



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2009 Senate Bill 148

Senate Amendment 1

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Current Law

Under current law, a tribal law enforcement officer may enforce state law on the reservation and trust lands of the tribe that employs the officer if the officer meets state training standards and has accepted the duties of a law enforcement officer specified in state law. [s. 165.92, Stats.] The tribe that employs the officer is liable for the actions of the officer taken under this authority, and an officer may not act under this authority unless the employing tribe has adopted a resolution waiving its sovereign immunity to the extent necessary to enforce this liability in state courts, or has adopted another resolution that the Department of Justice (DOJ) determines has the same effect.

Senate Bill 148

Senate Bill 148 allows a tribe, as an alternative to waiving its sovereign immunity to allow enforcement of liability, to maintain liability insurance that does all of the following:

1. Covers the tribe and tribal law enforcement officers for liability due to the acts or omissions of tribe and officers.
2. Has a limit of coverage not less than \$2,000,000 for any occurrence.
3. Provides that the insurer, in defending a claim against the policy, may not raise the defense of sovereign immunity of the insured up to the limits of the policy.

The bill specifies that an insurance policy serves as an alternative to a waiver of sovereign immunity only if the tribe has presented evidence of the insurance to DOJ. Upon receiving proof of insurance, DOJ is required to notify the sheriff of each county and the chief of police of each municipality in which the tribe has reservation or trust lands of the fact of the insurance and the authority of the tribe's law enforcement officers to enforce state law.

Senate Amendment 1

Senate Amendment 1 makes two changes to the bill:

1. The amendment replaces the requirement that DOJ notify sheriffs and police chiefs of the tribe's insurance policy and its officers' powers with a requirement that DOJ post this information on the Internet site that it maintains for the purpose of sharing information with law enforcement agencies.
2. The amendment applies the same requirement – that the tribe provide evidence to DOJ and that DOJ post this information on its Internet site – with regard to resolutions adopted by the tribe to waive sovereign immunity.

Legislative History

On October 6, 2009, the Senate Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing introduced and adopted Senate Amendment 1 to Senate Bill 148 on a vote of Ayes, 5; Noes, 0. The committee also recommended passage of Senate Bill 148, as amended, on a vote of Ayes, 4; Noes, 1.

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