



State of Wisconsin  
2023 - 2024 LEGISLATURE

LRB-2530/1  
JPC:cjs

## 2023 BILL

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

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### *Analysis by the Legislative Reference Bureau*

This bill prohibits the enforcement of any provision in a contract between the state or a political subdivision and a private entity that is engaged in design professional services that requires the private entity to indemnify or defend the state or a political subdivision. Under the bill, design professional services is defined to mean 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. The term “design professional” includes architects, engineers-in-training, landscape architects, professional engineers, professional land surveyors, and Wisconsin registered interior designers. The bill excepts from the prohibitions described above any provision 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 and any provision required to be included in the state’s or a political subdivision’s contracts with the federal government.

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

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

**BILL****SECTION 1**

1           **443.20 Indemnification in civil contracts. (1)** In this section:

2           (a) “Civil contract” means any contractual agreement between the state or a  
3 political subdivision and a private entity.

4           (b) “Design professional” means any of the following:

5           1. Architect.

6           2. Engineer-in-training.

7           3. Landscape architect.

8           4. Professional engineer.

9           5. Professional land surveyor

10          6. Wisconsin registered interior designer.

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

14          1. Studies.

15          2. Planning.

16          3. Surveys.

17          4. Project management.

18          5. Traffic management.

19          6. Preparatory work.

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

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

24          (3) (a).

**BILL**

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

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

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

8 (b) Provisions required to be included in the state's or a political subdivision's  
9 contracts with the federal government to the extent the provisions conflict with sub.  
10 (2).

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

13 **SECTION 2. Initial applicability.**

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

16 **(END)**