

1981 Senate Bill 581

Date published: May 6, 1982

CHAPTER 341 , Laws of 1981

AN ACT to renumber and amend 13.48 (1); to amend 62.23 (7) (em), 101.127 and 145.02 (2); and to create 13.48 (1) (a) and (b), 15.227 (17), 44.22 (6) (j) and (9), 59.97 (4) (L) and (4m), 60.74 (1) (a) 6, 66.05 (9), 101.025 (5), 101.121, 101.122 (6w), 101.125 (4m), 101.13 (9) and 101.14 (4) (d) 1. d of the statutes, relating to various matters concerning the preservation and restoration of historic buildings and properties, creating a historic building code council and granting rule-making authority.

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

SECTION 1. Legislative intent. It is the intent of the legislature, by the amendment of section 62.23 (7) (em) of the statutes and the creation of sections 59.97 (4) (L) and (4m) and 60.74 (1) (a) 6 of the statutes, by this act, to:

- (1) Codify the authority of cities and villages, under home rule powers, to adopt and enforce ordinances pertaining to historic landmarks and historic districts, without affecting the validity of any ordinance previously adopted under general statutory authority.
- (2) Provide explicit statutory authority for counties and towns to adopt and enforce ordinances pertaining to historic landmarks and historic districts, without affecting the validity of any ordinance previously adopted under general statutory authority.
- (3) Encourage cities, villages, towns and counties to adopt historic preservation ordinances.

SECTION 2. 13.48 (1) of the statutes is renumbered 13.48 (1) (intro.) and amended to read:

13.48 (1) **POLICY.** (intro.) The legislature finds and determines that it is necessary to improve the adequacy of the public building facilities that are required by the various state agencies including the educational institutions, for the proper performance of their duties and functions, and that it is in the interest of economy, efficiency and the public welfare that such improvement be accomplished by means of a long-range public building program, with funds to be provided by successive legislatures. The long-range program shall include the necessary lands, new buildings, and all facilities and equipment required and also the remodeling, reconstruction, maintenance and reequipping of existing buildings and facilities, as determined by the building commission. The long-range program shall also recognize the importance of historic properties as defined in s. 44.22 and ~~may~~ shall include a program of preservation and restoration of those historic properties under the control of the state, including criteria for determining which historic properties should be preserved and restored. In this subsection:

SECTION 3. 13.48 (1) (a) and (b) of the statutes are created to read:

13.48 (1) (a) "Historic property" means any building, structure or site which:

1. Is listed on, or has been nominated by the state historical society for listing on, the national register of historic places in Wisconsin; or
2. Is included in a district which is listed on, or has been nominated by the state historical society for listing on, the national register of historic places in Wisconsin, and has been determined by the state historical society to contribute to the historic significance of the district.

(b) "National register of historic places in Wisconsin" means the places in Wisconsin that are listed on the national register of historic places maintained by the U.S. department of the interior.

SECTION 4. 15.227 (17) of the statutes is created to read:

15.227 (17) **HISTORIC BUILDING CODE COUNCIL.** (a) *Creation.* There is created in the department of industry, labor and human relations a historic building code council.

(b) *Membership.* The council shall consist of 15 members, as follows:

1. Two representatives of public agencies or private organizations, the primary purpose of which is the preservation and restoration of historic buildings.
2. The director of the state historical society or his or her designee.
3. Two certified building inspectors employed by local units of government, with knowledge of the design and construction of historic buildings.
4. Two building contractors actively engaged in the preservation or restoration of historic buildings.
5. Two architects registered under ch. 443 and actively engaged in the design or evaluation of historic building preservation or restoration projects.
6. One engineer registered under ch. 443 and actively engaged in the design or evaluation of historic building preservation or restoration projects.
7. One representative of a building trade labor organization, with personal experience in the preservation or restoration of historic buildings.
8. One person with knowledge and experience in fire protection standards.
9. Three representatives of the public, with a demonstrated interest in the preservation or restoration of historic buildings.

(c) *Term.* The members of the council, other than the director of the state historical society or his or her designee, shall be appointed for staggered 3-year terms.

(d) *Secretary*. An employe of the department of industry, labor and human relations, designated by the secretary of industry, labor and human relations shall serve as nonvoting secretary of the council.

(e) *Meetings*. The council shall meet at least twice a year.

(f) *Quorum*. Notwithstanding s. 15.09 (4), 9 members of the council shall constitute a quorum. For the purpose of conducting business a majority vote of all the members of the council is required.

(g) *Sunset*. This subsection does not apply on or after 3 years after the effective date of this subsection (1981).

SECTION 5. 44.22 (6) (j) of the statutes is created to read:

44.22 (6) (j) Certify historic preservation ordinances.

SECTION 6. 44.22 (9) of the statutes is created to read:

44.22 (9) CERTIFICATION OF HISTORIC PRESERVATION ORDINANCES.

(a) The state historical society shall certify a historic preservation ordinance if the ordinance does all of the following:

1. Contains criteria for the designation, on a municipal register, of historic structures and historic districts which are substantially similar to the criteria for inclusion in the national register of historic places in Wisconsin.

2. Provides a procedure for the designation of historic structures or historic districts which includes, at a minimum, a nomination process, public notice of nominations and an opportunity for written and oral public comment on nominations.

3. Provides for the exercise of municipal control by ordinance, to achieve the purpose of preserving and rehabilitating historic structures and historic districts.

4. Creates a municipal historic preservation commission.

(b) The owner of a building designated as a historic building on a municipal register of historic property shall provide any information or materials regarding the ordinance which are requested by the state historical society in determining whether to certify the ordinance.

SECTION 7. 59.97 (4) (L) and (4m) of the statutes are created to read:

59.97 (4) (L) Places, structures or objects with a special character, historic interest, aesthetic interest or other significant value, historic landmarks and historic districts.

(4m) HISTORIC PRESERVATION. Any county, as an exercise of its zoning and police powers for the purpose of promoting the health, safety and general welfare of the community and of the state, may regulate by ordinance any place, structure or object with a special character, historic interest, aesthetic interest or other significant value, for the purpose of preserving the place, structure or object and its significant characteristics. The county may create a landmarks commission to designate historic landmarks and establish historic districts. The county may regulate all historic landmarks and all property within each historic district to preserve the historic landmarks and property within the district and the character of the district.

SECTION 8. 60.74 (1) (a) 6 of the statutes is created to read:

60.74 (1) (a) 6. As an exercise of its zoning and police powers for the purpose of promoting the health, safety and general welfare of the community and of the state, regulate any place, structure or object with a special character, historic interest, aesthetic interest or other significant value, for the purpose of preserving the place, structure or object and its significant characteristics. The town may create a landmarks commission to designate historic landmarks and establish historic districts. The town may regulate all historic landmarks and all property within each historic district to preserve the historic landmarks and property within the district and the character of the district.

SECTION 9. 62.23 (7) (em) of the statutes is amended to read:

62.23 (7) (em) *Historic preservation.* Any ~~1st-class~~ city, as an exercise of its zoning and police powers for the purpose of promoting the health, safety and general welfare of the community and of the state, may ~~protect~~ regulate by ordinance any place, structure or object with a special character, historic interest, aesthetic interest or other significant value, for the purpose of preserving the place, structure or object and its significant characteristics. The city may create a landmarks commission to designate historic landmarks ~~within the city and may establish historic districts as needed surrounding the landmarks.~~ The city may regulate ~~the use of~~ all historic landmarks and all property within each historic district to ~~protect and preserve the historic landmarks and property~~ within the district and the character of the district.

SECTION 10. 66.05 (9) of the statutes is created to read:

66.05 (9) (a) In this subsection:

1. "Historic building" means any building, structure or object listed in, or any building, structure or object within and contributing to a historic district listed in, the national register of historic places in Wisconsin maintained by the U.S. department of the interior.

2. "Municipality" means a city, village, county or town.

(b) The state historical society shall notify a municipality of any historic building located in the municipality. If a historic district lies within a municipality, the historical society shall furnish to the municipality a map delineating the boundaries of the district.

(c) If an order is issued under this section to raze a historic building, an application is made for a permit to raze a historic building or a municipality intends to raze a municipally owned historic building, the municipality in which the historic building is located shall notify the state historical society of the order, application or intent. No historic building may be razed for 30 days after the notice is given. During the 30-day period, the state historical society shall have access to the historic building to create or preserve a historic record.

SECTION 13. 101.025 (5) of the statutes is created to read:

101.025 (5) To the extent that the historic building code applies to the subject matter of this section, this section does not apply to a qualified historic building if the owner elects to be subject to s. 101.121.

SECTION 14. 101.121 of the statutes is created to read:

101.121 State historic building code. (1) **PURPOSE.** It is the purpose of this section to provide alternative standards, when necessary, for the preservation or restoration of buildings or structures designated as historic buildings. The development and application of these alternative standards is a matter of statewide concern. These alternative standards are intended to facilitate the restoration of historic buildings so as to preserve their original or restored architectural elements and features, to encourage energy conservation, to permit a cost-effective approach to preservation and restoration and to provide for the health, safety and welfare of occupants and visitors in historic buildings.

(2) **DEFINITIONS.** In this section:

(a) "Certified municipal register of historic property" means a register of historic property which is part of a historic preservation ordinance promulgated by a city, village, town or county if the ordinance is certified by the state historical society under s. 44.22 (6) (j) and (9).

(am) "Historic building" means any building or structure that is significant in the history, architecture or culture of this state, its rural or urban communities or the nation.

(b) "National register of historic places in Wisconsin" means the places in Wisconsin that are listed on the national register of historic places maintained by the U.S. department of the interior.

(c) "Qualified historic building" means a historic building which:

1. Is listed on, or has been nominated by the state historical society for listing on, the national register of historic places in Wisconsin;
2. Is included in a district which is listed on, or has been nominated by the state historical society for listing on, the national register of historic places in Wisconsin, and has been determined by the state historical society to contribute to the historic significance of the district;
3. Is listed on a certified municipal register of historic property; or
4. Is included in a district which is listed on a certified municipal register of historic property, and has been determined by the municipality to contribute to the historic significance of the district.

(3) RULES. (a) For any rule under this chapter or ch. 145 which applies to buildings, the department may provide an alternative rule which accomplishes the same general purpose and applies only to qualified historic buildings. These alternative rules shall permit, to the maximum extent possible, the use of original or duplicates of original materials, the maintenance of the original appearance of all components of a historic building and the use of original construction techniques. The department shall consult with the historic building code council regarding the development of alternative rules. All alternative rules taken together constitute the historic building code.

(b) In order to permit the proper preservation or restoration of a qualified historic building, the department may grant a variance to any rule or alternative rule under this chapter or ch. 145 if the owner demonstrates that an alternative proposed by the owner accomplishes the same purpose as the rule or alternative rule. With respect to any variances requested under this chapter or ch. 145, the department shall give priority to processing variance requests by owners of qualified historic buildings. The department shall maintain a list of variances granted under this paragraph to owners of qualified historic buildings.

(4) ELECTION. (a) Except as provided in par. (b), the owner of any qualified historic building may elect to be subject to the historic building code promulgated under sub. (3). Except as provided in s. 101.127, no owner who elects to be subject to the historic building code may be required to comply with any provision of any other building code, including but not limited to any county or municipal building code, or of any other local ordinance or regulation, if that provision concerns a matter dealt with in the historic building code.

(b) Paragraph (a) does not apply to any owner of a nursing home as defined in s. 50.01 (3), a hospital as defined in s. 50.33 (1) (a) and (c) or an approved public or private treatment facility for alcoholics as defined in s. 51.45 (2) (b) and (c).

(5) HISTORIC BUILDING CODE COUNCIL; POWER. The historic building code council shall recommend a historic building code for adoption by the department. Upon its own initiative or at the request of the department, the historic building code council shall consider and make recommendations to the department pertaining to rules and any other matters related to this section.

SECTION 15. 101.122 (6w) of the statutes is created to read:

101.122 (6w) EXCEPTION. To the extent that the historic building code applies to the subject matter of this section, this section does not apply to a qualified historic building, as defined under s. 101.121 (2) (c), if the owner elects to be subject to s. 101.121.

SECTION 16. 101.125 (4m) of the statutes is created to read:

101.125 (4m) EXCEPTION. To the extent that the historic building code applies to the subject matter of this section, this section does not apply to a qualified historic building, as defined under s. 101.121 (2) (c), if the owner elects to be subject to s. 101.121.

SECTION 17. 101.127 of the statutes is amended to read:

101.127 Building requirements for certain residential facilities. The department, after consultation with the department of health and social services, shall develop a building code for previously constructed buildings converted to use as community-based residential facilities as defined in s. 50.01 (1) which serve between 9 and 20 unrelated residents. In setting standards, the department shall consider the criteria enumerated in ss. 46.03 (25) and ~~50.03 (1) (a)~~ 50.02 (3) (b), and in addition shall consider the relationship of the development and enforcement of the code to any relevant codes of the department of health and social services. The objectives of the code shall be to guarantee health and safety and to maintain insofar as possible a homelike environment. The department shall consult with the residential facilities council in developing the code. Notwithstanding s. 101.121, a historic building as defined in s. 101.121 (2) (am) which is converted to use as a community-based residential facility serving between 9 and 20 unrelated residents is governed only by the building code promulgated under this section.

SECTION 18. 101.13 (9) of the statutes is created to read:

101.13 (9) To the extent that the historic building code applies to the subject matter of this section, this section does not apply to a qualified historic building, as defined under s. 101.121 (2) (c), if the owner elects to be subject to s. 101.121.

SECTION 19. 101.14 (4) (d) 1. d of the statutes is created to read:

101.14 (4) (d) 1. d. To the extent that the historic building code applies to the subject matter of this subsection, each qualified historic building, as defined under s. 101.121 (2) (c), if the owner elects to be subject to s. 101.121.

SECTION 20. 145.02 (2) of the statutes is amended to read:

145.02 (2) The department shall have general supervision of all such plumbing and shall after public hearing prescribe and publish and enforce reasonable standards therefor which shall be uniform and of state-wide concern so far as practicable. Any employe designated by the department may act for the department in holding such public hearing. To the extent that the historic building code applies to the subject matter of these standards, the standards do not apply to a qualified historic building if the owner elects to be subject to s. 101.121.

SECTION 21. **Nonstatutory provisions; rule promulgation.** The department of industry, labor and human relations shall submit the notice required under section 227.018 (2) of the statutes, regarding rules promulgated under section 101.121 (3) of the statutes, no later than 18 months after the date of publication of this act.

SECTION 22. **Initial applicability.** The treatment of section 101.121 (3) (b) of the statutes by this act, requiring the department of industry, labor and human relations to maintain a list or variances, first applies to any variance granted on or after the effective date of this act.

SECTION 23. **Effective dates.** The treatment of sections 101.025 (5), 101.122 (6w), 101.125 (4m), 101.13 (9), 101.14 (4) (d) 1. d and 145.02 (2) of the statutes by this act takes effect on the first day of the 24th month commencing after publication of this act.
