



## 1995 SENATE BILL 499

January 25, 1996 - Introduced by Senators DARLING, DRZEWIECKI, BUETTNER, BURKE and ZIEN, cosponsored by Representatives SCHNEIDERS, OLSEN, SILBAUGH, TURNER, F. LASEE, SPRINGER and HANSON. Referred to Committee on Judiciary.

1 **AN ACT to amend** 893.80 (1p) and 895.44 of the statutes; **relating to:** liability  
2 for the inspection of property.

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### *Analysis by the Legislative Reference Bureau*

Under current law, a state officer, employe or agent, or an insurer or the insurer's employe or agent, is immune from civil liability for furnishing safety inspections or advisory services intended to reduce the likelihood of injury, death or loss. The immunity does not apply if the active negligence of the officer, insurer, agent or employe created the condition that was the proximate cause of the injury, death or loss. The immunity also does not apply to insurers if the services were performed under provisions of a service contract. This bill provides city, village or town officers, employes or agents, or their insurers, with immunity from civil liability for safety inspections and advisory services.

Current law permits the bringing of an action against a political corporation or governmental subdivision or their agents for damages for a negligent inspection of property. This bill allows the bringing of such actions only if the negligent inspection created the condition that was the proximate cause of the damages or if the inspection was performed pursuant to a written service contract.

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

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

3 **SECTION 1.** 893.80 (1p) of the statutes is amended to read:  
4 893.80 (1p) No action may be brought or maintained with regard to a claim to  
5 recover damages against any political corporation, governmental subdivision or

1 agency thereof for the negligent inspection of any property, premises, place of  
2 employment or construction site for the violation of any statute, rule, ordinance or  
3 health and safety code unless the alleged negligent act or omission occurred after  
4 November 30, 1976. In any such action, the time period under sub. (1) (a) shall be  
5 one year after discovery of the negligent act or omission or the date on which, in the  
6 exercise of reasonable diligence the negligent act or omission should have been  
7 discovered inspection created the condition that was the proximate cause of the  
8 damages. This subsection does not apply to an inspection that was performed under  
9 the provision of a written service contract.

10 SECTION 2. 895.44 of the statutes is amended to read:

11 **895.44 Exemption from civil liability for furnishing safety inspection**  
12 **or advisory services.** The furnishing of, or failure to furnish, safety inspection or  
13 advisory services intended to reduce the likelihood of injury, death or loss shall not  
14 subject a state, city, village or town officer, employe or agent, ~~or~~ an insurer, or the  
15 insurer's agent or employe undertaking to perform such services as an incident to  
16 insurance, to liability for damages from injury, death or loss occurring as a result of  
17 any act or omission in the course of the safety inspection or advisory services. This  
18 section shall not apply if the active negligence of the state, city, village or town officer,  
19 employe or agent, ~~or~~ of the insurer, or of the insurer's agent or employe created the  
20 condition that was the proximate cause of injury, death or loss. This section shall not  
21 apply to an insurer, or the insurer's agent or employe performing the safety  
22 inspection or advisory services when required to do so under the provisions of a  
23 written service contract.

24 SECTION 3. **Initial applicability.**

