

2011 DRAFTING REQUEST

Senate Amendment (SA-AB497)

Received: 03/13/2012

Received By: tkuczens

Wanted: As time permits

Companion to LRB:

For: Glenn Grothman (608) 266-7513

By/Representing: Lance

May Contact:

Drafter: tkuczens

Subject: Courts - immunity liability

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Sen.Grothman@legis.wisconsin.gov

Carbon copy (CC:) to: tracy.kuczenski@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Notice of claim applicable to claims against volunteers

Instructions:

See attached

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>
/?							
/1	tkuczens 03/13/2012	mduchek 03/13/2012	rschluet 03/13/2012	_____	sbasford 03/13/2012	sbasford 03/13/2012	

FE Sent For:

<END>

2011 DRAFTING REQUEST

Senate Amendment (SA-AB497)

Received: 03/13/2012

Received By: tkuczens

Wanted: As time permits

Companion to LRB:

For: Glenn Grothman (608) 266-7513

By/Representing: Lance

May Contact:

Drafter: tkuczens

Subject: Courts - immunity liability

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Sen.Grothman@legis.wisconsin.gov

Carbon copy (CC:) to: tracy.kuczenski@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Notice of claim applicable to claims against volunteers

Instructions:

See attached

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>
/?	tkuczens						

Handwritten notes: 3/13/12, 3/13/12, and a signature.

FE Sent For:

<END>

Kuczenski, Tracy

From: Burri, Lance
Sent: Tuesday, March 13, 2012 12:52 PM
To: Kuczenski, Tracy
Subject: Amendment language

Attachments: AB 497 amendment.pdf

For AB 497 and SSA3 to SB 243.



AB 497

amendment.pdf (61 kb)

Thanks

Lance Burri
Office of Sen. Glenn Grothman
608-266-7513

rel. clause p. 1 line 4 after activities
ins. 60 p. 2 before line 1
ins. 893 p. 2 aft. line 1

PROPOSED REVISIONS TO WIS. STAT. § 893.80 TO ENSURE IMMUNITY OF WISCONSIN'S VOLUNTEERS

893.80. Claims against governmental bodies or officers, agents or employees; notice of injury; limitation of damages and suits

* * *

(9) For purposes of this section, the term "agent" includes, but not limited to, a "volunteer". A "volunteer" means a person or entity who:

(a) provides services or performs duties for and with the express or implied consent of a volunteer fire company organized under ch. 181 or 213, political corporation, or governmental subdivision or agency;

(b) is subject to the volunteer fire company's, political corporation's, or governmental subdivision's or agency's right of control; and

(c) is not paid a fee, salary or other compensation by any person for the services so provided or duties so performed, provided that reimbursement of expenses shall not constitute compensation.

A person or entity is a "volunteer" under this section even if the details, activities and method by which the services are provided or the duties are performed are left to the volunteer's discretion.

(10) The procurement or maintenance of insurance or self-insurance by a volunteer fire company organized under ch. 181 or 213, political corporation, governmental subdivision or agency, irrespective of the extent or type of coverage or persons insured, shall not:

(a) constitute a waiver of the provisions of this section; or

(b) be relied on to deny a person or entity status as an officer, official, agent, or employee within the meaning of this section.

393 4888

check x-ref of 893.80(1)

(1) in (1d)

cr. (15)

893.80(1) → 893.80(1g), (1m)

(1)(a) 893.80(1p)

(1)(b) 60.44(1)(a)

1
2 →

4. Page 2, line 11: after that line insert:

SECTION ^{STET} 1h. 893.80 (1g) of the statutes is amended to read:

893.80 (1g) Notice of disallowance of the claim submitted under sub. (1) (1d) shall be served on the claimant by registered or certified mail and the receipt therefor, signed by the claimant, or the returned registered letter, shall be proof of service. Failure of the appropriate body to disallow a claim within 120 days after presentation of the written notice of the claim is a disallowance. No action on a claim under this section against any defendant fire company, corporation, subdivision or agency nor against any defendant officer, official, agent or employee, may be brought after 6 months from the date of service of the notice of disallowance, and the notice of disallowance shall contain a statement to that effect.

History: Sup. Ct. Order, 67 Wis. 2d 585, 784 (1975); 1975 c. 218; 1977 c. 285, 447; 1979 c. 34; 1979 c. 323 s. 29; Stats. 1979 s. 893.80; 1981 c. 63; 1985 a. 340; 1987 a. 377; 1993 a. 139; 1995 a. 6, 158, 267; 1997 a. 27; 2005 a. 281; 2007 a. 168; 2009 a. 278.

SECTION 1L. 893.80 (1m) of the statutes is amended to read:

893.80 (1m) With regard to a claim to recover damages for medical malpractice, the provisions of sub. (1) (1d) do not apply. The time periods that apply for commencing an action under this section for damages for medical malpractice are the time periods under ss. 893.55 (1m), (2), and (3) and 893.56.

History: Sup. Ct. Order, 67 Wis. 2d 585, 784 (1975); 1975 c. 218; 1977 c. 285, 447; 1979 c. 34; 1979 c. 323 s. 29; Stats. 1979 s. 893.80; 1981 c. 63; 1985 a. 340; 1987 a. 377; 1993 a. 139; 1995 a. 6, 158, 267; 1997 a. 27; 2005 a. 281; 2007 a. 168; 2009 a. 278.

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

893.80 (1p) No action may be brought or maintained with regard to a claim to recover damages against any political corporation, governmental subdivision or agency thereof for the negligent inspection of any property, premises, place of employment or construction site for the violation of any statute, rule, ordinance or health and safety code unless the alleged negligent act or omission occurred after November 30, 1976. In any such action, the time period under sub. (1) (1d) (a) shall

1 be one year after discovery of the negligent act or omission or the date on which, in
2 the exercise of reasonable diligence the negligent act or omission should have been
3 discovered.

move to p. 2

lg
History: Sup. Ct. Order, 67 Wis. 2d 587, 784 (1975); 1975 c. 218; 1977 c. 285, 447; 1979 c. 34; 1979 c. 323 s. 29; Stats. 1979 s. 893.80; 1981 c. 63; 1985 a. 340; 1987 a. 377; 1993 a. 139; 1995 a. 6, 158, 267; 1997 a. 27; 2005 a. 281; 2007 a. 168; 2009 a. 278.

4 **SECTION 1r.** 893.80 (1) of the statutes is renumbered 893.80 (1d).

5 **SECTION 1u.** 893.80 (1b) of the statutes is created to read:

6 893.80 (1b) In this section, "agent" includes a volunteer. In this subsection,
7 "volunteer" means a person who satisfies all of the following:

8 (a) The person provides services or performs duties for and with the express or
9 implied consent of a volunteer fire company organized under ch. 181 or *ch.* 213,
10 political corporation, or governmental subdivision or agency thereof. A person
11 satisfies the requirements under this paragraph even if the activities of the person
12 with regards to the services and duties and the details and method by which the
13 services are provided and the duties are performed are left to the discretion of the
14 person.

15 (b) The person is subject to the right of control of the volunteer company,
16 political corporation, or governmental subdivision or agency described in par. (a).

17 (c) The person is not paid a fee, salary, or other compensation by any person for
18 the services or duties described in par. (a). In this paragraph, compensation does not
19 include the reimbursement of expenses.

20 **SECTION 1y.** 893.80 (9) of the statutes is created to read:

21 893.80 (9) The procurement or maintenance of insurance or self-insurance by
22 a volunteer fire company organized under ch. 181 or *ch.* 213, political corporation,
23 or governmental subdivision or agency thereof, irrespective of the extent or type of
24 coverage or the persons insured, shall not do any of the following:



TKK

Amr

med

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
SENATE AMENDMENT,
TO 2011 ASSEMBLY BILL 497**

5/2

3/13/12

Today (on the floor)

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 1, line 4: after "activities" insert ", making notice of claim provisions
3 applicable to claims against certain volunteers, and procurement or maintenance of
4 insurance by volunteer fire companies and governmental bodies".

5 **2.** Page 2, line 1: before that line insert:

6 "SECTION 1b. 60.44 (1) (a) of the statutes is amended to read:

7 60.44 (1) (a) Claims for money against a town or against officers, officials,
8 agents or employees of the town arising out of acts done in their official capacity shall
9 be filed with the town clerk as provided under s. 893.80 (1) (1d) (b). This paragraph
10 does not apply to actions commenced under s. 19.37, 19.97 or 281.99."

History: 1983 a. 532; 1995 a. 158; 1997 a. 27; 1999 a. 150 s. 672.

11

3. Page 2, line 1: delete "1e" and substitute "1e".

SECTION 1B
CS

SECTION 1B
CS