



**SENATE SUBSTITUTE AMENDMENT 1,  
TO 1995 SENATE BILL 42**

November 7, 1995 – Offered by COMMITTEE ON JUDICIARY.

1     **AN ACT to amend** 59.76 (1), 59.77 (1), 60.44 (1) (a), 60.44 (1) (b), 60.44 (3), 62.25  
2           (1), 88.145, 118.26, 119.68 (2), 198.12 (2), 893.80 (1) (intro.) and 893.80 (1) (b);  
3           and **to create** 19.37 (1m), 19.97 (5), 893.80 (8) and 893.82 (8) of the statutes;  
4           **relating to:** claims against governmental bodies and their officers, employes  
5           and agents.

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

6           **SECTION 1.** 19.37 (1m) of the statutes is created to read:  
7           19.37 (1m) NOTICE OF CLAIM. Sections 893.80 and 893.82 do not apply to actions  
8           commenced under this section.

9           **SECTION 2.** 19.97 (5) of the statutes is created to read:  
10           19.97 (5) Sections 893.80 and 893.82 do not apply to actions commenced under  
11           this section.

12           **SECTION 3.** 59.76 (1) of the statutes is amended to read:

1           59.76 (1) No action may be brought or maintained against a county upon a  
2 claim or cause of action unless the claimant complies with s. 893.80. This subsection  
3 does not apply to actions commenced under s. 19.37 or 19.97.

4           **SECTION 4.** 59.77 (1) of the statutes is amended to read:

5           59.77 (1) IN GENERAL. Every person, except jurors, witnesses and interpreters,  
6 and except physicians or other persons entitled to receive from the county fees for  
7 reporting to the register of deeds births or deaths, which have occurred under their  
8 care, having any claim against any county shall comply with s. 893.80. This  
9 subsection does not apply to actions commenced under s. 19.37 or 19.97.

10          **SECTION 5.** 60.44 (1) (a) of the statutes is amended to read:

11          60.44 (1) (a) Claims for money against a town or against officers, officials,  
12 agents or employes of the town arising out of acts done in their official capacity shall  
13 be filed with the town clerk as provided under s. 893.80 (1) (b). This paragraph does  
14 not apply to actions commenced under s. 19.37 or 19.97.

15          **SECTION 6.** 60.44 (1) (b) of the statutes is amended to read:

16          60.44 (1) (b) The town board shall allow or disallow the claim. Notice of  
17 disallowance shall be made as provided under s. 893.80 ~~(1) (b)~~ (1g).

18          **SECTION 7.** 60.44 (3) of the statutes is amended to read:

19          60.44 (3) COURT ACTIONS TO RECOVER CLAIMS. Subsection (2), or an ordinance  
20 adopted under that subsection, does not affect the applicability of s. 893.80. No  
21 action may be brought or maintained against a town upon a claim unless the  
22 claimant complies with s. 893.80. This subsection does not apply to actions  
23 commenced under s. 19.37 or 19.97.

24          **SECTION 8.** 62.25 (1) of the statutes is amended to read:

1           62.25 (1) CLAIMS. No action may be brought or maintained against a city upon  
2 a claim or cause of action unless the claimant complies with s. 893.80. This  
3 subsection does not apply to actions commenced under s. 19.37 or 19.97.

4           **SECTION 9.** 88.145 of the statutes is amended to read:

5           **88.145 Limitation of damages and suits.** In any action against a drainage  
6 district, drainage board, drainage board member, drainage board employe or an  
7 owner of land within the district who undertakes work approved by the drainage  
8 board, s. 893.80 is applicable and the limit on the amount recoverable by any person  
9 under s. 893.80 (3) applies to the drainage board, the members and employes of the  
10 drainage board, the drainage district and any owner of land within the district who  
11 undertakes work approved by the drainage board. This section does not apply to  
12 actions commenced under s. 19.37 or 19.97.

13           **SECTION 10.** 118.26 of the statutes is amended to read:

14           **118.26 Claim against school district.** No action may be brought or  
15 maintained against a school district upon a claim or cause of action unless the  
16 claimant complies with s. 893.80. This section does not apply to actions commenced  
17 under s. 19.37 or 19.97.

18           **SECTION 11.** 119.68 (2) of the statutes is amended to read:

19           119.68 (2) No action may be brought or maintained against the school upon a  
20 claim or cause of action unless the claimant complies with s. 893.80. This subsection  
21 does not apply to actions commenced under s. 19.37 or 19.97.

22           **SECTION 12.** 198.12 (2) of the statutes is amended to read:

23           198.12 (2) SERVICE OF PROCESS ON, PERSONAL INJURY CLAIMS, VENUE. The district  
24 shall sue or be sued in its corporate name and service of process upon the district  
25 shall be by service upon the chairperson of the board and the clerk of the district, but

1 no action shall be brought or maintained against a district upon a claim or cause of  
2 action unless the claimant complies with s. 893.80. Compliance with s. 893.80 is not  
3 required under this subsection in actions commenced under s. 19.37 or 19.97. All  
4 actions by or against the district, except condemnation proceedings and actions to  
5 which the state or any officer or commission thereof is a party, shall be brought in  
6 the circuit court for the county in which its principal administrative office is located.

7 **SECTION 13.** 893.80 (1) (intro.) of the statutes is amended to read:

8 893.80 (1) (intro.) Except as provided in subs. (1g), (1m) and, (1p) and (8), no  
9 action may be brought or maintained against any volunteer fire company organized  
10 under ch. 213, political corporation, governmental subdivision or agency thereof nor  
11 against any officer, official, agent or employe of the corporation, subdivision or  
12 agency for acts done in their official capacity or in the course of their agency or  
13 employment upon a claim or cause of action unless:

14 **SECTION 14.** 893.80 (1) (b) of the statutes is amended to read:

15 893.80 (1) (b) A claim containing the address of the claimant and an itemized  
16 statement of the relief sought is presented to the appropriate clerk or person who  
17 performs the duties of a clerk or secretary for the defendant fire company,  
18 corporation, subdivision or agency and the claim is disallowed. ~~Failure of the~~  
19 ~~appropriate body to disallow within 120 days after presentation is a disallowance.~~

20 (1g) Notice of disallowance of the claim submitted under sub. (1) shall be  
21 served on the claimant by registered or certified mail and the receipt therefor, signed  
22 by the claimant, or the returned registered letter, shall be proof of service. Failure  
23 of the appropriate body to disallow a claim within 120 days after presentation of the  
24 written notice of the claim is a disallowance. No action on a claim under this section  
25 against any defendant fire company, corporation, subdivision or agency nor against

1 any defendant officer, official, agent or employe, may be brought after 6 months from  
2 the date of service of the notice of disallowance, and the notice of disallowance shall  
3 contain a statement to that effect.

4 **SECTION 15.** 893.80 (8) of the statutes is created to read:

5 893.80 (8) This section does not apply to actions commenced under s. 19.37 or  
6 19.97.

7 **SECTION 16.** 893.82 (8) of the statutes is created to read:

8 893.82 (8) This section does not apply to actions commenced under s. 19.37 or  
9 19.97.

10 **SECTION 17. Initial applicability.**

11 (1) This act first applies to actions arising against governmental bodies,  
12 officers, agents or employes on the effective date of this subsection.

13

(END)