The statute of limitations is tolled while a prisoner waits for the department of justice to provide the certification required by ss. 801.02 (7) (d) and 802.05 (3) (c). State ex rel. Locklear v. Schwarz, 2001 WI App 74, 242 Wis. 2d 327, 629 N.W.2d 30, 99−3211.

To invoke the tolling of the 45−day limit under sub. (2), a prisoner must submit proper documents and comply with statutory fee or fee−waiver requirements. State ex rel. Tyler v. Bett, 2002 WI App 234, 257 Wis. 2d 606, 652 N.W.2d 800, 01−2808.

Petitioners were entitled to equitable relief when they timely asked counsel to file for certiorari, counsel promised to do so, and due to counsel's failure to timely file they were denied certiorari review. The 45−day time limit for the filing of a writ of certiorari was equitably tolled as of the date that counsel promised to file for certiorari review. Griffin v. Smith, 2004 WI 36, 270 Wis. 2d 235, 677 N.W.2d 259, 01−2345.

893.74 School district; contesting validity. No appeal or other action attacking the legality of the formation of a school district, either directly or indirectly, may be commenced after the school district has exercised the rights and privileges of a school district for a period of 90 days.

History: 1979 c. 323.

Judicial Council Committee's Note, 1979: This section has been created to place into ch. 893 the statute of limitations for an action attacking the legality of a formation of a school district (see note following s. 117.01 (7)). [Bill 326−A]

893.75 Limitation of action attacking municipal contracts. Whenever the proper officers of any city, village or town, however incorporated, enter into any contract in manner and form as prescribed by statute, and either party to the contract has procured or furnished materials or expended money under the terms of the contract, no action or proceedings may be maintained to test the validity of the contract unless the action or proceeding is commenced within 60 days after the date of the signing of the contract.

History: 1979 c. 323; 1993 a. 246.

Judicial Council Committee's Note, 1979: This action has been created to place into ch. 893 the statute of limitation for an action contesting the validity in a contract entered into by a city or village (see note following s. 66.13). [Bill 326−A]

893.76 Order to repair or remove building or restore site; contesting. An application under s. 66.0413 (1) (h) to a circuit court for an order restraining the inspector of buildings or other designated officer from razing and removing a building or part of a building and restoring a site to a dust−free and erosion−free condition shall be made within 30 days after service of the order issued under s. 66.0413 (1) (b) or be barred.

History: 1979 c. 323; 1989 a. 347; 1991 a. 189; 1993 a. 213; 1999 a. 150.

Judicial Council Committee's Note, 1979: This section has been created to place into ch. 893 the statute of limitations for an application for an order restraining the razing or removing of a building (see note following s. 66.05 (3)). [Bill 326−A]

893.765 Order to remove wharves or piers in navigable waters; contesting. An application under s. 30.13 (5m) (c) to circuit court for a restraining order prohibiting the removal of a wharf or pier shall be made within 30 days after service of the order issued under s. 30.13 (5m) (a) or be barred.

History: 1981 c. 252; 1999 a. 150 ss. 669, 672; 2001 a. 30 s. 108.

893.77 Validity of municipal obligation. (1) An action to contest the validity of any municipal obligation which has been certified by an attorney in the manner provided in s. 67.025, for other than constitutional reasons, must be commenced within 30 days after the recording of such certificate as provided by s. 67.025. An action to contest the validity of any state or state authority obligation for other than constitutional reasons must be commenced within 30 days after the adoption of the authorizing resolution for such obligation.

(2) An action or proceeding to contest the validity of any municipal bond or other financing, other than an obligation certified as described in sub. (1), for other than constitutional reasons, must be commenced within 30 days after the date on which the issuer publishes in the issuer's official newspaper, or, if none exists, in a newspaper having general circulation within the issuer's boundaries, a class 1 notice, under ch. 985, authorized by the governing body of the issuer, and setting forth the name of the issuer, that the notice is given under this section, the amount of the bond issue or other financing and the anticipated date of closing of the bond or other financing and that a copy of proceedings had to date of the notice are on file and available for inspection in a designated office of the issuer. The notice may not be published until after the issuer has entered into a contract for sale of the bond or other financing.

(3) An action contesting bonds of a municipal power district organized under ch. 198, for other than constitutional reasons, shall be commenced within 30 days after the date of their issuance or be barred.

History: 1971 c. 40 s. 93; 1971 c. 117, 211; 1973 c. 265; 1975 c. 221; 1979 c. 323; 1983 a. 192.

Judicial Council Committee's Note, 1979: This section is previous s. 893.23 renumbered for more logical placement in the restructured chapter. Section 893.77 (3) is created to place into ch. 893 of the statutes the statute of limitations for an action contesting the bonds of a municipal power district (see note following s. 198.18 (3)). [Bill 326−A]

SUBCHAPTER VIII

CLAIMS AGAINST GOVERNMENTAL BODIES, OFFICERS AND EMPLOYEES

893.80 Claims against governmental bodies or officers, agents or employees; notice of injury; limitation of damages and suits. (1b) In this section, "agent" includes a volunteer. In this subsection, "volunteer" means a person who satisfies all of the following:

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

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

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

(1d) Except as provided in subs. (1g), (1m), (1p) and (8), no action may be brought or maintained against any volunteer fire company organized under ch. 213, political corporation, governmental subdivision or agency thereof nor against any officer, official, agent or employee of the corporation, subdivision or agency for acts done in their official capacity or in the course of their agency or employment upon a claim or cause of action unless:

(a) Within 120 days after the happening of the event giving rise to the claim, written notice of the circumstances of the claim signed by the party, agent or attorney is served on the volunteer fire company, political corporation, governmental subdivision or agency and on the officer, official, agent or employee under s. 801.11. Failure to give the requisite notice shall not bar action on the claim if the fire company, corporation, subdivision or agency had actual notice of the claim and the claimant shows to the satisfaction of the court that the delay or failure to give the requisite notice has not been prejudicial to the defendant fire company, corporation, subdivision or agency or to the defendant officer, official, agent or employee; and

(b) A claim containing the address of the claimant and an itemized statement of the relief sought is presented to the appropriate clerk or person who performs the duties of a clerk or secretary for the defendant fire company, corporation, subdivision or agency and the claim is disallowed.

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

the date of service of the notice of disallowance, and the notice of disallowance shall contain a statement to that effect.

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

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

(1t) Only one action for property damage may be brought under sub. (1p) by 2 or more joint tenants of a single−family dwelling.

(2) The claimant may accept payment of a portion of the claim without waiving the right to recover the balance. No interest may be recovered on any portion of a claim after an order is drawn and made available to the claimant. If in an action the claimant recovers a greater sum than was allowed, the claimant shall recover costs, otherwise the defendant shall recover costs.

(3) Except as provided in this subsection, the amount recoverable by any person for any damages, injuries or death in any action founded on tort against any volunteer fire company organized under ch. 181 or 213, political corporation, governmental subdivision or agency thereof and against their officers, officials, agents or employees for acts done in their official capacity or in the course of their agency or employment, whether proceeded against jointly or severally, shall not exceed $50,000. The amount recoverable under this subsection shall not exceed $25,000 in any such action against a volunteer fire company organized under ch. 181 or 213 or its officers, officials, agents or employees. If a volunteer fire company organized under ch. 181 or 213 is part of a combined fire department, the $25,000 limit still applies to actions against the volunteer fire company or its officers, officials, agents or employees. No punitive damages may be allowed or recoverable in any such action under this subsection.

(4) No suit may be brought against any volunteer fire company organized under ch. 213, political corporation, governmental subdivision or any agency thereof for the intentional torts of its officers, officials, agents or employees nor may any suit be brought against such corporation, subdivision or agency or volunteer fire company or against its officers, officials, agents or employees for acts done in the exercise of legislative, quasi−legislative, judicial or quasi−judicial functions.

(5) Except as provided in this subsection, the provisions and limitations of this section shall be exclusive and shall apply to all claims against a volunteer fire company organized under ch. 213, political corporation, governmental subdivision or agency or against any officer, official, agent or employee thereof for acts done in an official capacity or the course of his or her agency or employment. When rights or remedies are provided by any other statute against any political corporation, governmental subdivision or agency or any officer, official, agent or employee thereof for injury, damage or death, such statute shall apply and the limitations in sub. (3) shall be inapplicable.

(6) A 1st class city, its officers, officials, agents or employees shall not be liable for any claim for damages to person or property arising out of any act or omission in providing or failing to provide police services upon the interstate freeway system or in or upon any grounds, building or other improvement owned by a county and designated for stadium or airport purposes and appurtenant uses.

(7) No suit may be brought against the state or any governmental subdivision or agency thereof or against any officer, official, agent or employee of any of those entities who, in good faith, acts or fails to act to provide a notice to a property owner that a public nuisance under s. 823.113 (1) or (1m) (b) exists.

(8) This section does not apply to actions commenced under s. 19.37, 19.97, or 281.99 or to claims against the interstate insurance product regulation commission.

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

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

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

History: Sup. Ct. Order, 67 Wis. 2d 585, 784 (1975); 1975 c. 218; 1977 c. 285, 447; 1979 c. 34; 1979 c. 323 s. 29; Stats. 1979 s. 893.80; 1981 c. 63; 1985 a. 340; 1987 a. 377; 1993 a. 139; 1995 a. 6, 158, 267; 1997 a. 27; 2005 a. 281; 2007 a. 168; 2009 a. 278; 2011 a. 162.

Judicial Council Committee's Note, 1979: Previous s. 895.43 is renumbered for more logical placement in restructured ch. 893. [Bill 326−A]

A spouse's action for loss of consortium is separate and has a separate dollar limitation from the injured spouse's claim for damages. Schwartz v. Milwaukee, 54 Wis. 2d 286, 195 N.W.2d 480.

Sub. (3) [now (4)] establishes municipal immunity from actions for the intentional torts of its employees; assault and battery constitutes an intentional tort. Sub. (3) [now (4)] also precludes suit against a municipality for the alleged failure of its police and fire commission to act to remove an officer, since that is a quasi−judicial function. Salerno v. Racine, 62 Wis. 2d 243, 214 N.W.2d 446 (1972).

When a policy contained no language precluding the insurer from raising the limited liability defense, the $25,000 limitation was not waived. Sambs v. Brookfield, 66 Wis. 2d 296, 224 N.W.2d 582 (1974).

The class action statute, s. 260.12 [now s. 803.08], is part of title XXV of the statutes [now. chs. 801 to 823], and the scope of title XXV is restricted to civil actions in courts of record. The county board is not a court of record. The class action statute can have no application to making claims against a county. Multiple claims must identify each claimant and show each claimant's authorization. Hicks v. Milwaukee County, 71 Wis. 2d 401, 238 N.W.2d 509 (1974). But see also Townsend v. Neenah Joint School District, 2014 WI App 117, ___ Wis. 2d ___, ___ N.W.2d ___, 13−2839.

A plaintiff's complaint alleging that 2 police officers who forcibly entered his home and physically abused him were negligent inter alia in failing to identify themselves and in using excessive force, in reality alleged intentional torts for which the municipality was immune from direct action under sub. (3) [now (4)]. Baranowski v. Milwaukee, 70 Wis. 2d 684, 235 N.W.2d 279 (1975).

Compliance with a statute is a condition in fact requisite to liability, but is not a condition required for stating a cause of action. Rabe v. Outagamie County, 72 Wis. 2d 492, 241 N.W.2d 428 (1972).

The requirements that a claim be first presented to a school district and disallowed and that suit be must commenced within 6 months of disallowance do not deny equal protection. Binder v. Madison, 72 Wis. 2d 613, 241 N.W.2d 613 (1976).

Any duty owed by a municipality to the general public is also owed to individual members of the public. Inspection of buildings for safety and fire prevention purposes under s. 101.14 does not involve a quasi−judicial function within the meaning of s. 895.43 (3) [now s. 893.80 (4)]. Coffey v. Milwaukee, 74 Wis. 2d 526, 247 N.W.2d 132 (1976).

Under sub. (1), the plaintiff has the burden of proving the giving of notice, or actual notice, and the nonexistence of prejudice, but need not allege the same in the complaint. A city is required to plead lack of compliance with the statute as a defense. Weiss v. Milwaukee, 79 Wis. 2d 213, 255 N.W.2d 496 (1977).

The doctrine of municipal tort immunity was applied to relieve a political subdivision from liability for negligence when an automobile collision occurred due to the use of a sewer by a truck. Allstate Insurance Co. v. Milwaukee Metropolitan Sewerage Commission 80 Wis. 2d 10, 258 N.W.2d 148 (1977).

A park manager of a state−owned recreational area who knew that a publicly used trail was inches away from a 90−foot gorge and that the terrain was dangerous breached a ministerial duty in failing to either place warning signs or advise superiors of the condition and was liable for injuries to the plaintiffs who fell into the gorge. Cords v. Anderson, 80 Wis. 2d 525, 259 N.W.2d 672 (1977).

A breach of a ministerial duty was inferred from the complaint's allegations that the defendant state employees who set up a detour route on which the plaintiff was injured failed to follow national traffic standards, place appropriate signs, and safely construct a temporary road. Pavlik v. Kinsey, 81 Wis. 2d 42, 259 N.W.2d 709 (1977).

An insurance policy was construed to waive recovery limitations under ss. 81.15 and 895.43 [now ss. 893.83 (1) and 893.80]. Stanhope v. Brown County, 90 Wis. 2d 823, 280 N.W.2d 711 (1979).

Section 118.20 is not the exclusive remedy of a wronged teacher. It is supplementary to the remedy under the fair employment act. General provisions of s. 893.80 are superseded by specific authority of that act. Kurtz v. City of Waukesha, 91 Wis. 2d 103, 280 N.W.2d 757 (1979).

"Quasi−judicial" or "quasi−legislative" acts are synonymous with "discretionary" acts. Scarpaci v. Milwaukee County, 96 Wis. 2d 663, 292 N.W.2d 816 (1980).

Recovery limitations under ss. 81.15 and 895.43 (2) [now ss. 893.83 (1) and 893.80 (2)] are constitutional. Sambs v. City of Brookfield, 97 Wis. 2d 356, 293 N.W.2d 504 (1980).

A city was liable for the negligent acts of its employees, even though the employees were immune from liability. Maynard v. City of Madison, 101 Wis. 2d 273, 304 N.W.2d 163 (Ct. App. 1981).

This section cannot limit damage awards under 42 USC 1983. The court erred in reducing an attorney fees award. Thompson v. Village of Hales Corners, 115 Wis. 2d 289, 340 N.W.2d 704 (1983).

A sheriff's dispatcher breached a ministerial duty by failing to have a fallen tree removed from a road. Domino v. Walworth County, 118 Wis. 2d 488, 347 N.W.2d 917 (Ct. App. 1984).

Service of notice of a claim on a county agency met the jurisdictional prerequisite of sub. (1) (b). Finken v. Milwaukee County, 120 Wis. 2d 69, 353 N.W.2d 827 (Ct. App. 1984).

A claim for a specific amount of money damages satisfied the sub. (1) (b) requirement of an "itemized statement of relief sought." Figgs v. City of Milwaukee, 121 Wis. 2d 44, 357 N.W.2d 548 (1984).

Although a decision to release a patient from a mental health complex was quasi−judicial and protected under sub. (4), the medical examination and diagnosis that formed the basis for the decision to release were not. Gordon v. Milwaukee County, 125 Wis. 2d 62, 370 N.W.2d 803 (Ct. App. 1985).

When a claim was not disallowed in writing and the claimant did not wait 120 days after presentation before filing a lawsuit, the statute of limitations was not tolled. Schwetz v. Employers Insurance of Wausau, 126 Wis. 2d 32, 374 N.W.2d 241 (Ct. App. 1985).

Neither statutory nor traditional common law immunity protects a public body from a properly pleaded private nuisance claim. Hillcrest Golf & Country Cub v. City of Altoona, 135 Wis. 2d 431, 400 N.W.2d 493 (Ct. App. 1986).

An injured party and subrogee may not recover separately up to the liability limit under sub. (3). Wilmot v. Racine County, 136 Wis. 2d 57, 400 N.W.2d 917 (1987).

Recovery limitations applicable to an insured municipality are likewise applied to the insurer, notwithstanding higher policy limits and s. 632.24. Gonzalez v. City of Franklin, 137 Wis. 2d 109, 403 N.W.2d 747 (1987).

When 3 municipalities formed one volunteer fire department under ch. 60, liability under sub. (3) was limited to $50,000, not 3 times that amount. Selzler v. Dresser, Osceola, Garfield Fire Dept. 141 Wis. 2d 465, 415 N.W.2d 546 (Ct. App. 1987).

A parole officer did not breach a ministerial duty by allowing a parolee to drive. C. L. v. Olson, 143 Wis. 2d 701, 422 N.W.2d 614 (1988).

Each of 3 children damaged by a county's negligence in the treatment of their mother was entitled to recover the $50,000 maximum under sub. (3). Boles v. Milwaukee, 150 Wis. 2d 801, 443 N.W.2d 679 (Ct. App. 1989).

The sub. (4) immunity provision does not apply to breach of contract suits. Energy Complexes v. Eau Claire County, 152 Wis. 2d 453, 449 N.W.2d 35 (1989).

If a claim is filed and the affected body does not serve a notice of disallowance, the 6−month limitation period in (1) (b) [now sub. (1g)] is not triggered. Lindstrom v. Christianson, 161 Wis. 2d 635, 469 N.W.2d 189 (Ct. App. 1991).

Governmental immunity attaches to a police officer's actions in executing an arrest. "Quasi judicial and quasi−legislative" under sub. (4) are synonymous with "discretionary," but immunity does not attach merely because the conduct involves discretion. The question is whether the decision involved the type of judgment and discretion that rises to governmental discretion, as opposed to professional or technical judgment and discretion. Sheridan v. City of Janesville, 164 Wis. 2d 420, 474 N.W.2d 799 (Ct. App. 1991).

Discretionary act immunity under s. 893.80 is inapplicable to s. 345.05 claims of municipal liability for motor vehicle accidents. Frostman v. State Farm Mut. Ins. Co. 171 Wis. 2d 138, 491 N.W.2d 100 (Ct. App. 1992).

A letter to an attorney referring to the denial of a client's claim does not trigger the 6−month statute of limitations under sub. (1) (b) [now sub. (1g)]. Humphrey v. Elk Creek Lake Protection, 172 Wis. 2d 397, 493 N.W.2d 270 (Ct. App. 1992).

Once the 120−day period under sub. (1) (b) [now sub. (1g)] has run, a municipality may not revive the 6−month limitation period by giving notice of disallowance. Blackbourn v. Onalaska School Dist. 174 Wis. 2d 496, 497 N.W.2d 460 (Ct. App. 1993).

Sub. (4) immunity does not extend to medical decisions of governmental medical personnel. Linville v. City of Janesville, 174 Wis. 2d 571, 497 N.W.2d 465 (Ct. App. 1993).

A paramedic has a ministerial duty to attempt a rescue at a life threatening situation; thus there is no immunity under sub. (4). Linville v. City of Janesville, 174 Wis. 2d 571, 497 N.W.2d 465 (Ct. App. 1993).

Sub. (4) affords a governmental body immunity for its intentional torts. The intentional torts of a city cannot occur except through the acts of an official or agent of the city. Old Tuckaway Associates v. City of Greenfield, 180 Wis. 2d 254, 509 N.W.2d 323 (Ct. App. 1993).

Inequitable or fraudulent conduct need not be established to estop a party from asserting the failure to comply with the notice of claim requirements of this section. An employee's reliance on a school district employee's instruction to deal directly with the school's insurer was sufficient to estop the school from asserting a failure to comply with sub. (1) (b) as a defense. Fritsch v. St. Croix Central School District, 183 Wis. 2d 336, 515 N.W.2d 328 (Ct. App. 1994).

This section applies to all causes of action, including actions for equitable relief, not just to actions in tort or those for money damages. The state must comply with the sub. (1) notice requirements. Sub. (5) does not say that when a claim is based on another statute sub. (1) does not apply. Substantial compliance with sub. (1) is discussed. DNR v. City of Waukesha, 184 Wis. 2d 178, 515 N.W.2d 888 (1994).

A police officer who decides to engage in pursuit is afforded immunity from liability for the decision, but may be subject to liability under s. 346.03 (5) for operating a motor vehicle negligently during the chase. A city that has adopted a policy that complies with s. 346.03 (6) is immune from liability for injuries resulting from a high speed chase. Estate of Cavanaugh v. Andrade, 191 Wis. 2d 244, 528 N.W.2d 492 (Ct. App. 1995).

Sub. (1) has 2 components: notice of injury and notice of claim. Both must be satisfied before an action is commenced. The notice of claim must state a specific dollar amount. Vanstone v. Town of Delafield, 191 Wis. 2d 586, 530 N.W.2d 16 (Ct. App. 1995).

An independent contractor is not an agent under sub. (3) and is not protected by the liability limits under this section. Kettner v. Wausau Insurance Cos. 191 Wis. 2d 724, 530 N.W.2d 399 (Ct. App. 1995).

Intentional tort immunity granted to municipalities by sub. (4) does not extend to the municipality's representatives. Envirologix v. City of Waukesha, 192 Wis. 2d 277, 531 N.W.2d 357 (Ct. App. 1995).

When an action was mandatory under a city ordinance, but permissive under state statutes, the action was mandatory and therefore ministerial and not subject to immunity under sub. (4). Turner v. City of Milwaukee, 193 Wis. 2d 412, 535 N.W.2d 15 (Ct. App. 1995).

The general rule is that a public employee is immune from personal liability for injuries resulting from acts performed within the scope of the individual's public office. Barillari v. City of Milwaukee, 194 Wis. 2d 247, 533 N.W.2d 759 (1995).

A statement by a police officer that an action will be taken does not render that action ministerial. Failure to carry out the action does not remove the immunity granted by this section. Barillari v. City of Milwaukee, 194 Wis. 2d 247, 533 N.W.2d 759 (1995).

The county had an absolute duty not to represent in an offer to purchase that it had no notice that a property it was selling was free of toxic materials unless it was true. An appraisal indicating contamination contained in the county's files was actual notice to the county. Under these circumstances there is no immunity under sub. (4). Major v. Milwaukee County, 196 Wis. 2d 939, 539 N.W.2d 472 (Ct. App. 1995), 95−1351.

Actions brought under the open meetings and public records laws are exempt from the notice provisions of sub. (1). Auchinleck v. Town of LaGrange, 200 Wis. 2d 585, 547 N.W.2d 587 (1996), 94−2809.

There is no discretion as to maintaining a sewer system so as not to cause injury to residents. Thus a municipality's operation and maintenance of a sewer system do not fall within the immunity provisions of this section. Menick v. City of Menasha, 200 Wis. 2d 737, 547 N.W.2d 778 (Ct. App. 1996), 95−0185.

A suit filed prior to the expiration of the 120−day period or denial of the claim is not truly commenced and does not toll the statute of limitations when filed. Colby v. Columbia County, 202 Wis. 2d 342, 550 N.W.2d 124 (1996), 93−3348.

The interplay between ss. 893.23 and 893.80 creates a statute of limitations equal to 3 years and 120 days when filing a claim under s. 893.80. Colby v. Columbia County, 202 Wis. 2d 342, 550 N.W.2d 124 (1996), 93−3348.

Service of a disallowance of claim on a claimant's attorney does not meet the statutory requirement of service on the claimant. When there was never proper service under the statute, the general 3−year statute of limitations for personal injuries applied. Cary v. City of Madison, 203 Wis. 2d 261, 551 N.W.2d 596 (Ct. App. 1996), 95−3559.

Class action procedure under s. 803.08 does not override the notice requirements of this section. Notice on behalf of named persons and others "similarly situated" does not satisfy the notice requirement for the unnamed persons. For the government entity to have actual knowledge it must have knowledge of the event for which liability is asserted, and also the identity of and damage alleged to have been suffered by the potential claimant. Nothing in sub. (1p) makes the notice requirements inapplicable to claims under that subsection. Markweise v. Peck Foods Corp. 205 Wis. 2d 208, 556 N.W.2d 326 (Ct. App. 1996), 95−1193.

Allowing the continuation of a "known present danger" is an exception to governmental immunity. To apply, the danger must be so clear and absolute that taking corrective action falls within the definition of a ministerial duty. Expert testimony of dangerousness is not sufficient to establish a "known present danger." Bauder v. Delavan−Darien School District, 207 Wis. 2d 310, 558 N.W.2d 881 (Ct. App. 1996), 95−0495.

The immunity provisions of sub.(4), like the notice and claim provisions of sub. (1), are not limited to tort or money damage actions. Johnson v. City of Edgerton, 207 Wis. 2d 343, 558 N.W.2d 653 (Ct. App. 1996), 96−0894.

Governmental immunity extends to private parties who act under directives from government authorities. Estate of Lyons v. CNA Insurance Cos. 207 Wis. 2d 446, 558 N.W.2d 658 (Ct. App. 1996), 95−3372.

The damage limitation under sub. (3) is not an affirmative defense and may not be waived by omission, although it may be expressly waived. Discretionary immunity under sub. (4) is an affirmative defense and may be waived by omission. Anderson v. City of Milwaukee, 208 Wis. 2d 18, 559 N.W.2d 563 (1997), 94−1030.

The filing of a federal lawsuit, subsequently dismissed, did not satisfy the notice and claim requirements of sub. (1) (b). Probst v. Winnebago County, 208 Wis. 2d 280, 560 N.W.2d 291 (Ct. App. 1997), 96−0186.

Appeals of special assessments brought under s. 66.60 (12) (a) [now s. 66.0703 (12)] are exempt from the notice provisions of sub. (1). Gamroth v. Village of Jackson, 215 Wis. 2d 251, 571 N.W.2d 917 (Ct. App. 1997), 96−3396.

For purposes of immunity under sub. (4), fulfilling the duties under the safe place statute is discretionary. Spencer v. County of Brown, 215 Wis. 2d 641, 573 N.W.2d 222 (Ct. App. 1997), 97−0267.

Compliance with sub. (1) (b) is a prerequisite to all actions against listed entities, whether sounding in tort or not, and whether brought as an initial claim, counterclaim, or cross−claim. City of Racine v. Waste Facility Siting Board, 216 Wis. 2d 616, 575 N.W.2d 712 (1998), 96−0688.

Filing a notice of claim under sub. (1) (b) is not required when an injunction of a public nuisance is sought under s. 30.294, whether or not the injunction will be directed against the municipality. Gillen v. City of Neenah, 219 Wis. 2d 806, 580 N.W.2d 628 (1998), 96−2470.

Lyons adopted a form of governmental−contractor immunity applicable to parties who contract with municipal and state authorities and who are directed to perform certain tasks under the contract. That immunity extends to the contractor's subcontractors. Jankee v. Clark County, 222 Wis. 2d 151, 585 N.W.2d 913 (Ct. App. 1998), 95−2136.

Sub. (1m) as amended in 1986 cannot be applied retroactively. Snopek v. Lakeland Medical Center, 223 Wis. 2d 288, 588 N.W.2d 19 (1999), 96−3645.

A town contesting an annexation under sub. (10) is not required to file a notice of claim under s. 893.80 against the annexing municipality. Town of Burke v. City of Madison, 225 Wis. 2d 615, 593 N.W.2d 822 (Ct. App. 1999), 98−0108.

Alleging an ongoing course of conduct without identifying a specific circumstance or example of that conduct that occurred within 120 days of the notice of claim does not satisfy the requirements of sub. (1) (a). Probst v. Winnebago County, 225 Wis. 2d 753, 593 N.W.2d 478 (Ct. App. 1999), 98−0451.

This section does not apply to certiorari actions under s. 59.694 (10). Kapischke v. County of Walworth, 226 Wis. 2d 320, 595 N.W.2d 42 (Ct. App. 1999), 98−0796.

A public officer is clothed in immunity when that officer applies statutes to a given set of facts. An unambiguous statute, negligently applied, that does not direct how to act in any manner does not create a ministerial duty that is not sheltered by immunity. Kierstyn v. Racine Unified School District, 228 Wis. 2d 81, 596 N.W.2d 417 (1999), 97−1573.

Suits must be based in tort to garner immunity under sub. (4). There is no immunity from actions for declaratory relief. Willow Creek Ranch v. Town of Shelby, 2000 WI 56, 235 Wis. 2d 409, 611 N.W.2d 693, 97−2075.

The notice provisions of this section do not apply to 3rd−party complaints for contribution. Dixson v. Wisconsin Health Organization Insurance Corporation, 2000 WI 95, 237 Wis. 2d 149, 612 N.W.2d 721, 97−3816.

A governmental employee may have a ministerial duty to take some action, although how that act is performed is discretionary. Rolland v. County of Milwaukee, 2001 WI App 53, 241 Wis. 2d 215, 625 N.W.2d 590, 99−1913.

Subsection (1g) is constitutional. There is a rational basis for restricting the opportunity to bring suit to 6 months for claimants who have been served with a notice of disallowance and to 3 years when claimants have not been served. That there are different time periods does not violate equal protection guarantees. Griffin v. Milwaukee Transport Services, Inc. 2001 WI App 125, 246 Wis. 2d 433, 630 N.W.2d 536, 00−0861.

Sovereign immunity from suit can only be waived by express language. Consent to suit may not be implied. Anhalt v. City of Sheboygan, 2001 WI App 271, 249 Wis. 2d 62, 637 N.W.2d 422, 00−3551.

The existence of a known present danger should not turn on the subjective impressions of a citizen−witness. A public officer's duty to act becomes absolute when the nature of the danger is compelling and known to the officer and is of such force that the officer has no discretion not to act. Hoskins v. Dodge County, 2002 WI App 40, 251 Wis. 2d 276, 642 N.W.2d 213, 01−0834.

A proper application of the known danger exception to public officer immunity begins with the assumption that the officer was negligent in failing to perform, or in inadequately performing the act in question. To pierce immunity the circumstances must have been sufficiently dangerous so as to give rise to a ministerial duty not just to act generally but to perform the particular act upon which liability is premised. Lodl v. Progressive Northern Insurance Company, 2002 WI 71, 253 Wis. 2d 323, 646 N.W.2d 314, 00−0221.

Nothing in *Cords* suggests that a ministerial duty is placed on the government to protect the public from every manifest danger. The *Cords* known and present danger exception to sub. (4) immunity did not apply to a pipe that was used as a footbridge over a creek when the public was not invited to so use it, a sidewalk was provided to cross the creek not far from the pipe, and the use as a footbridge presented an obvious danger. Caraher v. City of Menomonie, 2002 WI App 184, 256 Wis. 2d 605, 649 N.W.2d 184, 01−2772.

The analysis of immunity under sub. (4) assumes negligence. The existence of a form clearly and unambiguously detailing information requested of a high school guidance counselor did not transform the counselor's counseling obligations into a ministerial act. His failure to provide correct advice in the face of clear and unambiguous information goes to his negligence, not the nature of his duty. Scott v. Savers Property & Casualty Insurance Co. 2003 WI 60, 262 Wis. 2d 127, 663 N.W.2d 715, 01−2953.

Sub. (1) does not apply to appeals of condemnation awards under s. 32.05 (11). Nesbitt Farms, LLC v. City of Madison, 2003 WI App 122, 265 Wis. 2d 422, 665 N.W.2d 379, 02−2212.

Any fire department created pursuant to s. 60.55, whether formed under ch. 181 or 213, is a government subdivision or agency entitled to immunity under sub. (4). Mellenthin v. Berger, 2003 WI App 126, 265 Wis. 2d 575, 666 N.W.2d 120, 02−2524.

A ministerial duty cannot arise from a manufacturer's instructions because a ministerial duty must be imposed by law. Law means an act of government and includes statutes, administrative rules, policies, or orders and plans adopted or contracts entered into by governmental units. Meyers v. Schultz, 2004 WI App 234, 277 Wis. 2d 845, 690 N.W.2d 873, 04−0542.

A municipality may be immune from nuisance suits depending on the nature of the tortious acts giving rise to the nuisance. A municipality is immune from suit for nuisance predicated on negligent acts that are discretionary in nature. A municipality does not enjoy immunity from suit for nuisance when the underlying tortious conduct is negligence comprised of acts performed pursuant to a ministerial duty. Milwaukee Metropolitan Sewerage District v. City of Milwaukee, 2005 WI 8, 277 Wis. 2d 635, 691 N.W.2d 858, 02−2961.

Decisions concerning the adoption, design, and implementation of a public works system are discretionary, such as the adoption of a waterworks system, the selection of the type of pipe, the placement of the pipe in the ground, and the continued existence of the pipe, are legislative decisions for which a city enjoys immunity. A city may be liable for its negligence in failing to repair the leaky water main if it had notice of the leak and was under a ministerial duty to repair it prior to a break. Milwaukee Metropolitan Sewerage District v. City of Milwaukee, 2005 WI 8, 277 Wis. 2d 635, 691 N.W.2d 858, 02−2961.

It is contrary to the protection afforded by sub. (1) to force a government entity to spend resources and taxpayer money to investigate every injury when the requisite 120−day notice is not given on the mere chance that the injury may turn out to be catastrophic, irrespective of how minor it may seem initially. Moran v. Milwaukee County, 2005 WI App 30, 278 Wis. 2d 747, 693 N.W.2d 121, 04−0709.

The known and compelling danger exception to immunity under sub. (4) is determined on a case−by−case basis. A dangerous situation will give rise to a ministerial duty when there exists a danger of such force that the time, mode, and occasion for performance is evident with such certainty that nothing remains for the exercise of judgment and discretion. The duty arises by virtue of particularly hazardous circumstances that are both known to the municipality or its officers and sufficiently dangerous to require an explicit, non−discretionary municipal response. It is not enough that the situation require the employee to do something about it. Voss v. Elkhorn Area School District, 2006 WI App 234, 297 Wis. 2d 389, 724 N.W.2d 420, 05−3037.

Service of a notice of disallowance must be upon the claimant and strictly comply with those modes of service set out in sub. (1g), which requires that service be made by either registered or certified mail. The return of a receipt for registered or certified mail signed by the claimant and the return of registered mail addressed to the claimant, are examples of proof of service acceptable under sub. (1g). Pool v. City of Sheboygan, 2007 WI 38, 300 Wis. 2d 74, 729 N.W.2d 415, 05−2028.

Sub. (1m) applies to medical malpractice claims against governmental bodies that fall within the scope of this section. Chapter 655 does not contain any statute of limitations provision that conflicts with this section. The generally exclusive nature of ch. 655 does not prevent the application of this section when applicable. Rouse v. Theda Clark Medical Center, Inc. 2007 WI 87, 302 Wis. 2d 358, 735 N.W.2d 30, 05−2743.

University of Wisconsin Hospital & Clinics Authority is a "political corporation" under sub. (1) (a) that falls within the notice of claim requirement of this section. Rouse v. Theda Clark Medical Center, Inc. 2007 WI 87, 302 Wis. 2d 358, 735 N.W.2d 30, 05−2743.

There is a 3−point test for when the notice−of−claim requirement in sub. (1) (b) has to give way: 1) whether there is a specific statutory scheme for which the plaintiff seeks exemption; 2) whether enforcement of sub. (1) would hinder a legislative preference for a prompt resolution of the type of claim under consideration; and 3) whether the purposes for which sub. (1) was enacted would be furthered by requiring that a notice of claim be filed. Oak Creek Citizen's Action Committee v. City of Oak Creek, 2007 WI App 196, 304 Wis. 2d 702, 738 N.W.2d 168, 06−2697.

Sub. (1) (b) did not apply to an action for mandamus seeking to compel a city council to comply with the direct−legislation statute, s. 9.20. Oak Creek Citizen's Action Committee v. City of Oak Creek, 2007 WI App 196, 304 Wis. 2d 702, 738 N.W.2d 168, 06−2697.

Administrative code provisions imposed a ministerial duty on a municipality to place a water main at a specified depth. When the municipality installed the water main at an appropriate depth to prevent freezing and the surface was subsequently graded so that the water main was no longer at the required depth, there was no breach of the ministerial duty. The design of the overall development, including the soil grading, was a discretionary act and enjoyed governmental immunity. DeFever v. City of Waukesha, 2007 WI App 266, 306 Wis. 2d 766, 743 N.W.2d 848, 06−3053.

Under *Lyons*, an independent professional contractor who follows official directives is an agent for the purposes of sub. (4) or is entitled to common law immunity when: 1) the governmental authority approved reasonably precise specifications; 2) the contractor's actions conformed to those specifications; and 3) the contractor warned the supervising governmental authority about the possible dangers associated with those specifications that were known to the contractor but not to the governmental officials. Estate of Brown v. Mathy Construction Company, 2008 WI App 114, 313 Wis. 2d 497, 756 N.W.2d 417, 07−1543. See also Bronfeld v. Pember Companies, Inc. 2010 WI App 150, 330 Wis. 2d 123, 792 N.W.2d 222, 09−2297.

Under the *Lyons* test, the specification question is not what other safety precautions might have been taken, but whether the safety requirements provided by the contract were reasonably precise specifications. A contract is reasonably precise if it reasonably and precisely lists items required. Common sense dictates that items not required by the contract do not obligate the contractor to provide them. Estate of Brown v. Mathy Construction Company, 2008 WI App 114, 313 Wis. 2d 497, 756 N.W.2d 417, 07−1543.

A spirit rule book for cheerleading, not officially adopted by a school district, lacked the absolute, certain, and imperative direction that prescribes and defines the time, mode, and occasion for an action's performance with such certainty that nothing remains for judgment or discretion. As such, the plaintiff did not show that the rule book created an absolute, certain, or imperative duty that fell within the ministerial duty exception to governmental immunity under sub. (4). Noffke v. Bakke, 2009 WI 10, 315 Wis. 2d 350, 760 N.W.2d 156, 06−1886.

So long as a precautionary measure is taken in response to an open and obvious danger, the law is that the government remains immune from suit under sub. (4). In this case, the trial court found that a teacher took no precautionary measure to deal with a known danger. While the teacher had the option to pick one precautionary measure over another, she did not have the option to do nothing and the exception to immunity applied. Heuser v. Community Insurance Corporation, 2009 WI App 151, 321 Wis. 2d 729, 774 N.W.2d 653, 08−2760.

Three factors should be considered when determining whether to exempt a specific statute from the notice of claim requirements: 1) whether there is a specific statutory scheme for which the plaintiff seeks exemption; 2) whether enforcement of the notice of claim requirements would hinder a legislative preference for a prompt resolution of the type of claim under consideration; and 3) whether the purposes for which this section was enacted would be furthered by requiring that a notice of claim be filed. Antitrust actions brought under s. 133.18 are not exempt from the notice of claim requirements found in sub. (1). E−Z Roll Off, LLC v. County of Oneida, 2011 WI 71, 335 Wis. 2d 720, 800 N.W.2d 421, 09−0775.

A government entity is not entitled to immunity for a failure to maintain its property as to a condition of disrepair or defect or a failure to operate. In this case, once the sewerage district had notice that its deep tunnel was draining the aquifer in downtown Milwaukee to the detriment of property owners, it had an "absolute, certain and imperative" duty to repair the tunnel. As the entity responsible for the tunnel, and being aware that the tunnel was causing structural damage to the plaintiff's property, the district had a ministerial duty to repair the tunnel. Because it did not, it enjoyed no immunity for its negligence under sub. (4). Bostco LLC v. Milwaukee Metropolitan Sewerage District, 2011 WI App 76, 334 Wis. 2d 620, 800 N.W.2d 518, 07−0221. Affirmed. 2013 WI 78, 350 Wis. 2d 554, 835 N.W.2d 160, 07−0221.

The first step in the ministerial duty analysis is to identify a source of law or policy that imposes the alleged duty. Merely arguing, in general terms, that a municipality that alters the normal course of traffic on a road must take measures to ensure the public can safely travel on the road and not pointing to any statute, regulation, or policy that imposes this duty, fails to do so. Even assuming the county had a duty to ensure reasonably safe travel during road construction, this duty would not be ministerial. How to safely control traffic in a construction zone is an inherently discretionary decision requiring the exercise of judgment. American Family Mutual Insurance Co. v. Outagamie County, 2012 WI App 60, 341 Wis. 2d 413, 816 N.W.2d 340, 11−1211.

It is evident that the plain meaning of "action" in sub. (3) is a judicial proceeding. While two other subsections within this section utilize the term "suit," those sections are unrelated; they operate independently and without reference to subsection (3). Thus, it does no mischief to interpret suit and action to have the same meaning. Sub. (3) provides for one damages cap, per person, per action. Anderson v. Hebert, 2013 WI App 54, 347 Wis. 2d 321, 830 N.W.2d 704, 12−1313.

Volunteer firefighters are actuated by a purpose to serve the fire department from the moment they choose to respond to an emergency call. Because of that, they are operating within the scope of their employment for the purposes of sub. (4) immunity. Brown v. Acuity, A Mutual Insurance Company, 2013 WI 60, 348 Wis. 2d 603, 833 N.W.2d 96, 11−0583.

Under s. 346.03 (3), the driver of an emergency vehicle may proceed through a red stop signal only if his or her vehicle gives a visual and an audible signal. A driver who did not give an audible signal has no discretion to proceed through a red stop signal. The statute sets forth "absolute, certain and imperative," requirements concerning the "performance of a specific task." Thus s. 346.03 (3) imposes upon a driver a ministerial duty to stop at a red stop signal, and a driver who does not falls within the ministerial duty exception to public officer immunity. Brown v. Acuity, A Mutual Insurance Company, 2013 WI 60, 348 Wis. 2d 603, 833 N.W.2d 96, 11−0583.

The monetary damage cap in sub. (3) does not violate equal protection. The plain meaning of sub. (3) is to limit the dollar amount of recovery to be paid for damages, injuries, or death to $50,000 per claimant, but the plain meaning of that provision has no bearing on the availability of equitable relief such as abatement. Bostco LLC v. Milwaukee Metropolitan Sewerage District, 2013 WI 78, 350 Wis. 2d 554, 835 N.W.2d 160, 07−0221.

A municipal entity may be subjected to claims for equitable relief to abate a negligently maintained nuisance that is a cause of significant harm and of which the municipal entity has notice. Under *Willow Creek* and *Johnson*, equitable relief will be barred when a municipal entity is entitled to immunity. When a plaintiff seeks equitable or injunctive relief against a municipal entity, a court must first answer the threshold question of whether immunity applies. If a court concludes that the actions the plaintiff is seeking to stop through a suit in equity are legislative, quasi−legislative, judicial, or quasi−judicial, then the suit must be dismissed because the governmental entity is protected by immunity. Bostco LLC v. Milwaukee Metropolitan Sewerage District, 2013 WI 78, 350 Wis. 2d 554, 835 N.W.2d 160, 07−0221.

When a governmental contractor seeks immunity under sub. (4), the contractor must show both that the contractor was an agent as that term is used in sub. (4) and that the allegedly injurious conduct was caused by the implementation of a decision for which immunity is available for governmental entities under sub. (4). A governmental contractor seeking to assert the defense of immunity should clearly allege in the pleadings why the injury−causing conduct comes within a legislative, quasi−legislative, judicial, or quasi−judicial function as set out in sub. (4). Showers Appraisals, LLC v. Musson Bros., Inc. 2013 WI 79, 350 Wis. 2d 509, 835 N.W.2d 226, 11−1158.

While s. 346.03 provides statutory privileges of authorized emergency vehicles exempting their operators from certain rules of the road, it also explicitly states that an operator of an emergency vehicle is not relieved of the "duty to drive or ride with due regard under the circumstances for the safety of all persons . . . ." The duty of "due regard under the circumstances" is a ministerial duty for purposes of determining immunity under this section. Legue v. City of Racine, 2014 WI 92, ___ Wis. 2d ___, 849 N.W.2d 837, 12−2499.

Nothing in Wisconsin law bars class action against a governmental body that is a mass action of named claimants bringing similar claims, provided that each claimant has complied with this section. Townsend v. Neenah Joint School District, 2014 WI App 117, ___ Wis. 2d ___, ___ N.W.2d ___, 13−2839.

To evaluate whether named claimants gave sufficient notice under this section, the issue is whether the notice they filed substantially complies with all the requirements of this section. To substantially comply, a notice must satisfy two related but distinct notice requirements. Sub. (1d) (a) imposes a "notice of injury" requirement of "written notice of the circumstances of the claim signed by the party, agent or attorney" and a "notice of claim" requirement under sub. (1d) (b) that notice of the claimant's identity and address, along with an itemized statement of relief sought, was presented to the proper person at the governmental body and was denied. Actual notice and lack of prejudice are an alternative to the written notice for sub. (1d) (a) but not for sub. (1d) (b). Townsend v. Neenah Joint School District, 2014 WI App 117, ___ Wis. 2d ___, ___ N.W.2d ___, 13−2839.

Whether claims were presented by the claimants' authority is a function of the requirement under sub. (1d) (a) that a claim be "signed by the party, agent or attorney" or, in the alternative, that the governmental body had actual notice. In this case the notice was signed by an attorney "for Claimants and Class," and the "class" was defined as the persons whose names, addresses, and claims were itemized on an attached list. If the notice of claim were a pleading in court, the attorney's signature would have sufficed to indicate his status as representative for the identified clients and "need not be verified or accompanied by affidavit." Townsend v. Neenah Joint School District, 2014 WI App 117, ___ Wis. 2d ___, ___ N.W.2d ___, 13−2839.

Liability of vocational, technical, and adult education [now technical college] districts and of their officers and employees is discussed. 77 Atty. Gen. 145.

A town that responds to a Level B hazardous waste release in its own capacity, in the absence of a county wide agreement, does not receive immunity from civil liability under s. 895.483 (2), but other statutory and common law immunities apply. OAG 1−99.

Monroe v. Pape, 367 U.S. 167 (1961), is overruled insofar as it holds that local governments are wholly immune from suit under 42 USC 1983. Monell v. New York City Dept. of Social Services, 436 U.S. 658 (1978).

A defendant public official has the burden to plead "good faith" as an affirmative defense in a 42 USC 1983 case. Gomez v. Toledo, 446 U.S. 635 (1980).

A municipality is immune from punitive damages under 42 USC 1983. Newport v. Fact Concerts, Inc. 453 U.S. 247 (1981).

A city ordinance regulating cable television was not exempt from antitrust scrutiny under the *Parker* doctrine. Community Communications Co. v. Boulder, 455 U.S. 40 (1982).

This section is preempted in 42 USC 1983 actions and may not be applied as it conflicts with purpose and effects of federal civil rights actions. Felder v. Casey, 487 U.S. 131 (1988).

A claim of excessive force in the course of making a seizure of the person is properly analyzed under the 4th amendment's objective reasonableness standard. A police officer's attempt to terminate a dangerous high−speed car chase that threatens the lives of innocent bystanders does not violate the 4th amendment, even when it places the fleeing motorist at risk of serious injury or death. Scott v. Harris, 550 U.S. 372, 127 S. Ct. 1769, 167 L. Ed. 2d 686 (2007).

Whether an official protected by qualified immunity may be held personally liable for an allegedly unlawful official action generally turns on the objective legal reasonableness of the action, assessed in light of the legal rules that were clearly established at the time the action was taken. When an alleged 4th amendment violation involves a search or seizure pursuant to a warrant, the fact that a neutral magistrate has issued a warrant is the clearest indication that the officers acted in an objectively reasonable manner. There is a narrow exception allowing suit when it is obvious that no reasonably competent officer would have concluded that a warrant should issue. Messerschmidt v. Millender, 565 U. S. ___, 182 L. Ed. 2d 47, 132 S. Ct. 1235 (2012).

Sub. (4) bars direct suits against municipalities for the torts of their employees. It does not preclude suing the officer directly and using s. 895.46 to indirectly recover from the municipality. Graham v. Sauk Prairie Police Commission, 915 F.2d 1085 (1990).

Once a deputy assumed a duty to protect a person subsequently murdered in a room adjacent to where the deputy was present, the deputy's obligation was no longer discretionary and he was no longer entitled to immunity under sub. (4) for decisions made at the murder site. Losinski v. County of Trempealeau, 946 F.2d 544 (1991).

Immunity of elected officials under sub. (4) is not defeated by the possibility that the official's acts were malicious. Farr v. Gruber, 950 F.2d 399 (1991).

The state may not be sued by a citizen under the wrongful death statute. Pinon v. State of Wisconsin, 368 F. Supp. 608.

Civil rights actions against municipalities are discussed. Starstead v. City of Superior, 533 F. Supp. 1365 (1982).

A county was not vicariously liable for its sheriff's alleged use of excessive force when the complaint alleged intentional tort. Voie v. Flood, 589 F. Supp. 746 (1984).

Decisions by law enforcement officers concerning whether and how to arrest someone are discretionary for purposes of sub. (4). Wilson v. City of Milwaukee, 138 F. Supp. 2d 1126 (2001).

The duty to report abuse of children to authorities under s. 48.981 is ministerial and not discretionary. Baumgardt v. Wausau School District Board of Education, 475 F. Supp. 2d 800 (2007).

The discretionary function exception to government tort liability. 61 MLR 163.

Several police supervisor immunities from state court suit may be doomed. Fine, 1977 WBB 9.

Municipal liability: The failure to provide adequate police protection — the special duty doctrine should be discarded. 1984 WLR 499.

Wisconsin recovery limit for victims of municipal torts: A conflict of public interests. 1986 WLR 155.

Reining in Municipalities: How to Tame the Municipal Immunity Monster in Wisconsin. Dudding. 2004 WLR 1741.

Revising Wisconsin's Government Immunity Doctrine, Annoye, 88 MLR 971 (2005).

Government Immunity for Safe Place Statute Violations. Cabush. Wis. Law. Oct. 1999.

Fighting City Hall: Municipal Immunity in Wisconsin. Pollack. Wis. Law. Dec. 2000.

Returning to First Principles? Governmental; Immunity in Wisconsin. Johnson−Karp. Wis. Law. Apr. 2014.

893.82 Claims against state employees; notice of claim; limitation of damages. (1) The purposes of this section are to:

(a) Provide the attorney general with adequate time to investigate claims which might result in judgments to be paid by the state.

(b) Provide the attorney general with an opportunity to effect a compromise without a civil action or civil proceeding.

(c) Place a limit on the amounts recoverable in civil actions or civil proceedings against any state officer, employee or agent.

(2) In this section:

(a) "Civil action or civil proceeding" includes a civil action or civil proceeding commenced or continued by counterclaim, cross claim or 3rd−party complaint.

(b) "Claimant" means the person or entity sustaining the damage or injury or his or her agent, attorney or personal representative.

(c) "Damage" or "injury" means any damage or injury of any nature which is caused or allegedly caused by the event. "Damage" or "injury" includes, but is not limited to, any physical or