



2023 ASSEMBLY BILL 514

October 18, 2023 - Introduced by Representatives DALLMAN, STEFFEN, BRANDTJEN, CONSIDINE, DUCHOW, JOERS, NOVAK, ROZAR, SCHMIDT and STUBBS, cosponsored by Senators WIMBERGER, MARKLEIN, PFAFF and SPREITZER. Referred to Committee on State Affairs.

AUTHORS SUBJECT TO CHANGE

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

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.

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:

ASSEMBLY BILL 514**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).

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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)