

2005 ASSEMBLY BILL 958

January 31, 2006 – Introduced by Representatives WIECKERT, LOEFFELHOLZ, NISCHKE, F. LASEE, KRAWCZYK, JESKEWITZ, WOOD, STRACHOTA, GUNDERSON, KREIBICH, BIES, SHERIDAN, MUSSER, PETROWSKI, OTT, MONTGOMERY, FRISKE, PETTIS, JENSEN, MCCORMICK and BALLWEG, cosponsored by Senators COWLES, LASSA, LEIBHAM, GROTHMAN, STEPP, A. LASEE and KEDZIE. Referred to Committee on Housing.

1 **AN ACT** *to amend* 166.03 (10); and *to create* 166.23 (4) and (5) of the statutes;
 2 **relating to:** civil liability exemption for assistance provided as the result of an
 3 emergency.

Analysis by the Legislative Reference Bureau

Under current law, if the governor declares a state of emergency, 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, is immune from liability for death or injury while providing that service. This immunity does not apply if the person who caused the death or injury acted intentionally or with gross negligence. This bill adds immunity to those persons who provide materials, equipment, labor or services, without expecting compensation, to clean up, demolish, reconstruct, or repair damage resulting from a disaster or enemy action.

The bill also provides the same immunity for those persons who provide materials, equipment, labor or services, without expecting compensation, to clean up, demolish, reconstruct, or repair damage resulting from a disaster if the person acted at the direction of a specified local official and in response to a locally declared state of emergency.

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

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1 **SECTION 1.** 166.03 (10) of the statutes is amended to read:

2 **166.03 (10) EXEMPTION FROM LIABILITY.** No person who provides equipment or
3 services under the direction of the governor, the adjutant general, the head of
4 emergency management services in any county, town, municipality or federally
5 recognized American Indian tribe or band in this state, the department of health and
6 family services if that department is designated by the governor under s. 166.03 (1)
7 (b) 1., or a local health department acting under s. 251.05 (3) (e) during a state of
8 emergency declared by the governor is liable for the death of or injury to any person
9 or damage to any property caused by his or her actions, except where the trier of fact
10 finds that the person acted intentionally or with gross negligence. This section
11 applies to persons who, without the expectation of receiving compensation, provide
12 materials, equipment, labor, or services to clean up, demolish, reconstruct, or repair
13 any damage resulting from the enemy action or disaster or from a federally declared
14 disaster. This subsection does not affect the right of any person to receive benefits
15 to which he or she would otherwise be entitled under the worker's compensation law
16 or under any pension law, nor does it affect entitlement to any other benefits or
17 compensation authorized by state or federal law.

18 **SECTION 2.** 166.23 (4) and (5) of the statutes are created to read:

19 **166.23 (4)** No person is liable for the death of or injury to any person or damage
20 to any property caused by his or her actions if all of the following conditions are met:

21 (a) The governing body, chief executive officer, or acting chief executive officer
22 of a city, village, or town declared a state of emergency under this section.

23 (b) The person, without the expectation of receiving compensation, provides
24 materials, equipment, labor, or services to clean up, demolish, reconstruct, or repair

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1 any damage caused by the event that resulted in the declaration of the state of
2 emergency.

3 (c) The person acted under the direction of the governing body, chief executive
4 officer, or acting chief executive officer of the city, village, or town.

5 (5) The immunity under sub. (4) does not apply if the death, injury, or damage
6 was caused by reckless, wanton, or intentional misconduct.

7 **SECTION 3. Initial applicability.**

8 (1) This act first applies to acts or omissions that occur on the effective date of
9 this subsection.

10 (END)