



**SENATE AMENDMENT 1,
TO 2011 ASSEMBLY BILL 497**

March 13, 2012 – Offered by Senators GROTHMAN and GALLOWAY.

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.”.

11 **3.** Page 2, line 1: delete “**SECTION 1**” and substitute “**SECTION 1e**”.

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

13 “**SECTION 1g.** 893.80 (1) of the statutes is renumbered 893.80 (1d).”.

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

2 893.80 **(1b)** In this section, “agent” includes a volunteer. In this subsection,
3 “volunteer” means a person who satisfies all of the following:

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

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

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

15 **SECTION 1h.** 893.80 (1g) of the statutes is amended to read:

16 893.80 **(1g)** Notice of disallowance of the claim submitted under sub. ~~(1)~~ **(1d)**
17 shall be served on the claimant by registered or certified mail and the receipt
18 therefor, signed by the claimant, or the returned registered letter, shall be proof of
19 service. Failure of the appropriate body to disallow a claim within 120 days after
20 presentation of the written notice of the claim is a disallowance. No action on a claim
21 under this section against any defendant fire company, corporation, subdivision or
22 agency nor against any defendant officer, official, agent or employee, may be brought
23 after 6 months from the date of service of the notice of disallowance, and the notice
24 of disallowance shall contain a statement to that effect.

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

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

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

6 893.80 **(1p)** No action may be brought or maintained with regard to a claim to
7 recover damages against any political corporation, governmental subdivision or
8 agency thereof for the negligent inspection of any property, premises, place of
9 employment or construction site for the violation of any statute, rule, ordinance or
10 health and safety code unless the alleged negligent act or omission occurred after
11 November 30, 1976. In any such action, the time period under sub. ~~(1)~~ (1d) (a) shall
12 be one year after discovery of the negligent act or omission or the date on which, in
13 the exercise of reasonable diligence the negligent act or omission should have been
14 discovered.

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

16 893.80 **(9)** The procurement or maintenance of insurance or self-insurance by
17 a volunteer fire company organized under ch. 181 or 213, political corporation, or
18 governmental subdivision or agency thereof, irrespective of the extent or type of
19 coverage or the persons insured, shall not do any of the following:

20 (a) Constitute a waiver of the provisions of this section.

21 (b) Be relied upon to deny a person status as an officer, official, agent, or
22 employee of the volunteer fire company, political corporation, or governmental
23 subdivision or agency thereof.”

24

(END)