

**1999 DRAFTING REQUEST**

**Bill**

Received: **01/15/99**

Received By: **nelsorp1**

Wanted: **As time permits**

Identical to LRB:

For: **John La Fave (608) 266-0486**

By/Representing:

This file may be shown to any legislator: **NO**

Drafter: **nelsorp1**

May Contact:

Alt. Drafters:

Subject: **Courts - immunity liabty**

Extra Copies: **JTK**

**Topic:**

Liability for inspection of property

**Instructions:**

See 97-0238

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	nelsorp1 01/16/99	jgeller 01/18/99		_____			Local
/1	gretskl 01/21/99		hhagen 01/20/99	_____	lrb_docadmin 01/20/99	lrb_docadmin 01/21/99	

FE Sent For: **3/5/99**

<END>

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/?	nelsorp1	<i>1/18 JLG</i>	<i>1/19</i>	<i>JF 1/20</i>			

FE Sent For:

<END>

**LEGISLATIVE REFERENCE BUREAU**

Legal Section, 5<sup>th</sup> Floor, 100 N. Hamilton St.  
(608) 266-3561

**BILL REQUEST FORM**

To: *Robert Nelson*

Use of this form is optional. It is often helpful to talk directly with the LRB attorney who will draft the bill.  
Use this form only for **BILL** drafts. Attach more pages if necessary.

Date of request: <i>1-14-99</i>	Legislator or agency requesting this draft: <i>JOHN LA FAVE</i>
Name/phone number of person submitting request: <i>206-0486</i>	" " " "
Persons to contact for questions about this draft (names and phone numbers please):	" " " "
Describe the problem, including any helpful examples. How do you want to solve the problem? <i>Draft 1997 LRB-0238/1 for this session. Relating to: liability for the inspection of property</i>	
If you know of any statute sections that might be affected, please list them or provide a marked (not re-typed) copy.	<i>see attached</i>

Please attach a copy of any correspondence or material that may help us. You may also attach a marked (not re-typed) copy of any LRB draft, or provide its number (e.g., 1997 LRB-2345/1 or 1995 AB-67):

**Requests are confidential unless stated otherwise.**

May we tell others that we are working on this for you?  YES  NO

If yes, anyone who asks?  YES  NO

Any legislator?  YES  NO  ONLY the following persons:

*Sen. Rick Grobschmidt & Dextra Hadnot of City of Milw.*

Do you consider this urgent?  YES  NO If yes, please indicate why:

*AS SOON as possible please*

Is this request of higher priority than other pending request(s) you have made?

YES  NO If yes, please sign your name here:



## 1997 BILL

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 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.

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

**BILL**

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 of a local~~  
18 governmental unit, as defined in s. 59.88 (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,~~

**BILL**

1 ~~employe or agent or employe~~ performing the safety inspection or advisory services  
2 when required to do so under the provisions of a written service contract.

3 **SECTION 3. Initial applicability.**

4 (1) This act first applies to inspections or advisory services provided on the  
5 effective date of this subsection.

6 (END)

## 1999 BILL

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

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## BILL

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18 governmental unit, as defined in s. 59.72 (1) (c), an insurer, or the insurer's agent or  
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6 (END)

**LEGISLATIVE REFERENCE BUREAU**  
**Legal Section Telephone: 266-3561**  
**5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

**Date:** 1/20/99

**To:** Representative La Fave

**Relating to LRB drafting number:** LRB-1803

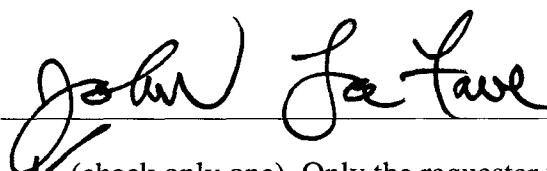
**Topic**

Liability for inspection of property

**Subject(s)**

Courts - immunity liability

1. **JACKET** the draft for introduction



in the **Senate** \_\_\_\_\_ or the **Assembly**  (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT**. See the changes indicated or attached \_\_\_\_\_.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction \_\_\_\_\_.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Robert P. Nelson, Senior Legislative Attorney  
Telephone: (608) 267-7511