



2009 ASSEMBLY BILL 92

February 27, 2009 - Introduced by Representatives SHILLING, HINTZ, MOLEPSKE JR.,
LOTHIAN, SEIDEL, DEXTER, CLARK, BALLWEG, JORGENSEN, BERNARD SCHABER,
SPANBAUER, STRACHOTA and DAVIS, cosponsored by Senators LASSA, ERPENBACH,
RISSER, TAYLOR, PLALE, HARSDFORF, VINEHOUT, LEHMAN, SCHULTZ, DARLING and
LEIBHAM. Referred to Committee on Jobs, the Economy and Small Business.

1 **AN ACT** *to renumber* 44.02 (24) and 101.121 (4) (a); *to renumber and amend*
2 71.07 (9m) (a), 71.07 (9r) (a), 71.28 (6) (a) and 71.47 (6) (a); *to amend* 13.48 (7),
3 13.48 (15), 71.07 (9m) (c), 71.28 (6) (c), 71.47 (6) (c), 86.19 (1), 101.121 (4) (b),
4 101.19 (1) (intro.), 254.61 (1) (f) 2. and 823.21; and *to create* 13.48 (10) (c),
5 20.143 (1) (gb), 41.11 (1) (bm), 44.02 (24) (b), 44.02 (24d), 71.07 (9m) (a) 2., 71.07
6 (9m) (g), 71.07 (9m) (h), 71.07 (9r) (a) 2., 71.28 (6) (a) 2., 71.28 (6) (g), 71.28 (6)
7 (h), 71.47 (6) (a) 2., 71.47 (6) (g), 71.47 (6) (h), 86.19 (4m), 86.37, 101.121 (3) (c),
8 101.121 (4) (a) 2., 101.121 (5), 101.975 (4), 227.01 (13) (zy), 560.03 (21m) and
9 560.083 of the statutes; **relating to:** the regulation, preservation, and
10 restoration of historic buildings; the supplement to the federal historic
11 rehabilitation tax credit and the state historic rehabilitation tax credit;
12 requiring the certification of downtowns; promoting certain downtown areas in

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- 1 this state; highway projects involving business and downtown areas; granting
2 rule-making authority; and making appropriations.
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Analysis by the Legislative Reference Bureau

This bill makes numerous changes with regard to historic buildings and downtown development. Significant provisions include the following:

HISTORIC BUILDINGS***State Historic Building Code***

Current law authorizes the Department of Commerce (Commerce) to regulate the preservation and restoration of qualified historic buildings. A qualified historic building is a building that is listed on the national or state register of historic places, or a certified local register of historic property, or that is located in a district that is listed on the national or state register of historic places and is of historical significance to the district. Current law permits Commerce, in consultation with the Historic Building Code Council, to promulgate a historic building code that provides specific standards for the preservation or restoration of qualified historic buildings, while still providing for the health, safety, and welfare of occupants of and visitors to historic buildings. In addition, to permit the preservation or restoration of qualified historic buildings, Commerce may grant a variance from any rule promulgated under the chapters of the statutes relating to the regulation of industry, buildings, and safety or the regulation of plumbing, fire protection systems, and swimming pools.

With certain exceptions, the owner of a qualified historic building may elect to be subject to the State Historic Building Code. With limited exceptions, an owner who makes this election is exempt from any provision of any other building code, including a local building code, that concerns a matter that is dealt with in the State Historic Building Code. Although current law does not contain an administrative procedure designed specifically to determine whether an owner is entitled to this exemption, current law does contain a procedure that an owner may follow to resolve any conflicts between a local order and any order of Commerce that relates to the safety of places of employment or certain buildings that are open to the public (public buildings).

This bill specifies that the State Historic Building Code must be liberally interpreted to facilitate the preservation and restoration of qualified historic buildings. The bill also creates a specific administrative procedure for determining the extent to which a provision in a local building code applies to a qualified historic building. The bill permits the owner of a qualified historic building who has elected to be governed by the State Historic Building Code to request that Commerce review any decision of a local governmental unit that requires the owner to comply with a provision in a local ordinance. Commerce must review the decision to determine whether the provision in the ordinance concerns a matter dealt with in the State Historic Building Code, in which case the owner would be exempt from the provision. Commerce must consult with the State Historical Society (SHS) before making its

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determination. The bill specifies that, in performing this review, Commerce must follow the existing procedure for resolving conflicts between local orders and orders of Commerce that relate to the safety of places of employment or public buildings. In addition, the bill requires Commerce, in cooperation with the SHS, to develop an informational pamphlet to increase public awareness and use of the State Historic Building Code.

Historic buildings used as multifamily dwellings

Current law requires Commerce to promulgate rules that provide uniform standards for the construction of multifamily dwellings and their components. With certain exceptions, a multifamily dwelling is an apartment building, row house, town house, condominium, or manufactured building that does not exceed 60 feet in height or six stories and that consists of three or more attached dwelling units. These rules currently apply to any building or portion of a building that is converted to a multifamily dwelling after April 1, 1995, unless the building is a qualified historic building and the owner elects to be subject to the State Historic Building Code. Rules promulgated by Commerce also permit a local governmental unit to exercise jurisdiction over the construction and inspection of multifamily dwellings by adopting ordinances that are consistent with Commerce's rules on multifamily dwellings. Currently, these rules contain specific requirements relating to the type, height, and design of handrails and guardrails that are required to be used in multifamily dwellings.

This bill permits a local governmental unit to adopt an ordinance that requires the local governmental unit to grant a variance from these handrail and guardrail requirements, as they apply to a qualified historic building that is converted from a single-family dwelling to a multifamily dwelling, if the owner of the qualified historic building shows that the type, height, and design of the handrail or guardrail proposed for installation is historically appropriate and if the handrail or guardrail is at least as protective of public safety as the rail that is otherwise required.

Historic rehabilitation tax credit

Under current law, a person who is eligible to claim a federal income tax credit equal to either 10 percent of qualified expenses related to rehabilitating a qualified building in this state or 20 percent of qualified expenses related to rehabilitating historic property in this state may also claim a supplemental state income or franchise tax credit that is equal to 5 percent of such qualified expenses.

Under the bill, for taxable years beginning in 2010, a person who is eligible to claim the federal rehabilitation tax credit may claim the supplemental state rehabilitation credit in an amount equal to 20 percent of qualified expenses, if the rehabilitated property is located in this state and the SHS certifies the rehabilitation. In addition, under the bill, a person who is not eligible to claim the federal rehabilitation tax credit because the person's qualified expenses do not satisfy the adjusted-basis requirement under federal law may claim the supplemental state rehabilitation credit in an amount equal to 20 percent of qualified expenses, if the qualified expenses are at least \$10,000, the rehabilitated property is located in this state and the SHS certifies the rehabilitation. The SHS may charge and collect a fee for the certifications described in this paragraph in an

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amount equal to 2 percent of the qualified expenses, but not less than \$300 nor more than \$20,000. Fifty percent of the amount of such fees collected by the SHS will be used to provide additional staffing for the administration of the State Main Street Program, which is a program that promotes revitalization efforts in certain business areas.

Under current law, a person may claim an income tax credit equal to 25 percent of the qualified expenses to preserve or rehabilitate historic property that is used as an owner-occupied personal residence. The SHS certifies those expenses.

Under this bill, for taxable years beginning in 2010, a person who is eligible to claim the state income tax credit for preserving or rehabilitating historic property may claim the state income tax credit in an amount equal to 30 percent of qualified expenses, if the preserved or rehabilitated property is located in this state and the SHS approves the preservation or rehabilitation. The SHS may charge and collect a fee of \$150 for certifying such expenses.

Under current law, if a person who claims the income tax credit for qualified expenses to preserve or rehabilitate an owner-occupied personal residence sells the property within five years from the date on which the preservation or rehabilitation is completed, or if the SHS determines that the preservation or rehabilitation does not comply with the standards established by the SHS, the person who claimed the tax credit must pay to the state all, or a portion, of the amount of the credit that the person received, depending on the date on which the person sold the property or on the date on which the preservation or rehabilitation does not comply with SHS standards.

Under this bill, if a person who claims the supplemental state income or franchise tax credit for qualified expenses related to preserving or rehabilitating historic property in this state sells the property within five years from the date on which the preservation or rehabilitation is completed, or if the SHS determines that the preservation or rehabilitation does not comply with the standards established by the SHS, the person who claimed the tax credit must pay to the state all, or a portion, of the amount of the credit that the person received, depending on the date on which the person sold the property or the date on which the preservation or rehabilitation does not comply with SHS standards.

DOWNTOWN DEVELOPMENT***Certification and promotion of downtowns***

This bill requires Commerce to develop and publish guidelines to aid communities in reconstructing central business districts that are destroyed or severely damaged in major disasters. The bill also requires Commerce to promulgate rules pursuant to which Commerce will certify downtowns. In addition, under the bill, the Department of Tourism must promote travel to these certified downtowns and to business areas that are or have been the subject of revitalization efforts under the State Main Street Program.

Currently, the Building Commission (commission) submits biennial recommendations to the legislature for revisions to the long-range state building program. No state agency or authority may engage any person to undertake construction of a building for the agency costing more than \$100,000 without prior

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approval of the commission. In addition, the commission has authority to lease land and buildings to be used for state purposes unless that authority is granted by law to another state agency.

This bill provides that the commission shall not authorize construction of any state office building to be located outside of a downtown area certified by Commerce, as required under the bill, unless the cost of locating the building inside such a downtown area is more than 10 percent greater than the average cost of locating the building outside the downtown areas of the territory that is served by the functions to be performed in the building on the date of initial occupancy outside of such a downtown area, as determined by the Department of Administration (DOA). The bill also provides that the commission, in preparing its recommendations for the long-range state building program, shall not recommend construction of a state office building to be located outside of such a downtown area, unless the commission would be authorized to permit construction of that building in the recommended location. In addition, the bill prohibits the commission from approving the lease of any building for state office facilities to be located outside of such a downtown area unless the cost of locating the facilities inside such a downtown area is more than 10 percent greater than the average cost of locating the facilities outside the downtown areas of the territory that is served by the functions to be performed in the facilities on the date of initial occupancy under the lease outside of such a downtown area, as determined by DOA.

This bill imposes additional requirements relating to highway projects that are funded by the Department of Transportation (DOT) and that involve a highway in a business area included in the State Main Street Program or in a downtown certified by Commerce. First, DOT must consult, during preliminary stages of a proposed highway project, on issues concerning the proposed project and its effect on the business or certified downtown area with Commerce and, unless none exists, with a local board or downtown planning organization of that municipality. Second, DOT must, during the concept definition phase of the project, recognize the high visual and aesthetic significance of, and impact related to, these types of highway projects in evaluating the aesthetic and visual impact of the project.

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:

- 1 **SECTION 1.** 13.48 (7) of the statutes is amended to read:
- 2 13.48 (7) BIENNIAL RECOMMENDATIONS. The building commission shall prepare
- 3 and formally adopt recommendations for the long-range state building program on
- 4 a biennial basis. The building commission shall include in its report any projects

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1 proposed by the state fair park board involving a cost of not more than \$250,000,
2 together with the method of financing those projects proposed by the board, without
3 recommendation. Unless a later date is requested by the building commission and
4 approved by the joint committee on finance, the building commission shall, no later
5 than the first Tuesday in April of each odd-numbered year, transmit the report
6 prepared by the department of administration under s. 16.40 (20) and the
7 commission's recommendations for the succeeding fiscal biennium that require
8 legislative approval to the joint committee on finance in the form of proposed
9 legislation prepared in proper form. If the building commission includes any
10 recommendation for construction of a state office building, the commission shall
11 ensure that the recommended location of the building is consistent with construction
12 requirements under sub. (10) (c).

13 **SECTION 2.** 13.48 (10) (c) of the statutes is created to read:

14 13.48 (10) (c) Unless otherwise required by law, the building commission shall
15 not authorize the construction of any state office building, whether for utilization by
16 a single agency or otherwise, to be located outside of a downtown area, as certified
17 under s. 560.03 (21m), unless the cost of locating the building inside a downtown area
18 is more than 10 percent greater than the average cost of locating the building in that
19 portion of the territory that is served by the functions to be performed in the building
20 on the date of initial occupancy outside of any downtown area, as determined by the
21 department of administration.

22 **SECTION 3.** 13.48 (15) of the statutes is amended to read:

23 13.48 (15) ACQUISITION OF LEASEHOLD INTERESTS. Subject to the requirements
24 of s. 20.924 (1) (i), the building commission shall have the authority to acquire
25 leasehold interests in land and buildings where such authority is not otherwise

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1 provided to an agency by law. The building commission shall not approve any lease
2 for state office facilities, whether for utilization by a single agency or otherwise, to
3 be located outside of a downtown area, as certified under s. 560.03 (21m), unless the
4 cost of locating the facilities inside a downtown area is more than 10 percent greater
5 than the average cost of locating the facilities in that portion of the territory that is
6 served by the functions to be performed in the facilities on the date of initial
7 occupancy under the lease outside of any downtown area, as determined by the
8 department of administration.

9 **SECTION 4.** 20.143 (1) (gb) of the statutes is created to read:

10 20.143 (1) (gb) *Certified downtowns and business district reconstruction.* All
11 moneys received from the historical society under s. 44.02 (24d) (b) for the purpose
12 of providing staff for the administration of ss. 560.03 (21m) and 560.083.

13 **SECTION 5.** 41.11 (1) (bm) of the statutes is created to read:

14 41.11 (1) (bm) Promote travel to business areas that are or have been the
15 subject of revitalization efforts under the State Main Street Program under s.
16 560.081 or that are certified downtowns under s. 560.03 (21m).

17 **SECTION 6.** 44.02 (24) of the statutes is renumbered 44.02 (24) (a).

18 **SECTION 7.** 44.02 (24) (b) of the statutes is created to read:

19 44.02 (24) (b) Charge a fee of \$150 for a certification under par. (a). The
20 historical society shall collect the fee under this paragraph when an applicant
21 applies for certification under par. (a).

22 **SECTION 8.** 44.02 (24d) of the statutes is created to read:

23 44.02 (24d) (a) Promulgate by rule procedures, standards, and forms necessary
24 to certify, and shall certify, expenditures for preservation or rehabilitation of historic
25 property for the purposes of ss. 71.07 (9m), 71.28 (6), and 71.47 (6). Those standards

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1 shall be substantially similar to the standards used by the secretary of the interior
2 to certify rehabilitations under 26 USC 47 (c) (2).

3 (b) Charge a fee for a certification under par. (a) equal to 2 percent of the
4 qualified rehabilitation expenditures for the historic property that is the subject of
5 the certification, except that no fee under this paragraph may be less than \$300 nor
6 more than \$20,000. The historical society shall collect the fee under this paragraph
7 when an applicant applies for certification under par. (a). Fifty percent of the amount
8 collected under this paragraph shall be deposited into the appropriation account
9 under s. 20.143 (1) (gb).

10 **SECTION 9.** 71.07 (9m) (a) of the statutes is renumbered 71.07 (9m) (a) 1. and
11 amended to read:

12 71.07 **(9m)** (a) 1. Any person may claim as a credit against the taxes otherwise
13 due imposed under this chapter s. 71.02, up to the amount of those taxes, an amount
14 equal to ~~5%~~ 5 percent of the costs of qualified rehabilitation expenditures, as defined
15 in section 47 (c) (2) of the ~~internal revenue code~~ Internal Revenue Code, for certified
16 historic structures on property located in this state, if the physical work of
17 construction or destruction in preparation for construction begins after December
18 31, 1988, and before January 1, 2010, and the rehabilitated property is placed in
19 service after June 30, 1989.

20 **SECTION 10.** 71.07 (9m) (a) 2. of the statutes is created to read:

21 71.07 **(9m)** (a) 2. a. Any person may claim as a credit against the taxes imposed
22 under s. 71.02, up to the amount of those taxes, an amount equal to 20 percent of the
23 costs of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the
24 Internal Revenue Code, for certified historic structures on property located in this

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1 state, if the physical work of construction or destruction in preparation for
2 construction begins after December 31, 2009.

3 b. A person whose qualified rehabilitation expenditures do not satisfy the
4 adjusted basis requirement under section 47 (c) (1) of the Internal Revenue Code, but
5 who otherwise would be eligible to claim the rehabilitation credit under section 47
6 of the Internal Revenue Code, may claim as a credit against the taxes imposed under
7 s. 71.02, up to the amount of those taxes, an amount equal to 20 percent of the costs
8 of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal
9 Revenue Code, if the property is located in this state; if the person's qualified
10 rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal Revenue
11 Code, are at least \$10,000; if the rehabilitation is approved by the state historical
12 society before the physical work of construction, or destruction in preparation for
13 construction, begins; if the person includes evidence of such approval with the
14 person's return; if the physical work of construction, or destruction in preparation
15 for construction, begins after December 31, 2009; and if the person claims the credit
16 for the same taxable year in which the person would have claimed the credit for
17 federal purposes.

18 **SECTION 11.** 71.07 (9m) (c) of the statutes is amended to read:

19 71.07 (9m) (c) No person may claim ~~the a~~ credit under this subsection unless
20 the claimant includes with the claimant's return evidence that the rehabilitation was
21 approved recommended by the state historic preservation officer for approval by the
22 secretary of the interior under 36 CFR 67.6 before the physical work of construction,
23 or destruction in preparation for construction, began, and the claimant claims the
24 credit for the same taxable year in which the claimant would have claimed the credit
25 for federal purposes.

ASSEMBLY BILL 92**SECTION 12**

1 **SECTION 12.** 71.07 (9m) (g) of the statutes is created to read:

2 71.07 **(9m)** (g) A person who has incurred qualified rehabilitation
3 expenditures, as defined in section 47 (c) (2) of the Internal Revenue Code, for
4 certified historic structures located in this state, as described in par. (a), but who is
5 not a resident of this state and who is not required to file a return under this chapter,
6 may enter into an agreement with another person, with the department's approval
7 and in the manner prescribed by the department, so that the other person may claim
8 the credit under this subsection, if the other person is subject to the taxes imposed
9 under s. 71.02.

10 **SECTION 13.** 71.07 (9m) (h) of the statutes is created to read:

11 71.07 **(9m)** (h) A person who receives a credit under this subsection shall add
12 to the person's liability for taxes imposed under s. 71.02 one of the following
13 percentages of the amount of the credits received under this subsection for
14 rehabilitating or preserving the property if, within 5 years after the date on which
15 the preservation or rehabilitation work that was the basis of the credit is completed,
16 the person either sells or conveys the property by deed or land contract or the state
17 historical society certifies to the department of revenue that the historic property has
18 been altered to the extent that it does not comply with the standards promulgated
19 under s. 44.02 (24d):

20 1. If the sale, conveyance, or noncompliance occurs during the first year after
21 the date on which the preservation or rehabilitation is completed, 100 percent.

22 2. If the sale, conveyance, or noncompliance occurs during the 2nd year after
23 the date on which the preservation or rehabilitation is completed, 80 percent.

24 3. If the sale, conveyance, or noncompliance occurs during the 3rd year after
25 the date on which the preservation or rehabilitation is completed, 60 percent.

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1 4. If the sale, conveyance, or noncompliance occurs during the 4th year after
2 the date on which the preservation or rehabilitation is completed, 40 percent.

3 5. If the sale, conveyance, or noncompliance occurs during the 5th year after
4 the date on which the preservation or rehabilitation is completed, 20 percent.

5 **SECTION 14.** 71.07 (9r) (a) of the statutes is renumbered 71.07 (9r) (a) 1. and
6 amended to read:

7 71.07 **(9r)** (a) 1. For taxable years beginning ~~on or after August 1, 1988~~ July
8 31, 1988, and before January 1, 2010, any natural person may claim as a credit
9 against the taxes otherwise due imposed under s. 71.02, up to the amount of those
10 taxes, an amount equal to ~~25%~~ 25 percent of the costs of preservation or
11 rehabilitation of historic property located in this state, including architectural fees
12 and costs incurred in preparing nomination forms for listing in the national register
13 of historic places in Wisconsin or the state register of historic places, if the
14 nomination is made within 5 years prior to submission of a preservation or
15 rehabilitation plan under par. (b) 3. b., and if the physical work of construction or
16 destruction in preparation for construction begins after December 31, 1988, except
17 that the credit may not exceed \$10,000, or \$5,000 for married persons filing
18 separately, for any preservation or rehabilitation project.

19 **SECTION 15.** 71.07 (9r) (a) 2. of the statutes is created to read:

20 71.07 **(9r)** (a) 2. For taxable years beginning after December 31, 2009, any
21 natural person may claim as a credit against the taxes imposed under s. 71.02, up
22 to the amount of those taxes, an amount equal to 30 percent of the costs of
23 preservation or rehabilitation of historic property that is located in this state,
24 including architectural fees and costs incurred in preparing nomination forms for
25 listing in the national register of historic places in Wisconsin or the state register of

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1 historic places, if the nomination is made within 5 years prior to submission of a
2 preservation or rehabilitation plan under par. (b) 3. b., and if the physical work of
3 construction or destruction in preparation for construction begins after December
4 31, 2009, except that the credit may not exceed \$10,000, or \$5,000 for married
5 persons filing separately, for any preservation or rehabilitation project.

6 **SECTION 16.** 71.28 (6) (a) of the statutes is renumbered 71.28 (6) (a) 1. and
7 amended to read:

8 71.28 (6) (a) 1. Any person may claim as a credit against the taxes otherwise
9 due imposed under this chapter s. 71.23, up to the amount of those taxes, an amount
10 equal to ~~5%~~ 5 percent of the costs of qualified rehabilitation expenditures, as defined
11 in section 47 (c) (2) of the ~~internal revenue code~~ Internal Revenue Code, for certified
12 historic structures on property located in this state, if the physical work of
13 construction or destruction in preparation for construction begins after December
14 31, 1988, and before January 1, 2010, and the rehabilitated property is placed in
15 service after June 30, 1989.

16 **SECTION 17.** 71.28 (6) (a) 2. of the statutes is created to read:

17 71.28 (6) (a) 2. a. Any person may claim as a credit against the taxes imposed
18 under s. 71.23, up to the amount of those taxes, an amount equal to 20 percent of the
19 costs of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the
20 Internal Revenue Code, for certified historic structures on property located in this
21 state, if the physical work of construction or destruction in preparation for
22 construction begins after December 31, 2009.

23 b. A person whose qualified rehabilitation expenditures do not satisfy the
24 adjusted basis requirement under section 47 (c) (1) of the Internal Revenue Code, but
25 who otherwise would be eligible to claim the rehabilitation credit under section 47

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1 of the Internal Revenue Code, may claim as a credit against the taxes imposed under
2 s. 71.23, up to the amount of those taxes, an amount equal to 20 percent of the costs
3 of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal
4 Revenue Code, if the property is located in this state; if the person's qualified
5 rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal Revenue
6 Code, are at least \$10,000; if the rehabilitation is approved by the state historical
7 society before the physical work of construction, or destruction in preparation for
8 construction, begins; if the person includes evidence of such approval with the
9 person's return; if the physical work of construction, or destruction in preparation
10 for construction, begins after December 31, 2009; and if the person claims the credit
11 for the same taxable year in which the person would have claimed the credit for
12 federal purposes.

13 **SECTION 18.** 71.28 (6) (c) of the statutes is amended to read:

14 71.28 (6) (c) No person may claim ~~the~~ a credit under this subsection unless the
15 claimant includes with the claimant's return evidence that the rehabilitation was
16 approved recommended by the state historic preservation officer for approval by the
17 secretary of the interior under 36 CFR 67.6 before the physical work of construction,
18 or destruction in preparation for construction, began, and the claimant claims the
19 credit for the same taxable year in which the claimant would have claimed the credit
20 for federal purposes.

21 **SECTION 19.** 71.28 (6) (g) of the statutes is created to read:

22 71.28 (6) (g) A person who has incurred qualified rehabilitation expenditures,
23 as defined in section 47 (c) (2) of the Internal Revenue Code, for certified historic
24 structures located in this state, as described in par. (a), but who is not a resident of
25 this state and who is not required to file a return under this chapter, may enter into

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1 an agreement with another person, with the department's approval and in the
2 manner prescribed by the department, so that the other person may claim the credit
3 under this subsection, if the other person is subject to the taxes imposed under s.
4 71.23.

5 **SECTION 20.** 71.28 (6) (h) of the statutes is created to read:

6 71.28 **(6)** (h) A person who receives a credit under this subsection shall add to
7 the person's liability for taxes imposed under s. 71.23 one of the following
8 percentages of the amount of the credits received under this subsection for
9 rehabilitating or preserving the property if, within 5 years after the date on which
10 the preservation or rehabilitation work that was the basis of the credit is completed,
11 the person either sells or conveys the property by deed or land contract or the state
12 historical society certifies to the department of revenue that the historic property has
13 been altered to the extent that it does not comply with the standards promulgated
14 under s. 44.02 (24d):

15 1. If the sale, conveyance, or noncompliance occurs during the first year after
16 the date on which the preservation or rehabilitation is completed, 100 percent.

17 2. If the sale, conveyance, or noncompliance occurs during the 2nd year after
18 the date on which the preservation or rehabilitation is completed, 80 percent.

19 3. If the sale, conveyance, or noncompliance occurs during the 3rd year after
20 the date on which the preservation or rehabilitation is completed, 60 percent.

21 4. If the sale, conveyance, or noncompliance occurs during the 4th year after
22 the date on which the preservation or rehabilitation is completed, 40 percent.

23 5. If the sale, conveyance, or noncompliance occurs during the 5th year after
24 the date on which the preservation or rehabilitation is completed, 20 percent.

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1 **SECTION 21.** 71.47 (6) (a) of the statutes is renumbered 71.47 (6) (a) 1. and
2 amended to read:

3 71.47 (6) (a) 1. Any person may claim as a credit against ~~the~~ taxes otherwise
4 ~~due~~ imposed under ~~this chapter s. 71.43~~, up to the amount of those taxes, an amount
5 equal to ~~5%~~ 5 percent of the costs of qualified rehabilitation expenditures, as defined
6 in section 47 (c) (2) of the ~~internal revenue code~~ Internal Revenue Code, for certified
7 historic structures on property located in this state, if the physical work of
8 construction or destruction in preparation for construction begins after December
9 31, 1988, and before January 1, 2010 and the rehabilitated property is placed in
10 service after June 30, 1989.

11 **SECTION 22.** 71.47 (6) (a) 2. of the statutes is created to read:

12 71.47 (6) (a) 2. a. Any person may claim as a credit against the taxes imposed
13 under s. 71.43, up to the amount of those taxes, an amount equal to 20 percent of the
14 costs of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the
15 Internal Revenue Code, for certified historic structures on property located in this
16 state, if the physical work of construction or destruction in preparation for
17 construction begins after December 31, 2009.

18 b. A person whose qualified rehabilitation expenditures do not satisfy the
19 adjusted basis requirement under section 47 (c) (1) of the Internal Revenue Code, but
20 who otherwise would be eligible to claim the rehabilitation credit under section 47
21 of the Internal Revenue Code, may claim as a credit against the taxes imposed under
22 s. 71.43, up to the amount of those taxes, an amount equal to 20 percent of the costs
23 of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal
24 Revenue Code, if the property is located in this state; if the person's qualified
25 rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal Revenue

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1 Code, are at least \$10,000; if the rehabilitation is approved by the state historical
2 society before the physical work of construction, or destruction in preparation for
3 construction, begins; if the person includes evidence of such approval with the
4 person's return; if the physical work of construction, or destruction in preparation
5 for construction, begins after December 31, 2009; and if the person claims the credit
6 for the same taxable year in which the person would have claimed the credit for
7 federal purposes.

8 **SECTION 23.** 71.47 (6) (c) of the statutes is amended to read:

9 71.47 (6) (c) No person may claim ~~the~~ a credit under this subsection unless the
10 claimant includes with the claimant's return evidence that the rehabilitation was
11 approved recommended by the state historic preservation officer for approval by the
12 secretary of the interior under 36 CFR 67.6 before the physical work of construction,
13 or destruction in preparation for construction, began, and the claimant claims the
14 credit for the same taxable year in which the claimant would have claimed the credit
15 for federal purposes.

16 **SECTION 24.** 71.47 (6) (g) of the statutes is created to read:

17 71.47 (6) (g) A person who has incurred qualified rehabilitation expenditures,
18 as defined in section 47 (c) (2) of the Internal Revenue Code, for certified historic
19 structures located in this state, as described in par. (a), but who is not a resident of
20 this state and who is not required to file a return under this chapter, may enter into
21 an agreement with another person, with the department's approval and in the
22 manner prescribed by the department, so that the other person may claim the credit
23 under this subsection, if the other person is subject to the taxes imposed under s.
24 71.43.

25 **SECTION 25.** 71.47 (6) (h) of the statutes is created to read:

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1 71.47 (6) (h) A person who receives a credit under this subsection shall add to
2 the person's liability for taxes imposed under s. 71.43 one of the following
3 percentages of the amount of the credits received under this subsection for
4 rehabilitating or preserving the property if, within 5 years after the date on which
5 the preservation or rehabilitation work that was the basis of the credit is completed,
6 the person either sells or conveys the property by deed or land contract or the state
7 historical society certifies to the department of revenue that the historic property has
8 been altered to the extent that it does not comply with the standards promulgated
9 under s. 44.02 (24d):

10 1. If the sale, conveyance, or noncompliance occurs during the first year after
11 the date on which the preservation or rehabilitation is completed, 100 percent.

12 2. If the sale, conveyance, or noncompliance occurs during the 2nd year after
13 the date on which the preservation or rehabilitation is completed, 80 percent.

14 3. If the sale, conveyance, or noncompliance occurs during the 3rd year after
15 the date on which the preservation or rehabilitation is completed, 60 percent.

16 4. If the sale, conveyance, or noncompliance occurs during the 4th year after
17 the date on which the preservation or rehabilitation is completed, 40 percent.

18 5. If the sale, conveyance, or noncompliance occurs during the 5th year after
19 the date on which the preservation or rehabilitation is completed, 20 percent.

20 **SECTION 26.** 86.19 (1) of the statutes is amended to read:

21 86.19 (1) Except as provided in sub. (1m) or (4m) or s. 84.01 (30) (g), no sign
22 shall be placed within the limits of any street or highway except such as are
23 necessary for the guidance or warning of traffic or as provided by ss. 60.23 (17m) and
24 66.0429. The authorities charged with the maintenance of streets or highways shall
25 cause the removal therefrom and the disposal of all other signs.

ASSEMBLY BILL 92**SECTION 27**

1 **SECTION 27.** 86.19 (4m) of the statutes is created to read:

2 86.19 (4m) In a business area that is the subject of revitalization efforts under
3 the State Main Street Program under s. 560.081 or that is a certified downtown
4 under s. 560.03 (21m), the holder of a privilege under s. 66.0425 may erect awning
5 or other signage that projects from a building over a sidewalk, provided that the
6 awning or other signage does not encroach upon the traveled portion of a highway
7 and the awning or other signage provides adequate clearance for equipment used to
8 maintain or clear the sidewalks of snow or debris. If the department removes an
9 awning or other signage erected under this subsection in connection with a state
10 highway project, the owner of the awning or other signage may not be compensated
11 for the removal, damage, or loss of the sign by local or state authorities.

12 **SECTION 28.** 86.37 of the statutes is created to read:

13 **86.37 Highway projects involving certain business and downtown**
14 **areas. (1)** In this section:

15 (a) “Business area” has the meaning given in s. 560.081 (1) (a).

16 (b) “Highway project” means any highway project to be funded by the
17 department that involves a highway in which a business area that is the subject of
18 revitalization efforts under the State Main Street Program under s. 560.081 (2) (e)
19 or a certified downtown under s. 560.03 (21m) is located.

20 (c) “Municipality” means a city, village, or town.

21 **(2)** In the preliminary stages of considering and planning any highway project,
22 the department shall consult on issues concerning the proposed highway project and
23 its effects on the business or certified downtown area with the department of
24 commerce and, unless no such board or organization exists, with the business
25 improvement district board appointed under s. 66.1109 (3) (a), the main street board

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1 associated with the State Main Street Program under s. 560.081 (2) (e), or the
2 nonprofit downtown planning organization of that municipality. This subsection
3 does not apply to any highway project for which preliminary engineering was begun
4 before the effective date of this subsection [LRB inserts date].

5 (3) During the concept definition phase of any highway project, in evaluating
6 the aesthetic and visual impact of the highway project, the department shall
7 recognize the high visual and aesthetic significance of, and impact related to, these
8 types of highway projects.

9 **SECTION 29.** 101.121 (3) (c) of the statutes is created to read:

10 101.121 (3) (c) The Historic Building Code shall be liberally interpreted to
11 facilitate the preservation and restoration of qualified historic buildings.

12 **SECTION 30.** 101.121 (4) (a) of the statutes is renumbered 101.121 (4) (a) 1.

13 **SECTION 31.** 101.121 (4) (a) 2. of the statutes is created to read:

14 101.121 (4) (a) 2. Upon the request of the owner of a qualified historic building
15 who elects under subd. 1. to be subject to the Historic Building Code, the department
16 shall review any decision of a city, village, town, or county that requires the owner
17 to comply with a provision of a county or municipal building code, or of any other local
18 ordinance or regulation, to determine if the provision concerns a matter dealt with
19 in the Historic Building Code. The department shall consult with the state historical
20 society before making this determination. The procedures in s. 101.02 (7) apply to
21 any review conducted by the department under this subdivision.

22 **SECTION 32.** 101.121 (4) (b) of the statutes is amended to read:

23 101.121 (4) (b) Paragraph (a) 1. does not apply to any owner of a nursing home,
24 as defined in s. 50.01 (3), a hospital, as defined in s. 50.33 (2) (a) and (c), or an

ASSEMBLY BILL 92**SECTION 32**

1 approved public or private treatment facility for alcoholics, as defined in s. 51.45 (2)
2 (b) and (c).

3 **SECTION 33.** 101.121 (5) of the statutes is created to read:

4 101.121 (5) INFORMATIONAL PAMPHLET. (a) In cooperation with the state
5 historical society, the department shall develop an informational pamphlet designed
6 to increase awareness and use of the Historic Building Code. The department, in
7 cooperation with the state historical society, shall update the pamphlet as statutes
8 and rules relating to the Historic Building Code are amended. The pamphlet shall
9 include all of the following information:

10 1. A description of the Historic Building Code.

11 2. A description of the types and qualities of buildings that are subject to the
12 Historic Building Code.

13 3. An explanation of how the owner of a qualified historic building may elect
14 to be subject to the Historic Building Code and a description of the consequences of
15 that election.

16 4. A description of other alternative building codes that the owner of a historic
17 building may be eligible to use.

18 5. A description of where a person may obtain further information regarding
19 historic buildings and the Historic Building Code.

20 (b) The department and the state historical society shall distribute the
21 pamphlets as they consider necessary to increase awareness of the Historic Building
22 Code.

23 **SECTION 34.** 101.19 (1) (intro.) of the statutes is amended to read:

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1 101.19 (1) (intro.) The department, ~~by rule promulgated under ch. 227,~~ shall
2 ~~fix and collect~~ promulgate rules establishing and providing for the collection of fees
3 which shall, as closely as possible, equal the cost of providing the following services:

4 **SECTION 35.** 101.975 (4) of the statutes is created to read:

5 101.975 (4) (a) A political subdivision may enact an ordinance that permits the
6 political subdivision to grant a variance to the rules promulgated under this
7 subchapter if all of the following apply:

8 1. The ordinance permits only a variance that relates to handrails or guardrails
9 of qualified historic buildings, as defined in s. 101.121 (2) (c), that are converted from
10 single-family dwellings to multifamily dwellings.

11 2. The ordinance requires the owner of a qualified historic building who seeks
12 a variance to provide the political subdivision with evidence that the type, height,
13 and design of the handrail or guardrail proposed for installation is historically
14 appropriate for the owner's building.

15 (b) A political subdivision may grant a variance under an ordinance adopted
16 under par. (a) if the owner seeking the variance provides the evidence required under
17 par. (a) 2. and if the handrail or guardrail installation is at least as protective of
18 public safety as the handrail or guardrail that would otherwise have been required.

19 **SECTION 36.** 227.01 (13) (zy) of the statutes is created to read:

20 227.01 (13) (zy) Establishes guidelines pursuant to s. 560.083 to aid
21 communities in reconstructing central business districts that are destroyed or
22 severely damaged in major disasters.

23 **SECTION 37.** 254.61 (1) (f) 2. of the statutes is amended to read:

24 254.61 (1) (f) 2. A structural addition, including a renovation, made to a
25 structure that was originally constructed at least 50 years before an initial or

ASSEMBLY BILL 92**SECTION 37**

1 renewal application for a permit under s. 254.64 (1) (b) is made and for which no use
2 other than as a bed and breakfast establishment is proposed. The structural addition
3 under this subdivision shall comply with the rules promulgated under s. 101.63 (1).

4 **SECTION 38.** 560.03 (21m) of the statutes is created to read:

5 560.03 (21m) (a) Promulgate rules for the certification of downtowns by the
6 department. The rules promulgated under this subsection shall require the
7 department to consider at least all of the following factors with regard to an area
8 being a certified downtown:

9 1. Whether the area is or is located in a central business district.

10 2. The extent to which the structures located in the area are in commercial use,
11 or zoned for commercial use, and oriented for pedestrian traffic.

12 3. The compactness of the area and the extent to which the area includes a
13 regular pattern of sidewalks facilitating commercial activity by pedestrians.

14 4. The extent to which the linear street frontage in the area is set back from
15 the sidewalk.

16 5. The historical value of the area.

17 (b) Ensure that the rules promulgated under par. (a) permit multiple areas
18 within a populous city, village, or town to be certified downtowns.

19 (c) Support and assist certified downtowns by directing the department's
20 resources, whenever appropriate, to certified downtowns.

21 **SECTION 39.** 560.083 of the statutes is created to read:

22 **560.083 Central business district reconstruction guidelines.** The
23 department shall develop and publish guidelines to aid communities in
24 reconstructing central business districts that are destroyed or severely damaged in

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1 major disasters. The guidelines shall include information on relevant financial and
2 other assistance available to communities from the state government.

3 **SECTION 40.** 823.21 of the statutes is amended to read:

4 **823.21 Dilapidated buildings declared nuisances.** Any building which,
5 under s. 66.0413 (1) (b) 1., has been declared so old, dilapidated or out of repair as
6 to be dangerous, unsafe, unsanitary, or otherwise unfit for human habitation or has
7 been determined to be unreasonable to repair under s. 66.0413 (1) (b) 1. is a public
8 nuisance and may be proceeded against under this chapter.

9 **SECTION 41. Nonstatutory provisions.**

10 (1) CERTIFIED DOWNTOWNS AND BUSINESS DISTRICT RECONSTRUCTION. The
11 authorized FTE positions for the department of commerce are increased by 2.0 PR
12 positions, to be funded from the appropriation under section 20.143 (1) (gb) of the
13 statutes, as created by this act, for the purpose of providing increased staff for the
14 administration of sections 560.03 (21m) and 560.083 of the statutes, as created by
15 this act.

16 (2) HISTORICAL SOCIETY. The authorized FTE positions for the historical society
17 are increased by 1.0 PR position, to be funded from the appropriation under section
18 20.245 (1) (ks) of the statutes, for the purpose of providing increased staff for the
19 administration section 44.02 (24d) (a) of the statutes, as created by this act.

20 **SECTION 42. Fiscal changes.**

21 (1) SURVEY OF RURAL HISTORIC BUILDINGS. In the schedule under section 20.005
22 (3) of the statutes for the appropriation to the state historical society under section
23 20.245 (1) (a) of the statutes, as affected by the acts of 2009, the dollar amount is
24 increased by \$75,000 for the first fiscal year of the fiscal biennium in which this
25 subsection takes effect for the purpose of entering into a contract for a survey under

ASSEMBLY BILL 92**SECTION 42**

1 section 44.34 (1) of the statutes to identify and document historic properties in rural
2 areas of the state. In the schedule under section 20.005 (3) of the statutes for the
3 appropriation to the state historical society under section 20.245 (1) (a) of the
4 statutes, as affected by the acts of 2009, the dollar amount is increased by \$75,000
5 for the second fiscal year of the fiscal biennium in which this subsection takes effect
6 for the purpose of entering into a contract for a survey under section 44.34 (1) of the
7 statutes to identify and document historic properties in rural areas of the state.

SECTION 43. Initial applicability.

8
9 (1) HISTORIC REHABILITATION TAX CREDITS. The treatment of sections 44.02 (24d),
10 71.07 (9m) (c), (g), and (h), 71.28 (6) (c), (g), and (h), and 71.47 (6) (c), (g), and (h) of
11 the statutes, the renumbering of section 44.02 (24) of the statutes, the renumbering
12 and amendment of sections 71.07 (9m) (a) and (9r) (a), 71.28 (6) (a), and 71.47 (6) (a)
13 of the statutes, and the creation of sections 44.02 (24) (b), 71.07 (9m) (a) 2. and (9r)
14 (a) 2., 71.28 (6) (a) 2., and 71.47 (6) (a) 2. of the statutes first apply to taxable years
15 beginning on January 1, 2010.

16 (2) CONCEPT DEFINITION PHASE OF HIGHWAY PROJECTS. The treatment of section
17 86.37 (3) of the statutes first applies to highway projects for which the concept
18 definition phase begins on the effective date of this subsection.

19 (END)