

No. 283, S.

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CHAPTER 198

AN ACT to create 331.43 of the statutes, relating to limitations and required notice of claim in tort actions against political or governmental subdivisions or their agencies and their officers, agents and employes.

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

331.43 of the statutes is created to read:

**331.43 TORT ACTIONS AGAINST POLITICAL CORPORATIONS,
GOVERNMENTAL SUBDIVISIONS OR AGENCIES AND OFFICERS,**

AGENTS OR EMPLOYEES: NOTICE OF CLAIM: LIMITATION OF DAMAGES AND SUITS. (1) No action founded on tort, except as provided in s. 345.05, shall be maintained against any volunteer fire company organized under ch. 213, political corporation, governmental subdivision or agency thereof nor against any officer, official, agent or employe of such corporation, subdivision or agency for acts done in their official capacity or in the course of their agency or employment unless within 120 days after the happening of the event causing the injury or damage or death complained of, written notice of the time, place and circumstances of the injury or damage signed by the party, his agent or attorney is served on such volunteer fire company, political corporation, governmental subdivision or agency and on the officer, official, agent or employe under s. 262.06. Failure to give the requisite notice shall not bar action on the claim if the fire company, corporation, subdivision or agency had actual notice of the damage or injury and the injured party shows to the satisfaction of the court that the delay or failure to give the requisite notice has not been prejudicial to the defendant fire company, corporation, subdivision or agency or to the defendant officer, official, agent or employe.

(2) The amount recoverable by any person for any damages, injuries or death in any action founded on tort against any volunteer fire company organized under ch. 213, political corporation, governmental subdivision or agency thereof and against their officers, officials, agents or employes for acts done in their official capacity or in the course of their agency or employment, whether proceeded against jointly or severally, shall not exceed \$25,000. No punitive damages shall be allowed or recoverable in any such action.

(3) No suit shall be brought against any political corporation, governmental subdivision or any agency thereof for the intentional torts of its officers, officials, agents or employes nor shall any suit be brought against such fire company, corporation, subdivision or agency or against its officers, officials, agents or employes for acts done in the exercise of legislative, quasi-legislative, judicial or quasi-judicial functions.

(4) Except as hereinafter provided, the provisions and limitations of this section shall be exclusive and shall apply to all actions in tort against a volunteer fire company organized under ch. 213, political corporation, governmental subdivision or agency or against any officer, official agent or employe thereof for acts done in an official capacity or the course of his agency or employment. Nothing in this section shall bar an action or impose limitations in any action against any such officer, official, agent or employe individually for intentional torts. When rights or remedies are provided by any other statute against any political corporation, governmental subdivision or agency or any officer, official, agent or employe thereof for injury, damage or death, such statute shall apply and the limitations in sub. (2) shall be inapplicable.

Approved July 19, 1963.