

**2005 DRAFTING REQUEST**

**Assembly Substitute Amendment (ASA-AB958)**

Received: **02/21/2006**

Received By: **rnelson2**

Wanted: **Today**

Identical to LRB:

For: **Steve Wieckert (608) 266-3070**

By/Representing: **Scott**

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

Drafter: **rnelson2**

May Contact:

Addl. Drafters:

Subject: **Courts - immunity liability**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Wieckert@legis.state.wi.us**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Immunity for persons helping at a disaster

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**Instructions:**

see attached

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**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>
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/1	rnelson2 02/21/2006	lkunkel 02/21/2006	pgreensl 02/21/2006	_____	sbasford 02/22/2006	sbasford 02/22/2006	

FE Sent For:

<END>

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/?	rnelson2	<i>1 Ink 2/21</i>	<i>2/21</i>	<i>2/21</i>			
			<i>PS</i>	<i>PS</i>			

FE Sent For: <END>

**Nelson, Robert P.**

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**From:** Becher, Scott  
**Sent:** Tuesday, February 21, 2006 11:01 AM  
**To:** Nelson, Robert P.  
**Subject:** FW: Amendment to Good Samaritan Bill  
**Attachments:** Good.Sam.Amendment.doc

AB 958

Bob-

I need this amendment for Wednesday's 1PM Assembly Housing committee Executive Session...

Thanks..

Scott

Copy - Pam S

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**From:** Jim Boullion [mailto:jboullion@agcwi.org]  
**Sent:** Tuesday, February 21, 2006 9:58 AM  
**To:** Becher, Scott  
**Subject:** Amendment to Good Samaritan Bill

Scott,

In trying to clean up some problems that were discovered by the attorney representing the ACEC (Engineers) we have developed the attached amendment (substitute amendment?).

1. Instead of two sections we consolidated the bill into one shorter version.
2. We kept the change from our amendment to prevent the current law from being misinterpreted as not protecting from liability those who provide materials (e.g., plywood sheathing), labor, or facilities (e.g., a staging area for rescue operations).
3. We took out some language that caused concerns to some groups like the architects and engineers.
4. We kept the language that grants more power to local officials to authorize contractors to go into action. In many cases a mayor, village board president, or town chairman will be the first to react to an emergency, and thus will be directing initial emergency operations. The revisions serve to protect contractors and design professionals working under the direction of such officials, in some cases prior to the governor's official declaration of emergency. ] ✓
5. The term "gross negligence" has long been disfavored by our supreme court. The terms intentional, reckless, and wanton are now used to express levels of wrongful conduct beyond mere

02/21/2006

negligence. We replaced it with the terminology used in AB 958 “recklessly, wantonly or with intentional misconduct”

I have submitted this to the ACEC and AIA for their approval, but I think it will be approved since it was their attorney who helped us draft it. Can you please have this amendment drafted for introduction?

Jim Boullion  
Director of Government Affairs  
AGC of Wisconsin  
Phone: (608) 221-3821  
jboullion@agcwi.org

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

166.03 (10) Exemption from Liability.

No person who provides equipment, materials, facilities, labor or services under the direction of the (a) governor, (b) the adjutant general, (c) the governing body, chief executive officer, acting chief executive officer or the head of emergency management services of any county, town, municipality or (d) federally recognized American Indian Tribe or band in this state; (e) the department of health and family services if that department is designated by the governor under s. 166.03 (1) (b) 1., or a local health department acting under s. 251.05 (3) (e) during a state of emergency declared by the governor, or in response to enemy action or a natural or man-made disaster or a federally declared state of emergency is liable for the death of or injury to any person or damage to any property caused by his or her actions, except where the trier of fact finds that the person acted intentionally recklessly, wantonly or with intentional misconduct ~~or with gross negligence~~. This subsection does not affect the right of any person to receive benefits to which he or she ~~would~~ otherwise would be entitled under the worker's compensation law or under any pension law, nor does it affect entitlement to any other benefits or compensation authorized by state or federal law.



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRBs0567/3  
RPN:.....

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

**ASSEMBLY SUBSTITUTE AMENDMENT ,**

**TO 2005 ASSEMBLY BILL 958**

1 **AN ACT ...; relating to:** civil immunity for persons who provide assistance during  
2 an emergency.

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

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

4 166.03 (10) EXEMPTION FROM LIABILITY. No person who provides equipment,  
5 materials, facilities, labor, or services under the direction of the governor, the  
6 adjutant general, the governing body, chief or acting chief executive officer, or head  
7 of emergency management services in any county, town, municipality or federally  
8 recognized American Indian tribe or band in this state, the department of health and  
9 family services if that department is designated by the governor under s. 166.03 (1)  
10 (b) 1., or a local health department acting under s. 251.05 (3) (e) during a state of  
11 emergency declared by the governor, in response to enemy action or a natural or

1 man-made disaster, or in response to a federally declared state or emergency, is  
2 liable for the death of or injury to any person or damage to any property caused by  
3 his or her actions, except where the trier of fact finds that the ~~person acted~~  
4 intentionally or with gross negligence person's act or omission involved reckless,  
5 wanton, or intentional misconduct. This subsection does not affect the right of any  
6 person to receive benefits to which he or she ~~would~~ otherwise would be entitled under  
7 the worker's compensation law or under any pension law, nor does it affect  
8 entitlement to any other benefits or compensation authorized by state or federal law.

**History:** 1971 c. 211 s. 126; 1975 c. 147 s. 54; 1975 c. 199; 1977 c. 1; 1977 c. 397; 1979 c. 361 ss. 51, 55, 112, 113; 1981 c. 20, 211; 1983 a. 27; 1985 a. 29, 31; 1987 a. 27; 1989 a. 31; 1991 a. 39; 1993 a. 213, 251; 1995 a. 27 s. 9126 (19); 1995 a. 201, 227, 247, 467; 1997 a. 27, 35, 237; 1999 a. 150 s. 672; 2001 a. 109; 2003 a. 33, 186.

9

**(END)**



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRBs0567/1

RPN:.....

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ASSEMBLY SUBSTITUTE AMENDMENT,  
TO 2005 ASSEMBLY BILL 958

2/22 10 AM

GenCat

1 AN ACT ...; relating to: civil immunity for persons who provide assistance during  
2 an emergency. ✓

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

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

4 166.03 (10) EXEMPTION FROM LIABILITY. No person who provides equipment,  
5 materials, facilities, labor, ✓ or services under the direction of the governor, the  
6 adjutant general, the governing body, <sup>the</sup> chief or acting chief executive officer, or <sup>the</sup> head  
7 of emergency management services in any county, town, municipality, or federally  
8 recognized American Indian tribe or band in this state, the department of health and  
9 family services if that department is designated by the governor under s. 166.03 (1)  
10 (b) 1., or a local health department acting under s. 251.05 (3) (e) during a state of  
11 emergency declared by the governor, <sup>or</sup> in response to enemy action, or a natural or  
12 man-made disaster, or in response to a federally declared state or emergency, ✓ is



1 liable for the death of or injury to any person or damage to any property caused by  
 2 his or her actions, except where the trier of fact finds that the ~~person acted~~  
 3 ~~intentionally or with gross negligence~~ person's act or omission involved reckless,  
 4 wanton, or intentional misconduct. This subsection does not affect the right of any  
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8 **SECTION 2. Initial applicability.** ✓

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

11 (END)

## Basford, Sarah

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**From:** Basford, Sarah  
**Sent:** Wednesday, February 22, 2006 9:45 AM  
**To:** Becher, Scott  
**Subject:** LRB s0567/1 (attached)

**Attachments:** 05s0567/1



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.pdf (14 KB)

**Sarah Basford**  
Program Assistant  
State of Wisconsin  
Legislative Reference Bureau  
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[sarah.basford@legis.state.wi.us](mailto:sarah.basford@legis.state.wi.us)