
Wisconsin Legislative Council

ACT MEMO



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2023 Wisconsin Act 211
[2023 Assembly Bill 514]

**Indemnification Provisions in
Government Contracts for
Design Professional Services**

2023 WISCONSIN ACT 211

2023 Wisconsin Act 211 imposes limitations on certain provisions in contractual agreements between a private entity and the state or a local unit of government (referred to as “civil contracts”).

Specifically, Act 211 renders void and unenforceable either of the following provisions in a civil contract:

- A provision requiring a private entity performing design professional services¹ to defend the state or any local unit of government in any legal action.
- A provision requiring a private entity performing design professional services to indemnify the state or any local unit of government. However, this limitation does not apply to any of the following:
 - An indemnification provision in a civil contract in which a private entity’s indemnification obligation is limited to losses that: (1) are proximately caused by the negligent performance of design professional services by the private entity; and (2) do not exceed the proportion of loss caused by that negligent performance.
 - Provisions required to be included in the state’s or local unit of government’s contracts with the federal government, to the extent those provisions conflict with the limitation.
 - A provision in a civil design contract² that requires the private entity to indemnify the state or local unit of government for damages caused by the private entity’s acts or omissions that involve reckless, wanton, or intentional misconduct.

In addition, Act 211 provides that these contracting limitations may not be construed: (1) as a waiver of any immunity or other limitation of liability described in ch. 443, 893, or 895, Stats.; or (2) to prohibit the state or any local unit of government from requiring a private entity to provide proof of liability insurance as a condition of a contract.

Effective date and initial applicability: Act 211 took effect on March 24, 2024, and first applies to a civil contract entered into on that date.

For a full history of the bill, visit the Legislature’s [bill history page](#).

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¹ “Design professional services” mean: (a) services that are performed by an architect, engineer-in-training, landscape architect, professional engineer, professional land surveyor, or Wisconsin-registered interior designer; and (b) services performed by others that arise out of or are related to services performed by such individuals. Examples of design professional services enumerated by the act include studies, planning, surveys, project management, traffic management, and preparatory work.

² Act 211 does not define “civil design contract.”