

To: Members of the Special Committee on Emergency Management and Continuity of Government

From: League of Wisconsin Municipalities
Wisconsin Counties Association
Wisconsin Alliance of Cities
Wisconsin Towns Association

Date: March 13, 2009

Re: Proposed Changes Relating to Local Government Liability for the Actions of Volunteers During Emergencies

The above listed local government associations are concerned about changes that the Special Committee on Emergency Management and Continuity of Government is considering as part of a proposed recodification of ch. 166. The changes that concern us relate to local government indemnification of volunteers in emergencies. Under the proposed draft, LRB-0166/p4ins, a volunteer (other than emergency volunteer health practitioners) who registers in writing with a local government to provide labor, equipment, materials, the labor of others, or facilities during a disaster is considered an employee of the local government for purposes of any claim relating to the labor, equipment or facilities provided by the volunteer.

We strongly oppose creating new liability for local governments for the acts of volunteers during emergencies. We urge the committee to retain current law, which exempts volunteers from liability for negligent acts during a disaster or a declared state of emergency. Volunteer protection from liability already exists under state law (secs. 181.0670 and 166.03(10)) and federal law (42 USC sec. 14051).

Providing volunteers with immunity from liability is consistent with encouraging citizens to step forward in times of crises to assist their fellow citizens without fear of litigation. In times of disaster state law ought to encourage action by protecting volunteers from liability; not inaction through the creation of municipal liability.

If the committee believes it is better public policy to create liability for the negligent acts of volunteers during emergencies, then we urge the committee to treat all volunteers in the same manner that emergency volunteer health practitioners are treated under state law, as agents or employees of the state.

Thanks for considering our comments and concerns.

If you have any questions concerning our comments or need additional information, please contact Curt Witynski, Assistant Director, League of Wisconsin Municipalities, Ph. (608) 267-2380. E-mail: Witynski@lwm-info.org.