



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2017 Senate Bill 137

**Senate Substitute
Amendment 1**

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2017 Senate Bill 137 exempts certain historic farm buildings from state building code requirements, if certain conditions are met. This amendment memo summarizes Senate Substitute Amendment 1 to Senate Bill 137 and describes differences between the substitute amendment and the bill.

CRITERIA FOR BUILDING CODE EXEMPTION

Under **current law**, ch. 101, Stats., and rules promulgated by the Department of Safety and Professional Services (DSPS) pursuant to that chapter, govern the regulation of industry, buildings, and safety. Among other regulations, ch. 101, Stats., provides authority for the Commercial Building Code, which regulates various aspects of public buildings¹ and places of employment², including, for example, requirements relating to building structure; plumbing and electrical specifications; fire safety; energy conservation; and heating, ventilating, and air conditioning. The Commercial Building Code incorporates various uniform codes by reference. Although current law generally exempts certain farm buildings and buildings constructed before the state building codes took effect from Commercial Building Code requirements, those exemptions generally do not apply after a building changes its use such that it falls in a different building code category. [s. 361.03 (11), Wis. Adm. Code.]

The bill exempts certain historic farm buildings from all state building code requirements, if certain criteria are satisfied. Specifically, the bill exempts a building from all

¹ In this context, and with certain exceptions, “public building” means certain structures and buildings used in whole or in part as places of resort, assemblage, lodging, trade, traffic, occupancy, or use by the public or by three or more tenants. [s. 101.01 (12), Stats.]

² “Place of employment” is defined broadly to generally include every place where any industry, trade, or business is carried on and where any person is employed. [s. 101.01 (11), Stats.]

standards, rules, orders, codes, and regulations adopted by DSPS under ch. 101, Stats., if the building satisfies all of the following criteria:

- The building was initially constructed before January 1, 1965.
- The building has historically been used principally for farming.³
- The building's principal use is for conducting wedding receptions and similar social events.
- Any electrical wiring installed in the building satisfies requirements of the state electrical wiring code.
- Any conveyance contained in the building satisfies statutory requirements applicable to conveyances.⁴
- All areas of the building used for wedding receptions and similar social events satisfy all applicable state accessibility requirements.
- There is at least one period of 90 consecutive days every 12 months in which the building is used for no more than one social event.
- Smoking is prohibited in the building and at any location within 50 feet of the building.
- All open flames are prohibited in the building and within 50 feet of the building, except for flames used by a catering service for the purpose of reheating or maintaining food temperatures and for which the heating source requires no installation as part of the building construction.
- The building has smoke detectors.
- The building has the means of egress and escape in case of fire that applies to places of employment of similar capacity and function.
- Signs posted at or near the entrances to all areas of the building used for social events state that the facility is subject to alternative commercial building and public safety requirements.

The substitute amendment retains all of the criteria listed above with respect to the exemption but includes certain additional criteria and modifications. Specifically, in addition to

³ In this context, "farming" means the operation of farm premises for activities commonly considered to be "farming," including various specified activities specified in s. 102.04 (3), Stats., such as planting and cultivating soil; raising and harvesting crops; and raising, breeding, tending, training, and managing livestock, bees, poultry, bur-bearing animals, wildlife, or aquatic life, or their products.

⁴ Conveyances to which the bill applies include elevators, escalators, dumb waiters, platform lifts, and other conveyances specified under s. 101.981 (1) (c), Stats.

the above criteria, the substitute amendment requires that a farm building satisfy the following criteria before the exemption applies:

- If alcohol beverages are provided at a social event, the building owner must satisfy statutory requirements relating to the regulation of alcohol beverages.
- Any plumbing installed in the building conforms to the state plumbing code.
- All areas of the building used for wedding receptions and similar social events comply with occupant load requirements applicable to public buildings and places of employment of similar capacity and function.
- The building complies with portable fire extinguisher requirements applicable to public buildings and places of employment of similar capacity and function.
- The building complies with fire department access requirements applicable to public buildings and places of employment of similar capacity and function.
- The building has a detection and notification fire alarm system that is sufficient for a public building or place of employment of similar design, capacity, and function.
- A DSPS-certified inspector has inspected the building and determined that all of the criteria for eligibility for the exemption are satisfied.
- In addition, the substitute amendment modifies certain criteria under the bill, as follows:
 - It extends the requirement for conformance with electrical code requirements to electrical wiring that is temporarily used in the building.
 - It prohibits all open flames in the building, including open flames used by caterers for the purpose of reheating or maintaining food temperatures.
 - It clarifies that the building must have a means of egress and escape in case of fire that applies to similar public buildings, as well as to places of employment.

OTHER LIMITATIONS ON THE EXEMPTION

The bill does not limit the application of the exemption except through the criteria listed above.

The substitute amendment specifies that the exemption does not apply to the following buildings, even if all of the other required criteria are satisfied:

- A building that is relocated after the date on which the substitute amendment takes effect.
- A building whose footprint is expanded by 25% or more after the substitute amendment takes effect.

- A building that has not been inspected by a local fire department during the previous calendar year.

INSPECTION AUTHORITY

The bill authorizes DSPS to conduct a limited inspection of exempt farm buildings. Under the bill, the purpose of such inspections is limited to evaluating a building's structural soundness and the building's compliance with a specified subset of the exemption criteria described above.⁵ DSPS may perform a structural analysis (or have another person perform such analysis) only if it determines, after inspection, that the analysis is required. If it makes such a determination, DSPS must provide the owner of the building with a written determination detailing the reasons for its determination. DSPS may require the owner of the building to rectify any structural unsoundness that renders the building unsafe for wedding receptions and similar social events.

The substitute amendment requires exempt farm buildings to be inspected by a DSPS-certified inspector with respect to all of the exemption criteria described above.

With certain modifications, the substitute amendment generally retains the limited authority under the bill with respect to DSPS inspections of structural soundness. The substitute amendment clarifies that a person who inspects a building to evaluate compliance with the exemption criteria listed above may require an owner to rectify any structural unsoundness that renders the building unsafe for wedding receptions and similar social events. However, the substitute amendment specifies that a structural analysis is not required if a building owner provides an inspector with a structural analysis performed by a professional engineer registered with DSPS, if no major structural changes have been made to the building since the structural analysis was performed.

The substitute amendment also provides a 10-day deadline by which DSPS must provide a building owner with a written determination detailing the reasons that a structural analysis is required and provides that a building owner is responsible for the cost of any inspection or structural analysis performed under the substitute amendment.

Finally, the substitute amendment requires DSPS to prepare standardized forms and guidance materials for fire department inspections and inspections relating to structural soundness of exempt farm buildings, and to make the forms and guidance available to the public at no cost and in a conspicuous and easily accessible place on DSPS's website.

⁵ Specifically, the bill authorizes inspection for the purposes of evaluating the following four criteria: (a) whether the building's principal use is for conducting wedding receptions and similar social events; (b) whether electrical wiring satisfies the state electrical wiring code; (c) whether any conveyances in the building satisfy relevant statutory requirements; and (d) whether areas of the building used for wedding receptions and similar social events satisfy all applicable state accessibility requirements.

DETERMINATION OF COMPLIANCE FOR ADDITIONS AND ALTERATIONS

Under **current law**, DSPS must require building owners or designers to submit essential drawings, calculations, and specifications for certain buildings and structures before commencing construction. DSPS must examine those plans for compliance with building code requirements and provide a statement of examination to an owner or designer before construction is started. [s. 101.12 (1) and (2), Stats.]

The bill authorizes an owner of a farm building subject to the above exemption, at the owner's discretion, to request DSPS to prepare such a statement of examination for any planned alteration of or addition to the farm building.

The substitute amendment does not include that provision.

EFFECT ON EXISTING PERMITS AND VARIANCES

The bill does not specify whether it affects existing permits and variances.

The substitute amendment specifies that it does not affect any permit or variance granted by DSPS or a city, village, town, or county before the date on which the substitute amendment takes effect. In addition, the substitute amendment specifies that it does not affect the authority of DSPS or a city, village, town, or county to grant a permit or variance under ch. 101, Stats.

BILL HISTORY

Senator Marklein offered Senate Substitute Amendment 1 on January 3, 2018. On February 14, 2018, the Senate Committee on Insurance, Financial Services, Constitution, and Ethics voted to recommend adoption of the substitute amendment and passage of the bill, as amended, on unanimous votes.

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