

# State of Wisconsin



2023 Assembly Bill 514

Date of enactment: **March 22, 2024**

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## 2023 WISCONSIN ACT 211

AN ACT *to create* 443.20 of the statutes; **relating to:** prohibiting certain indemnification provisions in contracts relating to design professional services.

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

**SECTION 1.** 443.20 of the statutes is created to read:

**443.20 Indemnification in civil contracts.** (1) In

this section:

(a) "Civil contract" means any contractual agreement between the state or a political subdivision and a private entity.

(b) "Design professional" means any of the following:

1. Architect.
2. Engineer-in-training.
3. Landscape architect.
4. Professional engineer.
5. Professional land surveyor.
6. Wisconsin registered interior designer.

(c) "Design professional services" means any service performed by a design professional and services performed by others that arise out of or are related to services performed by a design professional, including the following:

1. Studies.
2. Planning.
3. Surveys.
4. Project management.
5. Traffic management.

6. Preparatory work.

(2) Notwithstanding s. 895.447, any provision of a civil contract containing any of the following, explicitly or in effect, is void and unenforceable:

(a) A provision requiring a private entity performing design professional services to indemnify the state or any political subdivision, except as provided in sub. (3) (a).

(b) A provision requiring a private entity performing design professional services to defend the state or any political subdivision in any legal action.

(3) The limitations under sub. (2) (a) do not apply to any of the following:

(a) Indemnification provisions in any civil contract in which a private entity's indemnification obligation is limited to losses proximately caused by the negligent performance of design professional services by the private entity and does not exceed the proportion of a loss caused by the negligent performance.

(b) Provisions required to be included in the state's or a political subdivision's contracts with the federal government to the extent the provisions conflict with sub. (2).

(c) A provision in a civil design contract that requires a private entity to indemnify the state or any political subdivision for damages caused by the private entity's acts

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\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

or omissions if the acts or omissions involve reckless, wanton, or intentional misconduct.

(4) Nothing in this section may be construed as a waiver of any immunity or other limitation of liability described in this chapter or ch. 893 or 895.

(5) Nothing in this section may be construed to prohibit the state or any political subdivision from requiring

a private entity to provide proof of liability insurance as a condition of contract.

**SECTION 2. Initial applicability.**

(1) This act first applies to a civil contract, as defined under s. 443.20 (1) (a), entered into on the effective date of this subsection.

