



2013 ASSEMBLY BILL 782

February 19, 2014 – Introduced by Representatives KNUDSON, BROOKS, SCHRAA, WEATHERSTON, LEMAHIEU, A. OTT, KULP, BIES, LOUDENBECK, KAHL, MARKLEIN, KNODL and HINTZ, cosponsored by Senators MOULTON, PETROWSKI, GUDEX, COWLES, LEIBHAM, SCHULTZ and HARSDDORF. Referred to Committee on Housing and Real Estate.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT to renumber** 101.12 (3) (am) 2. and 101.12 (3) (am) 4.; **to renumber and**
2 **amend** 101.12 (3) (am) 1., 101.12 (3) (am) 3. and 101.12 (3) (am) 5.; **to amend**
3 101.02 (15) (j) and 101.19 (1g) (am); and **to create** 15.407 (18), 101.02 (7r),
4 101.023, 101.12 (3) (bq), 101.12 (3m) (d), 101.12 (3r), 101.12 (4) and 101.14 (4r)
5 of the statutes; **relating to:** ordinances, variances, and rules relating to the
6 constructing or altering of, or adding to, public buildings and buildings that are
7 places of employment, the creation of a building code council, and inspections
8 of public buildings and buildings that are places of employment, and granting
9 rule-making authority.

Analysis by the Legislative Reference Bureau

With certain exceptions, current law requires the Department of Safety and Professional Services (DSPA) to establish reasonable standards or rules for the construction of public buildings and buildings that are places of employment (public buildings). Pursuant to this requirement, DSPA has promulgated rules establishing these construction standards. Also, the rules promulgated by DSPA require that DSPA review the construction plans for public buildings. In addition to reviewing new construction projects, the rules require that DSPA review, with limited

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exceptions, building projects that involve alterations of, and additions to, existing public buildings.

This bill prohibits a city, village, or town from enacting or enforcing an ordinance that establishes minimum standards for the construction or alteration of, or an addition to, a public building unless that ordinance strictly conforms to the rules promulgated by DSPS. The bill creates an exception to this prohibition for ordinances establishing property maintenance codes and for certain ordinances relating to fire detection, prevention, or suppression (fire safety) for public buildings that are not multifamily dwellings and that were enacted before May 1, 2013.

Under current law, DSPS must accept the examinations of essential drawings and specifications (plan examinations) for public buildings that have been performed by first class cities or by second class cities that meet certain requirements relating to the competency of the persons performing the plan examinations. A first class city is one with a population of at least 150,000. A second class city is one with a population of at least 39,000 but less than 150,000. Also under current law, DSPS must accept reviews and determinations by first class cities regarding variances for public buildings if the reviews and determinations are performed in a manner approved by DSPS. This bill requires that DSPS accept variance reviews and determinations by second class cities that are certified by DSPS to perform plan examinations.

The bill authorizes DSPS to grant a variance from a standard contained in a rule for a specific project for the construction or alteration of, or an addition to, a public building if DSPS finds that the requested variance will impose an equivalent standard that meets the intent of the rule.

This bill creates a building code council (council) in DSPS to advise the DSPS about issues related to the construction, repair, and maintenance of public buildings. The council consists of ten members, appointed by the governor for three-year terms. The membership includes local building inspectors, building contractors, architects, and persons representing the skilled building trades and the fire fighting profession.

The bill specifies that inspections of construction, alteration and addition projects for public buildings, other than inspections of the installation of fire safety devices, must be performed by inspectors who are certified under rules promulgated by DSPS. The bill requires DSPS to promulgate separate rules establishing requirements for inspections of fire safety devices that are being installed as part of these projects.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

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1 15.407 (18) BUILDING CODE COUNCIL. (a) There is created in the department of
2 safety and professional services a building code council consisting of the following
3 members appointed for 3-year terms:

4 1. Two members representing the skilled building trades, each of whom is
5 actively engaged in his or her trade.

6 2. Two members representing local building inspectors, each of whom is
7 authorized to do inspections under s. 101.12 (4) and who is employed by a city, village,
8 or county.

9 3. Two members representing the fire services, each of whom is actively
10 engaged in fire service work and at least one of whom is a fire chief.

11 4. Two members representing building contractors, each of whom is actively
12 engaged in on-site construction of public buildings and buildings that are places of
13 employment.

14 5. Two members representing architects, engineers, and designers, each of
15 whom is actively engaged in the design or evaluation of public buildings and
16 buildings that are places of employment.

17 (b) An employee of the department shall serve as nonvoting secretary of the
18 council.

19 (c) The council shall meet at least 2 times annually.

20 (d) Six members of the council shall constitute a quorum. For the purpose of
21 conducting business a majority vote of the council is required, except that at least 8
22 members of the council are required to vote affirmatively to recommend changes in
23 the statutes or rules.

24 **SECTION 2.** 101.02 (7r) of the statutes is created to read:

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1 101.02 (7r) (a) Notwithstanding sub. (7) (a), no city, village, or town may enact
2 or enforce an ordinance that establishes minimum standards for constructing,
3 altering, or adding to public buildings or buildings that are places of employment
4 unless that ordinance strictly conforms to the applicable rules under sub. (15) (j),
5 except as provided in pars. (b) to (d).

6 (b) Notwithstanding par. (a), a town, village, or city may enforce an ordinance
7 establishing minimum standards for constructing, altering, or adding to public
8 buildings or buildings that are places of employment that does not strictly conform
9 to the applicable rules under sub. (15) (j) if all of the following apply:

10 1. The ordinance was enacted before May 1, 2013.

11 2. The ordinance was published by the town, village, or city in the manner
12 required under s. 60.80, 61.50, or 62.11 (4).

13 3. The ordinance relates to fire detection, prevention, or suppression
14 components of buildings.

15 4. The building is not a multifamily dwelling, as defined in s. 101.971 (2).

16 5. The ordinance is submitted to the department within 60 days after the
17 effective date of this subdivision [LRB inserts date].

18 6. The department determines that the ordinance requires standards that are
19 at least as strict as the rules promulgated by the department.

20 (c) A town, village, or city may amend an ordinance that is enforceable under
21 par. (b) if all of the following apply:

22 1. The amendment will not broaden the applicability of the ordinance to any
23 building components that are not subject to the ordinance under par. (b) 3.

24 2. The amendment will not change the specific subject matter regulated by the
25 ordinance.

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1 3. The town, village, or city submits a copy of the enacted amendment to the
2 department at least 120 days before the effective date of the amendment.

3 4. The town, village, or city publishes the enacted amendment in the manner
4 required under s. 60.80, 61.50, or 62.11 (4) at least 120 days before the effective date
5 of the amendment.

6 (d) 1. The department shall maintain a list of the ordinances that are
7 enforceable under par. (b) and of the amendments that are enforceable under par. (c).
8 The list shall be accessible to the public in electronic format, and shall include
9 electronically photographed or scanned copies of the ordinances and amendments.

10 2. For an amendment submitted to the department under par. (c) 3., the
11 department shall make it accessible as required under subd. 1. within 10 working
12 days after receiving the amendment.

13 (e) Notwithstanding par. (a), a town, village, or city may enact and enforce an
14 ordinance establishing a property maintenance code that is stricter than rules
15 promulgated by the department under sub. (15) (j).

16 **SECTION 3.** 101.02 (15) (j) of the statutes is amended to read:

17 101.02 (15) (j) The department shall ascertain, fix and order such reasonable
18 standards or rules for the ~~construction, repair and maintenance of places of~~
19 ~~employment and~~ constructing, altering, adding to, repairing, and maintaining
20 public buildings, ~~as shall~~ and places of employment in order to render them safe.

21 **SECTION 4.** 101.023 of the statutes is created to read:

22 **101.023 Building code council duties.** The building code council shall
23 review the rules relating to constructing, altering, adding to, repairing, and
24 maintaining public buildings and buildings that are places of employment. The
25 council shall consider and make recommendations to the department pertaining to

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1 these rules and any other matters related to constructing, altering, adding to,
2 repairing, and maintaining public buildings and buildings that are places of
3 employment. In preparing rules under this chapter that relate to public buildings
4 and to buildings that are places of employment, the department shall consult with
5 the building code council.

6 **SECTION 5.** 101.12 (3) (am) 1. of the statutes is renumbered 101.12 (3) (am) and
7 amended to read:

8 101.12 (3) (am) Accept the examination of essential drawings, calculations and
9 specifications in accordance with sub. (1) performed by a 2nd class city ~~in conformity~~
10 ~~with the requirements of this paragraph~~ that is certified pursuant to sub. (3m).

11 **SECTION 6.** 101.12 (3) (am) 2. of the statutes is renumbered 101.12 (3m) (a).

12 **SECTION 7.** 101.12 (3) (am) 3. of the statutes is renumbered 101.12 (3m) (b) and
13 amended to read:

14 101.12 (3m) (b) A 2nd class city may apply for certification by the department
15 ~~for the purposes of this paragraph~~ under this subsection if that city employs at least
16 one architect or one professional engineer who has been granted a certificate of
17 registration under s. 443.10. The department shall certify a 2nd class city when the
18 department determines and certifies the competency of all examiners employed by
19 the city. The department shall review the competency of the examiners of a city that
20 is certified under this ~~paragraph~~ subsection on a regular basis and may revoke the
21 certification of a city if the examiners do not meet standards specified by the
22 department.

23 **SECTION 8.** 101.12 (3) (am) 4. of the statutes is renumbered 101.12 (3m) (c).

24 **SECTION 9.** 101.12 (3) (am) 5. of the statutes is renumbered 101.12 (3m) (e) and
25 amended to read:

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1 101.12 **(3m)** (e) The department shall by rule set fees, to be collected by the 2nd
2 class city and remitted to the department, to meet the department's costs in enforcing
3 and administering its duties under ~~this paragraph~~ sub. (3) (am) and this subsection.

4 **SECTION 10.** 101.12 (3) (bq) of the statutes is created to read:

5 101.12 **(3)** (bq) Accept the review and determination performed by 2nd class
6 cities that are certified pursuant to sub. (3m) on variances for buildings if the
7 variances are reviewed and decided on in a manner approved by the department.

8 **SECTION 11.** 101.12 (3m) (d) of the statutes is created to read:

9 101.12 **(3m)** (d) The department shall certify 2nd class cities to perform reviews
10 and determinations of variances under sub. (3) (bq) if the 2nd class city has been
11 certified for purposes of sub. (3) (b).

12 **SECTION 12.** 101.12 (3r) of the statutes is created to read:

13 101.12 **(3r)** An owner of a building may request, and the department may
14 grant, a variance from standards contained in a rule relating to constructing,
15 altering, and adding to public buildings and buildings that are places of employment
16 if the department finds that the requested variance will impose an equivalent
17 standard that meets the intent of the rule.

18 **SECTION 13.** 101.12 (4) of the statutes is created to read:

19 101.12 **(4)** (a) Except as provided in par. (b), any inspection performed to
20 determine compliance with the rules promulgated by the department that relate to
21 constructing, altering, or adding to public buildings and buildings that are places of
22 employment may be performed only by a person who is certified under rules
23 promulgated by the department to make such inspections.

24 (b) The certification requirement under par. (a) does not apply to any of the
25 following:

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1 1. An inspection performed under s. 101.14 (2) (b) or (c) by an inspector who is
2 designated under s. 101.14 (2) (d) to make such inspections.

3 2. An inspection performed by an inspector who has received certification
4 under s. 101.14 (4r).

5 **SECTION 14.** 101.14 (4r) of the statutes is created to read:

6 101.14 (4r) (a) In this subsection, “fire detection, prevention, and suppression
7 devices” has the meaning given in sub. (4) (g) 2.

8 (b) A person may perform inspections of fire detection, prevention, and
9 suppression devices being installed during the construction or alteration of, or the
10 addition to, public buildings and places of employment only if he or she has received
11 certification as an inspector from the department.

12 (c) 1. The department shall promulgate rules establishing procedures and
13 requirements for issuing certifications for purposes of par. (b). The department shall
14 include in the rules a requirement that the person hold a valid certification from the
15 national fire protection association qualifying him or her as a certified fire inspector
16 I or that he or she hold a valid equivalent certification.

17 2. The department shall determine which certifications issued by other entities
18 will qualify as valid equivalent certifications. Notwithstanding s. 227.10 (1),
19 determinations under this subdivision shall not be promulgated as rules.

20 (d) The department shall provide assistance to any nationwide or statewide
21 organization that represents fire chiefs and that is engaged in providing training and
22 certification opportunities for persons seeking to receive certification by the
23 department under this subsection.

24 **SECTION 15.** 101.19 (1g) (am) of the statutes is amended to read:

25 101.19 (1g) (am) The services specified by s. 101.12 (3) (am) and (bq) and (3m).

ASSEMBLY BILL 782**1 SECTION 16. Nonstatutory provisions.**

2 (1) COUNCIL; TERMS OF INITIAL MEMBERS. Notwithstanding the length of terms
3 specified in section 15.407 (18) (a) (intro.) of the statutes, as created by this act, the
4 initial members of the building code council under section 15.407 (18) of the statutes,
5 as created by this act, shall be appointed by the governor for the following terms:

6 (a) One member appointed under section 15.407 (18) (a) 2. of the statutes, as
7 created by this act, one member appointed under section 15.407 (18) (a) 3. of the
8 statutes, as created by this act, one member appointed under section 15.407 (18) (a)
9 4. of the statutes, as created by this act, and one member appointed under section
10 15.407 (18) (a) 5. of the statutes, as created by this act, for terms expiring on July 1,
11 2017.

12 (b) One member appointed under section 15.407 (18) (a) 1. of the statutes, as
13 created by this act, one member appointed under section 15.407 (18) (a) 2. of the
14 statutes, as created by this act, and one member appointed under section 15.407 (18)
15 (a) 4. of the statutes, as created by this act, for terms expiring on July 1, 2016.

16 (c) One member appointed under section 15.407 (18) (a) 1. of the statutes, as
17 created by this act, one member appointed under section 15.407 (18) (a) 3. of the
18 statutes, as created by this act, one member appointed under section 15.407 (18) (a)
19 5. of the statutes, as created by this act, for terms expiring on July 1, 2015.

20 **SECTION 17. Effective dates.** This act takes effect on the day after publication,
21 except as follows:

22 (1) The treatment of section 101.14 (4r) (b) takes effect on the first day of the
23 37th month beginning after publication.

24 (END)