

ASSEMBLY BILL

No. 1839

**Introduced by Assembly Member Bill Campbell
(Coauthor: Assembly Member Nation)**

January 28, 2002

An act to add Section 2782.8 to the Civil Code, relating to indemnity.

LEGISLATIVE COUNSEL'S DIGEST

AB 1839, as introduced, Bill Campbell. Indemnity: public agency.

Existing law provides that certain persons under various circumstances may contract or agree to indemnify a person against an act of either party, or of some other person.

This bill would authorize a public agency to require that an agreement or contract made with a design professional, as defined, include a provision to indemnify the public agency for the negligence or willful misconduct of the design professional. This bill would apply to agreements or contracts with a design professional entered into on or after January 1, 2003.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2782.8 is added to the Civil Code, to
2 read:
3 2782.8. (a) A public agency may require, in an agreement or
4 contract with a design professional, that the design professional
5 indemnify the public agency, or its officers and employees, or
6 both, from liabilities, damages, losses, and costs, (including, but

1 not limited to, reasonable attorneys fees) to the extent caused by
2 the negligence or willful misconduct of the design professional
3 and other persons employed by the design professional in the
4 performance of the agreement or contract.

5 (b) For purposes of this section, the following definitions
6 apply:

7 (1) "Public agency" includes any county, city, city and county,
8 district, school district, public authority, municipal corporation, or
9 other political subdivision, joint powers authority, or public
10 corporation in the state. Public agency does not include the State
11 of California.

12 (2) "Design professional" includes all of the following:

13 (A) An individual licensed as an architect pursuant to Chapter
14 3 (commencing with Section 5500) of Division 3 of the Business
15 and Professions Code, and a business entity offering architectural
16 services in accordance with that chapter.

17 (B) An individual registered as a professional engineer
18 pursuant to Chapter 7 (commencing with Section 6700) of
19 Division 3 of the Business and Professions Code, and a business
20 entity offering professional engineering services in accordance
21 with that chapter.

22 (C) An individual licensed as a professional land surveyor
23 pursuant to Chapter 15 (commencing with Section 8700) of
24 Division 3 of the Business and Professions Code, and a business
25 entity offering professional land surveying services in accordance
26 with that chapter.

27 (c) Except as provided in subdivision (a), if a design
28 professional provides professional services to or for a public
29 agency, the public agency shall not require the design professional
30 to defend, indemnify, or hold harmless the public agency or its
31 officers and employees from any claim, action, or proceeding
32 against the public agency.

33 (d) This section shall only apply to a professional service
34 agreement or contract entered into on or after January 1, 2003.

