

1999 ASSEMBLY BILL 180

March 8, 1999 – Introduced by Representatives LA FAVE, URBAN, MILLER, RYBA, MUSSER, J. LEHMAN, HUBER, SERATTI, TURNER, PLOUFF and RILEY, cosponsored by Senator BURKE. Referred to Committee on Urban and Local Affairs.

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

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 adds county and local governmental unit officers, employes or agents to those who receive 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.

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

ASSEMBLY BILL 180

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

2 **893.80 (1p)** No action may be brought or maintained with regard to a claim to
3 recover damages against any political corporation, governmental subdivision or
4 agency thereof for the negligent inspection of any property, premises, place of
5 employment or construction site for the violation of any statute, rule, ordinance or
6 health and safety code unless the ~~alleged negligent act or omission occurred after~~
7 ~~November 30, 1976.~~ In any such action, the time period under sub. (1) (a) shall be
8 ~~one year after discovery of the negligent act or omission or the date on which, in the~~
9 ~~exercise of reasonable diligence the negligent act or omission should have been~~
10 ~~discovered~~ inspection created the condition that was the proximate cause of the
11 damages. This subsection does not apply to an inspection that was performed under
12 the provision of a written service contract.

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

14 **895.44 Exemption from civil liability for furnishing safety inspection**
15 **or advisory services.** The furnishing of, or failure to furnish, safety inspection or
16 advisory services intended to reduce the likelihood of injury, death or loss shall not
17 subject a ~~state~~ an officer, employe or agent, ~~or of the state, county or local~~
18 governmental unit, as defined in s. 59.72 (1) (c), an insurer, or the insurer's agent or
19 employe undertaking to perform such services as an incident to insurance, to liability
20 for damages from injury, death or loss occurring as a result of any act or omission in
21 the course of the safety inspection or advisory services. This section shall not apply
22 if the active negligence of the ~~state~~ officer, employe or agent, ~~or of the insurer, the~~
23 ~~insurer's agent or employe~~ created the condition that was the proximate cause of
24 injury, death or loss. This section shall not apply to an insurer, ~~the insurer's~~ officer,

