



State of Wisconsin  
2017 - 2018 LEGISLATURE

LRB-4527/1  
MDK:kjf

## 2017 ASSEMBLY BILL 641

November 14, 2017 - Introduced by Representatives HUTTON and E. BROOKS, cosponsored by Senators FEYEN and OLSEN. Referred to Committee on Housing and Real Estate.

1     **AN ACT to amend** 101.12 (3) (br); and **to create** 101.01 (1g), 101.12 (3) (bg),  
2           101.12 (3) (bw), 101.12 (3g), 101.12 (3o) and 145.02 (5) of the statutes; **relating**  
3     **to:** building and plumbing plan review and variances by cities, villages, towns,  
4           and counties for public buildings and places of employment and affecting  
5           related rules of the Department of Safety and Professional Services.

---

### *Analysis by the Legislative Reference Bureau*

This bill allows the Department of Safety and Professional Services to appoint certain cities, villages, towns, and counties (local governments) to approve construction, alteration, and plumbing plans for public buildings and places of employment and makes other related changes. Under current statutory law, such construction, alteration, and plumbing is subject to the commercial building code and the state plumbing code, both of which DSPS has promulgated by rule.

For construction and alteration, current statutory law allows first and second class cities to approve plans, but DSPS must certify second class cities to do so. Current statutory law also allows first class cities and certified second class cities to grant variances from commercial building code requirements. For other cities, as well as towns, villages, and counties, current statutory law allows DSPS to certify local governments to approve plans and grant variances, but only for construction of buildings with volumes smaller than 50,000 cubic feet and alterations to buildings with volumes smaller than 100,000 cubic feet. In addition, DSPS has promulgated rules that allow DSPS to appoint local governments as agents with authority to

**ASSEMBLY BILL 641**

approve plans for construction and alteration of larger buildings. The bill repeals those rules and gives DSPS statutory authority to make those appointments. The bill also includes requirements for local governments to apply to DSPS for the appointments, which are based on the rules repealed by the bill. If DSPS appoints a local government to approve plans under the bill, the local government may also grant variances.

For plumbing, DSPS has promulgated rules that allow DSPS to appoint local governments to approve plans for certain installations in public buildings and places of employment. The bill gives DSPS statutory authority to appoint local governments to review plans for plumbing installations specified by DSPS.

The bill also requires DSPS to establish requirements for local governments to renew the certifications and appointments described above every five years. The requirements apply to construction, alteration, and plumbing plan review. If DSPS certified or appointed a local government before the bill's effective date, the process established by DSPS must specify deadlines for renewing the certification or appointment.

---

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

1           **SECTION 1.** 101.01 (1g) of the statutes is created to read:

2           101.01 **(1g)** "Commercial building code" means the code adopted by the  
3 department under this subchapter for the design, construction, maintenance, and  
4 inspection of public buildings and places of employment.

5           **SECTION 2.** 101.12 (3) (bg) of the statutes is created to read:

6           101.12 **(3)** (bg) Accept the examination of essential drawings, calculations, and  
7 specifications in accordance with sub. (1) for buildings and alterations not specified  
8 in par. (b) if all of the following are satisfied:

9           1. The department appoints the city, village, town, or county as an agent of the  
10 department under sub. (3g).

11           2. The drawings, calculations, and specifications are examined in a manner  
12 approved by the department.

**ASSEMBLY BILL 641**

1           3. The department determines and certifies the competency of all such  
2 examiners.

3           **SECTION 3.** 101.12 (3) (br) of the statutes is amended to read:

4           101.12 (3) (br) Accept the review and determination on variances for buildings  
5 containing less than 50,000 cubic feet of volume and alterations to buildings  
6 containing less than 100,000 cubic feet of volume performed by ~~eertified~~  
7 ~~municipalities~~ cities, villages, towns, and counties certified under par. (b) if the  
8 department has certified the competency of ~~a municipality~~ the city, village, town, or  
9 county to issue variances and if the variances are reviewed in a manner approved by  
10 the department. Owners may submit variances to the ~~municipality~~ city, village,  
11 town, or county or to the department.

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

13           101.12 (3) (bw) Accept the review and determination on variances for buildings  
14 and alterations not specified in par. (br) performed by cities, villages, towns, or  
15 counties certified under par. (b) that the department has appointed as agents under  
16 sub. (3g), if the department has certified the competency of the city, village, town, or  
17 county to issue variances and if the variances are reviewed in a manner approved by  
18 the department. Owners may submit variances to the city, village, town, or county  
19 or to the department.

20           **SECTION 5.** 101.12 (3g) of the statutes is created to read:

21           101.12 (3g) (a) This subsection establishes the manner under which a city,  
22 village, town, or county may examine plans and make inspections for buildings and  
23 alterations not specified under sub. (3) (b) as an appointed agent of the department.

**ASSEMBLY BILL 641****SECTION 5**

1 (b) Before assuming any of the department's plan examination or inspection  
2 responsibilities for buildings and alterations not specified in sub. (3) (b), a city,  
3 village, town, or county shall comply with all of the following:

4 1. Submit a written request to the department at least 30 days prior to the date  
5 upon which the city, village, town, or county desires to assume agent responsibilities  
6 for plan examination or building inspection.

7 2. Include a description of the desired responsibilities in the request under  
8 subd. 1.

9 3. Include in the request under subd. 1. a description of the qualifications and  
10 ability the city, village, town, or county has for assuming the desired responsibilities.

11 4. Adopt the commercial building code in its entirety by ordinance.

12 5. Forward to the department a copy of the ordinance specified in subd. 4. and  
13 and any subsequent revisions to that ordinance.

14 6. Receive from the department a written statement prescribing the  
15 responsibilities that are to be assumed.

16 (c) The department shall review and make a determination on a request  
17 submitted under par. (b) 1. within 20 business days of receipt.

18 (d) While appointed as an agent, a city, village, town, or county is subject to s.  
19 SPS 361.60 (5) (d) to (h) and (6), Wis. Adm. Code, and shall comply with all of the  
20 following:

21 1. Submit to the department the fees specified in s. SPS 302.31 (1) (h), Wis.  
22 Adm. Code.

23 2. Provide a monthly report to the department of all projects completed under  
24 this subsection, in an electronic-based format prescribed by the department.

**ASSEMBLY BILL 641**

1           3. Forward to the department any revisions to the ordinance specified in par.

2           (b) 4.

3           4. Notify the department, in writing, at least 30 days prior to the date upon  
4           which the city, village, town, or county intends to relinquish the responsibilities  
5           assumed under this subsection.

6           (d) The department may revoke the appointment of an agent if the plan  
7           examiners or inspectors of the agent do not meet the standards specified by the  
8           department or if other requirements of this subchapter are not met.

9           **SECTION 6.** 101.12 (3o) of the statutes is created to read:

10          101.12 **(3o)** (a) In this subsection:

11          1. “Agent appointment” means appointment as an agent of the department  
12          under sub. (3g) or s. SPS 361.61, Wis. Adm. Code, in effect on the day before the  
13          effective date of this subdivision .... [LRB inserts date].

14          2. “Certification” means certification under sub. (3) (b) or (3m).

15          (b) The department shall establish requirements for cities, villages, towns, and  
16          counties to electronically renew their agent appointments and certifications every 5  
17          years. The process shall allow cities, villages, towns, and counties with agent  
18          appointments and certifications made 5 years or more before the effective date of this  
19          paragraph .... [LRB inserts date], to renew those agent appointments and  
20          certifications within deadlines specified by the department.

21          **SECTION 7.** 145.02 (5) of the statutes is created to read:

22          145.02 **(5)** (a) The department may appoint a city, village, town, or county as  
23          an agent of the department that is authorized to review and approve plumbing plans  
24          and specifications for plumbing installations specified by the department for public

**ASSEMBLY BILL 641****SECTION 7**

1 buildings, as defined in s. 101.01 (12), and places of employment, as defined in s.  
2 101.01 (11).

3 (b) 1. In this paragraph, “agent appointment” means an appointment under par  
4 (a) or s. SPS 382.20 (2), Wis. Adm. Code.

5 2. The department shall establish requirements for cities, villages, towns, and  
6 counties to electronically renew agent appointments every 5 years. The process shall  
7 allow cities, villages, towns, and counties with agent appointments made 5 years or  
8 more before the effective date of this subdivision .... [LRB inserts date], to renew  
9 those agent appointments within deadlines specified by the department.

10 **SECTION 8.** SPS 302.31 (1) (h) of the administrative code is amended to read:

11 SPS 302.31 (1) (h) *Appointed agent.* An agent that is appointed by the  
12 department under s. ~~SPS 361.61~~ 101.12 (3g), stats., to perform plan examinations  
13 shall submit to the department the fees specified in Table 302.31-3 for each building  
14 or structure reviewed under s. ~~SPS 361.61~~ 101.12 (3g), stats.

15 **SECTION 9.** SPS 361.04 (1) of the administrative code is amended to read:

16 SPS 361.04 (1) “Authorized representative” means any certified municipality  
17 or county as specified in s. SPS 361.60, and any appointed agent as specified in s. SPS  
18 ~~361.61~~ under s. 101.12 (3g), stats.

19 **SECTION 10.** SPS 361.60 (5) (e) 1. b. of the administrative code is amended to  
20 read:

21 SPS 361.60 (5) (e) 1. b. Plans for a building or structure that exceeds the limits  
22 specified in par. (c) which are submitted either to a second class city under par. (b)  
23 or to an appointed agent under s. ~~SPS 361.61~~ 101.12 (3g), stats., shall include the  
24 department’s plan approval application form specified in s. SPS 361.31, unless a  
25 municipally supplied form is submitted.

