



## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

**2005 Assembly Bill 958**

**Senate Substitute  
Amendment 1**

*Memo published:* April 24, 2006

*Contact:* Dan Schmidt, Senior Analyst (26-7251)

Under *current law*, any person who provides equipment or services under the direction of the Governor, Adjutant General, the head of a local or tribal emergency management service, or the state or local department of health during a state of emergency declared by the Governor is immune from liability for death or injury to any person or damage to any property caused by his or her actions while providing that service. This immunity does not apply if the person who caused the death, injury, or damage acted intentionally or with gross negligence.

Current law, which applies to persons responding to a state of emergency declared by the Governor, provides that immunity provisions do not apply if a person acted intentionally or with gross negligence. *2005 Assembly Bill 958* eliminates the reference in current law to acting “intentionally or with gross negligence” and applies the same standard for the immunity exemption to all persons acting in response to an emergency, which is the “reckless, wanton, or intentional misconduct.” Under the bill, immunity applies regardless of whether a person is compensated for his or her activities.

Current law provides immunity to persons acting in response to a state of emergency declared by the Governor. The bill expands immunity to persons acting in response to a state of emergency declared by the governing body, chief executive officer, or acting chief executive officer of a city, village, or town, an enemy action, a natural or man-made disaster, or a federally declared state of emergency.

*Senate Substitute Amendment 1* modifies the structure of the bill to clarify that the liability exemption is generally only available in response to a state of emergency, an enemy action, a natural or man-made disaster, or a federally declared state of emergency when the provision of equipment, materials, facilities, labor, or services is made under the direction of one of the aforementioned authorities.

On April 21, 2006, the Senate Committee on Housing and Financial Institutions offered Senate Substitute Amendment 1. The committee voted to recommend its adoption, and to recommend passage of the bill, as amended, on votes of Ayes, 7; Noes, 0.

DWS:ksm