation with power equipment is allowed within any other area in the
15 tolerance zone that is outside the area described in subd. 1g. a., but only if the other
16 area is no more than 15 feet horizontally from another pothole excavated without
17 power equipment that visually confirms the location of the underground
18 transmission facility and if the excavation stays at least 18 inches above the
19 elevation of the top of the facility at the exposed location.

20 1r. If, after excavating potholes in the tolerance zone without power equipment,
21 the excavator is unable to visually confirm the location of the marked underground
22 transmission facility, the excavator may request the assistance of the facility's owner
23 by calling the one-call system and requesting emergency locater service. No later
24 than one hour after such a request is made, the owner shall cooperate with the
25 excavator to determine the exact location of the underground transmission facility.

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1 **SECTION 9.** 182.0175 (2) (as) 2. of the statutes is amended to read:

2 182.0175 **(2)** (as) 2. When an underground transmission facility becomes
3 exposed or if a transmission facility is already exposed, ~~the an excavator may reduce~~
4 ~~the shall maintain a minimum clearance to 2 times the known limit of control of of~~
5 ~~18 inches between the cutting edge or point of the any power equipment or 12 inches,~~
6 ~~whichever is greater~~ and the exterior surface of the facility.

7 **SECTION 10.** 182.0175 (2m) (a) 3. of the statutes is amended to read:

8 182.0175 **(2m)** (a) 3. ~~Provide~~ Except as required under sub. (2) (as) 1r., provide
9 emergency locator service within 24 hours after receiving a request for that service.

10

(END)