

**2001 DRAFTING REQUEST**

**Bill**

Received: 10/05/2000

Received By: **rmarchan**

Wantcd: **Soon**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Walker**

This file may be shown to any legislator: **NO**

Drafter: **rmarchan**

May Contact:

Alt. Drafters:

Subject: **Munis - miscellaneous  
Buildings/Safety - bldg codes**

Extra Copies:

**Pre Topic:**

DOA:.....Walker -

**Topic:**

Inspections under the manufactured building code in municipalities with populations of 2,500 or less

**Instructions:**

See Attached.

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	rmarchan 10/20/2000	csicilia 10/25/2000	pgreensl 10/25/2000	_____	lrb_docadmin 10/25/2000		S&L
	rmarchan 01/02/2001	csicilia 01/03/2001		_____			
/2			pgreensl 01/04/2001	_____	lrb_docadmin 01/04/2001		S&L

FE Sent For:

<END>

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/1	rmarchan 10/20/2000	csicilia 10/25/2000	pgreensl 10/25/2000	1/4/01 PG/RS	lrb_docadmin 10/25/2000		S&L
		1/2 cjs 1/3 09	<del>PG/RS</del> 1/4/01 PG				

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Extra Copies: **COMMERCE  
MES**

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1/1	rmarchan	1 gjs 10/25 00	10/25 PG	10/25 PG RM			

FE Sent For:

<END>

PSM D.

Manufactured Building Code Revision

The Department proposes statutory changes to the Manufactured Building Code, specifically s. 101.761, Stats. In the 1999-2001 budget, the One and Two Family Dwelling Code was revised to require inspection in municipalities with populations of 2,500 or less (s. 101.651, Stats., Certain municipalities exempted). Previously, inspection was required in municipalities with populations greater than 2,500. Those changes also need to be applied to the Manufactured Building Code (s. 101.761, Stats., Certain municipalities excepted). These two sections (s. 101.761 and 101.651, Stats.) traditionally mirror each other.

## Marchant, Robert

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**From:** DuPont, Robert  
**Sent:** Thursday, October 19, 2000 2:52 PM  
**To:** Marchant, Robert  
**Cc:** Swaziek, Larry J.; Bresser, Debra; Cornelius, Louie  
**Subject:** RE: Budget request

Please proceed with your option (b) whereby the department's approval would no longer be required before a municipality could exercise jurisdiction over installation of manufactured buildings for dwellings.

Also, we just realized that s. 101.73(3), stats, has language about "at municipal expense" just like s. 101.63(3), stats. To be consistent with what we have asked be changed in s. 101.63(3), stats, please look at also deleting the reference to "at municipal expense" from s. 101.73(3).

Thanks!

-----Original Message-----

**From:** Marchant, Robert  
**Sent:** Thursday, October 12, 2000 3:02 PM  
**To:** DuPont, Robert  
**Cc:** Walker, William  
**Subject:** Budget request

Hello, Bob--

I am working on the department's request to make the exemption for small municipalities in s. 101.761 (manufactured building code) parallel with the exemption in s. 101.651 (uniform dwelling code) which was enacted as part of the 1999 budget. There is one issue that I would appreciate your help on.

**Problem:**

If I make s. 101.761 parallel with s. 101.651 it will read, in part:

*A [small] municipality shall exercise jurisdiction over the installation of manufactured buildings for dwellings by enacting ordinances under s. 101.76 (1) (a) or exercise the jurisdiction granted under s. 101.76 (1) (a) jointly under s. 101.76 (1) (b), unless any of the following conditions are met: . . . [the county exercises jurisdiction; the department exercises jurisdiction; or the small municipality adopts a resolution exempting itself from the requirement to exercise jurisdiction].*

This provision may be problematic because, unlike s. 101.65 (1) (a), s. 101.76 (1) (a) requires a municipality to obtain the department's approval before enacting ordinances to exercise jurisdiction over the installation of manufactured buildings for dwellings. If the department refuses to grant a small municipality approval under s. 101.76 (1) (a), the small municipality, in order obey the requirement above, would be forced to exempt itself from the requirement by asking the county or the department to exercise jurisdiction or by adopting an exemption resolution.

**Options:**

- (a) I can draft the provision as provided above, preserving the departmental approval requirement even though the requirement does not exist in s. 101.65 (1) (a).
- (b) If the manufactured building code is intended to have the same procedure for municipal adoption and coverage as the uniform dwelling code, then you may want to delete the departmental approval requirement in s. 101.76 (1) (a). This change would remove power from the department, however, to prevent a municipality from exercising jurisdiction over the installation of manufactured buildings for dwellings.
- (c) A third option would be to specify in s. 101.761 that a small municipality need not obtain departmental approval before exercising jurisdiction over the installation of manufactured buildings for dwellings. However, this option would treat small municipalities more favorably than other municipalities, for no apparent reason. It may even be that the departmental approval requirement in s. 101.76 (1) (a) is primarily designed to allow the department to oversee the enforcement of the manufactured building code by small municipalities. If that is the case, then this option defeats that policy.

Please let me know how you would like to proceed. Also, feel free to call or email me if you have any questions or if

you would like to discuss other options.

**Robert J. Marchant**

Legislative Attorney

State of Wisconsin Legislative Reference Bureau

robert.marchant@legis.state.wi.us



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# Budget Briefs

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from the  
Wisconsin Legislative Reference Bureau

Budget Brief 00-8

February 2000

## BUILDING CODES IN SMALL MUNICIPALITIES

The biennial state budget act (1999 Wisconsin Act 9), passed by the legislature and signed by Governor Tommy Thompson on October 27, 1999, extends the statewide building code to municipalities with a population of 2,500 or less.

### BACKGROUND

The Wisconsin Department of Commerce (Commerce) administers the state's building code for one-family and two-family dwellings. The Uniform Dwelling Code (UDC) generally establishes construction standards and inspection procedures for new homes built on or after December 1, 1978, although different dates apply to certain requirements.

Chapter 101, Subchapter II, Wisconsin Statutes, allows cities, villages, towns, and counties to adopt their own ordinances relating to construction and inspection of new dwellings provided the ordinances meet the minimum requirements of the state's code. County ordinances apply in cities, villages, and towns that do not have their own ordinances.

Municipalities must provide for inspections and may: 1) perform the inspections themselves, 2) conduct them jointly with another local government, or 3) contract with Commerce to conduct them at the municipality's expense.

A major exception, before passage of Act 9, was that municipalities with populations of 2,500 or less were exempt from county building code ordinances and inspection requirements. In these smaller municipalities, however, a person or the municipality itself could request inspection of a particular dwelling to determine compliance with the state code.

### NEW PROVISIONS

Act 9 creates new requirements for municipalities with populations of 2,500 or less, effective May 1, 2000. An affected municipality may:

- Enact an ordinance to undertake local enforcement of the UDC, either independently or jointly with another local government;
- Adopt a resolution requesting the county to enforce the UDC;
- Adopt a resolution not to exercise either of the first two UDC enforcement options; or
- Take no action, in which case Commerce will enforce the UDC throughout the municipality.

Commerce will require affected municipalities to respond with their decisions by July 1, 2000. The municipalities can change to a different enforcement option at a later time, if they wish.

Commerce may delegate enforcement authority to the county, if the county is willing to accept it, or contract with private state-certified building inspectors, where available. If Commerce contracts to enforce the UDC and provide inspections, it may delay provision of these services until July 1, 2000. Contracted enforcement is expected to begin in early 2001.

Act 9 also directs Commerce to contract with a private nonprofit organization to educate builders on construction standards and inspection requirements.

#### **FOR MORE INFORMATION**

For copies of the changes to Section 101.651, Wisconsin Statutes, contact the Legislative Reference Bureau at (608) 266-0342 or use the searchable text of 1999 Wisconsin Act 9 available at <http://folio.legis.state.wi.us>. For more information, call the Department of Commerce, Division of Safety and Buildings at (608) 267-4405.





State of Wisconsin  
2001 - 2002 LEGISLATURE

1  
LRB-067772

BUDGET

RJM/...  
ejs/ (RMR)

DOA:.....walker - Inspections under the manufactured building code in municipalities with populations of 2,500 or less

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

(DNOTG)

with the approval of the department, enact an ordinance to

with regard to the installation of manufactured buildings as dwellings

1 AN ACT ~~relating to~~; relating to: the budget

Analysis by the Legislative Reference Bureau  
COMMERCE AND ECONOMIC DEVELOPMENT  
BUILDINGS AND SAFETY

Manufacture and

Under current law, the department of commerce (department) administers the manufactured building code (code) to ensure that minimum standards are met for the installation of manufactured buildings as dwellings. Currently, a city, village, town, or county (municipality) may, by ordinance, enforce the code in the municipality. A county ordinance applies in any city, village, or town within the county that has not adopted ordinances to enforce the code, unless the city, village, or town is exempt from administration of the code. Currently, any city, village, or town with a population of 2,500 or less (small municipality) is exempt from administration of the code.

Generally, inspections must be performed to enforce the code (building code inspections). Current law permits a municipality to perform building code inspections and, unless the particular municipality is exempt from administration of the code, requires the department to perform building code inspections that are not otherwise provided for in a municipality. Current law also requires the department to contract, at municipal expense, to perform any building code inspections that a municipality requires. It is unclear, however, whether this

in a municipality

these

with regard to the installation of manufactured buildings as dwellings in

contracting requirement permits the department to perform required building code inspections directly or requires the building code inspections to be performed by a third party under contract with the department.

This bill creates new requirements relating to the administration of the code in small municipalities, ~~effective May 1, 2002~~. Under this bill, a small municipality may do any of the following:

A) Enact an ordinance to enforce the code ~~throughout~~ the small municipality, ~~either independently or jointly with another municipality.~~

B) Adopt a resolution requesting the appropriate county to enforce the code ~~throughout~~ the municipality.

C) Adopt a resolution not to exercise either of the above options, in which case the small municipality is exempt from administration of the code.

D) Take no action, in which case the department must enforce the code throughout the municipality.

The bill also changes the provisions regarding building code inspections performed by the department in municipalities. Under this bill, the department may perform these building code inspections directly or may contract with a third party for the inspections. In addition, the bill removes the requirement that a municipality pay for any building code inspections that are provided by the department under contract. However, under the bill, the department retains the authority to establish a fee, by rule, to defray the cost of performing building code inspections in a municipality.

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:***

SECTION 1. 101.73 (3) of the statutes is amended to read:

101.73 (3) Provide for examination of plans and specifications and in-plant inspections when contracted for by the manufacturer under s. 101.75 (1) ~~and shall contract to provide on-site inspection services for the installation of manufactured buildings for dwellings, at municipal expense, for any municipality which requires such service under s. 101.76 or 101.761.~~

SECTION 2. 101.74 (8) of the statutes is created to read:

101.74 (8) Contract with any person to provide inspection services, or may provide inspection services directly, in any city, village, town, or county which

This bill ~~then~~ removes the requirement that a municipality obtain department approval before enacting an ordinance to enforce the code with regard to the installation of manufactured buildings as dwellings in the municipality. In addition,

1 requires the services pursuant to s. 101.76 (2) or in which the department is required  
2 or authorized to provide the services under s. 101.761 (3).

3 **SECTION 3.** 101.76 (1) (a) of the statutes is amended to read:

4 101.76 (1) (a) ~~With the approval of the department, exercise~~ Exercise  
5 jurisdiction over the installation of manufactured buildings for dwellings by passage  
6 of ordinances, provided such ordinances are in strict conformance with this  
7 subchapter and the on-site inspection is performed by persons certified by the  
8 department. Except as provided by s. 101.761, a county ordinance shall apply in any  
9 city, village or town which has not enacted such ordinance.

10 **SECTION 4.** 101.761 (title) of the statutes is amended to read:

11 **101.761 (title) Certain municipalities ~~excepted~~ exempted.**

12 **SECTION 5.** 101.761 (1) (title) of the statutes is created to read:

13 101.761 (1) (title) DEFINITION.

14 **SECTION 6.** 101.761 (2) of the statutes is repealed.

15 **SECTION 7.** 101.761 (2m) of the statutes is created to read:

16 101.761 (2m) EXEMPTION BY RESOLUTION. A municipality shall exercise  
17 jurisdiction over the installation of manufactured buildings for dwellings by  
18 enacting ordinances under s. 101.76 (1) (a) or exercise the jurisdiction granted under  
19 s. 101.76 (1) (a) jointly under s. 101.76 (1) (b), unless any of the following conditions  
20 are met:

21 (a) The municipality adopts a resolution requesting under sub. (3) (a) that a  
22 county enforce this subchapter or an ordinance enacted under s. 101.76 (1) (a)  
23 throughout the municipality and that a county provide inspection services in the  
24 municipality to administer and enforce this subchapter or an ordinance enacted  
25 under s. 101.76 (1) (a).

1 (b) The municipality adopts a resolution determining not to exercise  
 2 jurisdiction over the installation of manufactured buildings for dwellings under s.  
 3 101.76 (1) (a), not to exercise jurisdiction jointly under s. 101.76 (1) (b), not to request  
 4 under sub. (3) (a) that a county enforce this subchapter or an ordinance enacted  
 5 under s. 101.76 (1) (a) throughout the municipality and not to request under sub. (3)  
 6 (a) that a county provide inspection services in the municipality to administer and  
 7 enforce this subchapter or an ordinance enacted under s. 101.76 (1) (a).

8 (c) Under sub. (3) (b), the department enforces this subchapter or an ordinance  
 9 enacted under s. 101.76 (1) (a) throughout the municipality and provides inspection  
 10 services in the municipality to administer and enforce this subchapter or an  
 11 ordinance enacted under s. 101.76 (1) (a).

12 ~~SECTION 8. 101.761 (3) of the statutes is renumbered 101.761 (3) (a) and~~  
 13 ~~amended to read:~~ REMOVE SCORING

14 **101.761 (3) DEPARTMENTAL AND COUNTY AUTHORITY IN MUNICIPALITIES: GENERALLY.**

15 (a) ~~The~~ Except as provided in par. (b), the department or a county may not enforce  
 16 this subchapter or an ordinance adopted under s. 101.76 (1) (a) or provide inspection  
 17 services in a municipality unless requested to do so by a person with respect to a  
 18 particular manufactured building or by the municipality. A request by a person or  
 19 a municipality with respect to a particular manufactured building does not give the  
 20 department or a county authority with respect to any other manufactured building.  
 21 Costs shall be collected under s. 101.76 (1) (c) or ss. 101.73 (12) and 101.76 (2) from  
 22 the person or municipality making the request.

23 **SECTION 9. 101.761 (3) (b) of the statutes is created to read:**

24 101.761 (3) (b) The department shall provide inspection services and shall  
 25 enforce this subchapter or an ordinance enacted under s. 101.76 (1) (a) throughout

1 any municipality that does not exercise jurisdiction under sub. (2m) and that has not  
2 adopted a resolution under sub. (2m) (a) or (b).

3 SECTION 10. 101.761 (4) (title) of the statutes is created to read:

4 101.761 (4) (title) DATA RELATING TO HOUSING STARTS IN MUNICIPALITIES.

5 SECTION 11. 101.761 (5) (title) of the statutes is created to read:

6 101.761 (5) (title) EFFECT OF SECTION ON CERTAIN LAWS.

7 SECTION 12. 101.761 (6) (title) of the statutes is created to read:

8 101.761 (6) (title) ENERGY CONSERVATION RULES; CONTINUING EFFECT.

9 SECTION 9110. Nonstatutory provisions; commerce.

10 (1) MANUFACTURED BUILDING CODE.

11 (a) Definitions. In this subsection:

12 1. "Installation" has the meaning given in section 101.71 (4) of the statutes.

13 2. "Manufactured building" has the meaning given in section 101.71 (6) of the  
14 statutes.

15 3. "Municipality" has the meaning given in section 101.761 (1) of the statutes.

16 (b) Building permit not required. Notwithstanding section 101.761 (2m) of the  
17 statutes, as created by this act, a person is not required to obtain a building permit  
18 for installation of a manufactured building in a municipality, if the installation  
19 begins before the effective date of this paragraph and if, at the time that the  
20 installation begins, the municipality is exempt under section 101.761 (2), 1999 stats.,  
21 the municipality has not enacted an ordinance requiring a building permit for the  
22 installation, the municipality does not jointly exercise jurisdiction with a political  
23 subdivision that requires a building permit for the installation, and the municipality  
24 has not requested a county or the department of commerce to provide building permit  
25 services under section 101.761 (3), 1999 stats.

SECTION 9110

1 (c) ~~Department of commerce enforcement of manufactured building code in~~  
 2 ~~certain municipalities. Notwithstanding section 101.761 (3) (b) of the statutes, as~~  
 3 ~~created by this act, if the department of commerce enters into a contract with a~~  
 4 ~~municipality before July 1, 2002, to provide inspection services in the municipality~~  
 5 ~~under section 101.761 (3) (b) of the statutes, as created by this act, the department~~  
 6 ~~shall begin providing the inspection services under the contract no later than July~~  
 7 ~~1, 2002.~~

SECTION 9410. Effective dates; commerce.

9 (1) MANUFACTURED BUILDING CODE. The treatment of sections 101.76 (1) (a) and  
 10 101.761 (title), (1) (title), (2), (2m), (3), (3)(title), (3)(b), (4) (title), (5) (title), and (6) (title) of the statutes  
 11 and SECTION 9110 (1) of this act takes effect on ~~May~~ July 1, 2002.

(END)

*[Handwritten scribble]*

*Auto Ref 0*

*July*

9  
10  
11  
12

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0677/900 1/2n  
RJM: /:....

*gjs*

*Manufactured building code*

William Walker:

1. In response to my questions regarding this draft, the department of commerce (department) indicated that, in addition to accomplishing the drafting instructions initially communicated to me, this draft should repeal the provision that currently requires the department to contract, at municipal expense, for required inspections in municipalities. See s. 101.73 (3), stats.

Currently, s. 101.73 (3), stats., requires the department to contract, at municipal expense, to provide required inspections under s. 101.76 or 101.761, stats. This draft deletes that portion of s. 101.73 (3), stats. and, instead, specifies that the department may perform inspections required or authorized under s. 101.76 (2) or 101.761 (3), stats., directly or by contracting with a third party. I assume that you intend to allow the department this flexibility for both required and authorized inspections. Compare, for example, s. 101.761 (3) (b), stats. (required inspections), with s. 101.761 (3) (a), stats. (authorized inspections). Please let me know if I have misunderstood your intent.

2. This draft includes a grandfather provision specifying that installations begun before the draft takes effect are not subject to any new building permit requirements established under the draft. The draft also includes a delayed effective date of July 1, 2002, in order to provide affected municipalities time to determine how they wish to proceed and communicate that determination to the department. These provisions are similar to those included in last biennium's budget bill relating to municipal enforcement of the uniform dwelling code.

Please let me know if the department desires a provision requiring each affected municipality to communicate its determination by a specified date. Without this type of provision, it will be up to the department to obtain the necessary information from each municipality before the effective date, which may or may not be a problem.

Robert J. Marchant  
Legislative Attorney  
Phone: (608) 261-4454  
E-mail: robert.marchant@legis.state.wi.us

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0677/1dn  
RJM:cjs:pg

October 25, 2000

William Walker:

1. In response to my questions regarding this draft, the department of commerce (department) indicated that, in addition to accomplishing the drafting instructions initially communicated to me, this draft should repeal the provision that currently requires the department to contract, at municipal expense, for required manufactured building code inspections in municipalities. See s. 101.73 (3), stats.

Currently, s. 101.73 (3), stats., requires the department to contract, at municipal expense, to provide required inspections under s. 101.76 or 101.761, stats. This draft deletes that portion of s. 101.73 (3), stats. and, instead, specifies that the department may perform inspections required or authorized under s. 101.76 (2) or 101.761 (3), stats., directly or by contracting with a third party. I assume that you intend to allow the department this flexibility for both required and authorized inspections. Compare, for example, s. 101.761 (3) (b), stats. (required inspections), with s. 101.761 (3) (a), stats. (authorized inspections). Please let me know if I have misunderstood your intent.

2. This draft includes a grandfather provision specifying that installations begun before the draft takes effect are not subject to any new building permit requirements established under the draft. The draft also includes a delayed effective date of July 1, 2002, in order to provide affected municipalities time to determine how they wish to proceed and communicate that determination to the department. These provisions are similar to those included in last biennium's budget bill relating to municipal enforcement of the uniform dwelling code.

Please let me know if the department desires a provision requiring each affected municipality to communicate its determination by a specified date. Without this type of provision, it will be up to the department to obtain the necessary information from each municipality before the effective date, which may or may not be a problem.

Robert J. Marchant  
Legislative Attorney  
Phone: (608) 261-4454  
E-mail: robert.marchant@legis.state.wi.us



## **Marchant, Robert**

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**From:** Walker, William  
**Sent:** Friday, December 29, 2000 2:29 PM  
**To:** Marchant, Robert  
**Subject:** FW: Statutory Draft Comments

Attached are Commerce's comments on your safety and buildings drafts. I have no objections to their suggestions but let me know if any of them seem odd to you.

Note that 0679 and 0680 will not be included in the budget.

**Bill Walker**  
Executive Policy and Budget Analyst  
Department of Administration  
(608) 266-7329

-----Original Message-----

**From:** Bresser, Debra  
**Sent:** Monday, December 18, 2000 3:56 PM  
**To:** Walker, William  
**Subject:** Statutory Draft Comments

Bill,

Attached is a document indicating feedback regarding statutory drafts of Commerce Safety and Buildings budget initiatives.



Stat Draft  
Comments.doc

**Debra Bresser, Safety and Buildings Analyst**  
**Wisconsin Dept. of Commerce**  
**Bureau of Policy and Budget**  
**Voice: 608/266-8603**  
**Fax: 608/267-0436**

3. LRB-0677/1

Inspections under the manufactured building code in municipalities with populations of 2,500 or less

- a. Question in item 1 of cover letter to William Walker. Does the department want the flexibility granted by deleting the requirement that the department contract, at municipal expense, to provide required inspections and replacing it with language specifying that the department may perform inspections required or authorized directly or by contracting with a third party? Yes.
- b. A delayed effective date is not necessary. In the 1999-2001 budget, the One and Two Family Dwelling Code was revised to require inspection in municipalities with populations for 2,500 or less. The revised code provided affected municipalities with the following options:
  - i) Enact an ordinance to enforce the code, either independently or jointly with another municipality.
  - ii) Adopt a resolution requesting the appropriate county to enforce the code in the municipality.
  - iii) Adopt a resolution not to exercise either of the above options, in which case the municipality is exempt from the administration of the code.
  - iv) Take no action, in which case the department must enforce the code throughout the municipality.

When the department ascertained the status of municipalities effected by the 1999-2001 revision of the One and Two Family Dwelling Code, it considered that any action taken would also indicate the municipalities' status under the Manufactured Building Code. This was communicated to affected municipalities. Therefore, a delayed effective date is not needed to implement this revision of the Manufactured Building Code.

- c. Page 3, line 21. Insert bold text: "enacting ordinances under s. 101.76 (1) (a) or **shall** exercise the jurisdiction granted under..."

The department does not have comments regarding the remainder of the statutory draft items (LRB-0678/1, Inspections under the uniform dwelling code in municipalities with populations of 2,500 or less; LRB-0679/1, Mobile home titling fees and administration).

SOON

RMNK

DOA:.....Walker - Inspections under the manufactured building code in municipalities with populations of 2,500 or less

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

Do NOT GEN

1 AN ACT...; relating to: the budget.

*Analysis by the Legislative Reference Bureau*  
**COMMERCE AND ECONOMIC DEVELOPMENT**

manufactured building

**BUILDINGS AND SAFETY**

Under current law, the department of commerce (department) administers the manufactured building code (code) to ensure that minimum standards are met for the manufacture and installation of manufactured buildings as dwellings. Currently, a city, village, town, or county (municipality) may, with the approval of the department, enact an ordinance to enforce the code with regard to the installation of manufactured buildings as dwellings in the municipality. A county ordinance applies in any city, village, or town within the county that has not adopted ordinances to enforce the code, unless the city, village, or town is exempt from administration of the code. Currently, any city, village, or town with a population of 2,500 or less (small municipality) is exempt from administration of the code.

Generally, inspections must be performed to enforce the code in a municipality (building code inspections). Current law permits a municipality to perform these building code inspections and, unless the particular municipality is exempt from administration of the code, requires the department to perform building code inspections that are not otherwise provided for in a municipality. Current law also requires the department to contract, at municipal expense, to perform any building

manufactured

manufactured building

code inspections that a municipality requires. It is unclear, however, whether this contracting requirement permits the department to perform required building code inspections directly or requires the building code inspections to be performed by a third party under contract with the department.

This bill removes the requirement that a municipality obtain department approval before enacting an ordinance to enforce the code with regard to the installation of manufactured buildings as dwellings in the municipality. In addition, this bill creates new requirements relating to the administration of the code in small municipalities. Under this bill, a small municipality may do any of the following:

A) Enact an ordinance to enforce the code, either independently or jointly with another municipality, with regard to the installation of manufactured buildings as dwellings in the small municipality.

B) Adopt a resolution requesting the appropriate county to enforce the code with regard to the installation of manufactured buildings as dwellings in the municipality.

C) Adopt a resolution not to exercise either of the above options, in which case the small municipality is exempt from administration of the code.

D) Take no action, in which case the department must enforce the code throughout the municipality.

The bill also changes the provisions regarding building code inspections performed by the department in municipalities. Under this bill, the department may perform these building code inspections directly or may contract with a third party for the inspections. In addition, the bill removes the requirement that a municipality pay for any building code inspections that are provided by the department under contract. However, under the bill, the department retains the authority to establish a fee, by rule, to defray the cost of performing building code inspections in a municipality.

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.** 101.73 (3) of the statutes is amended to read:
- 2           101.73 (3) Provide for examination of plans and specifications and in-plant
- 3           inspections when contracted for by the manufacturer under s. 101.75 (1) and shall
- 4           ~~contract to provide on-site inspection services for the installation of manufactured~~
- 5           ~~buildings for dwellings, at municipal expense, for any municipality which requires~~
- 6           ~~such service under s. 101.76 or 101.761.~~

1           **SECTION 2.** 101.74 (8) of the statutes is created to read:

2           101.74 (8) Contract with any person to provide inspection services, or may  
3 provide inspection services directly, in any city, village, town, or county which  
4 requires the services pursuant to s. 101.76 (2) or in which the department is required  
5 or authorized to provide the services under s. 101.761 (3).

6           **SECTION 3.** 101.76 (1) (a) of the statutes is amended to read:

7           101.76 (1) (a) ~~With the approval of the department, exercise~~ Exercise  
8 jurisdiction over the installation of manufactured buildings for dwellings by passage  
9 of ordinances, provided such ordinances are in strict conformance with this  
10 subchapter and the on-site inspection is performed by persons certified by the  
11 department. Except as provided by s. 101.761, a county ordinance shall apply in any  
12 city, village or town which has not enacted such ordinance.

13           **SECTION 4.** 101.761 (title) of the statutes is amended to read:

14           **101.761 (title) Certain municipalities ~~excepted~~ exempted.**

15           **SECTION 5.** 101.761 (1) (title) of the statutes is created to read:

16           101.761 (1) (title) DEFINITION.

17           **SECTION 6.** 101.761 (2) of the statutes is repealed.

18           **SECTION 7.** 101.761 (2m) of the statutes is created to read:

19           101.761 (2m) EXEMPTION BY RESOLUTION. A municipality shall exercise  
20 jurisdiction over the installation of manufactured buildings for dwellings by  
21 enacting ordinances under s. 101.76 (1) (a) or <sup>shall</sup> exercise the jurisdiction granted under  
22 s. 101.76 (1) (a) jointly under s. 101.76 (1) (b), unless any of the following conditions  
23 are met:

24           (a) The municipality adopts a resolution requesting under sub. (3) (a) that a  
25 county enforce this subchapter or an ordinance enacted under s. 101.76 (1) (a)

1 throughout the municipality and that a county provide inspection services in the  
2 municipality to administer and enforce this subchapter or an ordinance enacted  
3 under s. 101.76 (1) (a).

4 (b) The municipality adopts a resolution determining not to exercise  
5 jurisdiction over the installation of manufactured buildings for dwellings under s.  
6 101.76 (1) (a), not to exercise jurisdiction jointly under s. 101.76 (1) (b), not to request  
7 under sub. (3) (a) that a county enforce this subchapter or an ordinance enacted  
8 under s. 101.76 (1) (a) throughout the municipality and not to request under sub. (3)  
9 (a) that a county provide inspection services in the municipality to administer and  
10 enforce this subchapter or an ordinance enacted under s. 101.76 (1) (a).

11 (c) Under sub. (3) (b), the department enforces this subchapter or an ordinance  
12 enacted under s. 101.76 (1) (a) throughout the municipality and provides inspection  
13 services in the municipality to administer and enforce this subchapter or an  
14 ordinance enacted under s. 101.76 (1) (a).

15 **SECTION 8.** 101.761 (3) (title) of the statutes is created to read:

16 101.761 (3) (title) DEPARTMENTAL AND COUNTY AUTHORITY IN MUNICIPALITIES;  
17 GENERALLY.

18 **SECTION 9.** 101.761 (3) of the statutes is renumbered 101.761 (3) (a) and  
19 amended to read:

20 101.761 (3) (a) The Except as provided in par. (b), the department or a county  
21 may not enforce this subchapter or an ordinance adopted under s. 101.76 (1) (a) or  
22 provide inspection services in a municipality unless requested to do so by a person  
23 with respect to a particular manufactured building or by the municipality. A request  
24 by a person or a municipality with respect to a particular manufactured building  
25 does not give the department or a county authority with respect to any other

1 manufactured building. Costs shall be collected under s. 101.76 (1) (c) or ss. 101.73  
2 (12) and 101.76 (2) from the person or municipality making the request.

3 **SECTION 10.** 101.761 (3) (b) of the statutes is created to read:

4 101.761 (3) (b) The department shall provide inspection services and shall  
5 enforce this subchapter or an ordinance enacted under s. 101.76 (1) (a) throughout  
6 any municipality that does not exercise jurisdiction under sub. (2m) and that has not  
7 adopted a resolution under sub. (2m) (a) or (b).

8 **SECTION 11.** 101.761 (4) (title) of the statutes is created to read:

9 101.761 (4) (title) DATA RELATING TO HOUSING STARTS IN MUNICIPALITIES.

10 **SECTION 12.** 101.761 (5) (title) of the statutes is created to read:

11 101.761 (5) (title) EFFECT OF SECTION ON CERTAIN LAWS.

12 **SECTION 13.** 101.761 (6) (title) of the statutes is created to read:

13 101.761 (6) (title) ENERGY CONSERVATION RULES; CONTINUING EFFECT.

14 **SECTION 9110. Nonstatutory provisions; commerce.**

15 (1) MANUFACTURED BUILDING CODE.

16 (a) *Definitions.* In this subsection:

17 1. “Installation” has the meaning given in section 101.71 (4) of the statutes.

18 2. “Manufactured building” has the meaning given in section 101.71 (6) of the  
19 statutes.

20 3. “Municipality” has the meaning given in section 101.761 (1) of the statutes.

21 (b) *Building permit not required.* Notwithstanding section 101.761 (2m) of the  
22 statutes, as created by this act, a person is not required to obtain a building permit  
23 for installation of a manufactured building in a municipality, if the installation  
24 begins before the effective date of this paragraph and if, at the time that the  
25 installation begins, the municipality is exempt under section 101.761 (2), 1999 stats.,

1 the municipality has not enacted an ordinance requiring a building permit for the  
2 installation, the municipality does not jointly exercise jurisdiction with a political  
3 subdivision that requires a building permit for the installation, and the municipality  
4 has not requested a county or the department of commerce to provide building permit  
5 services under section 101.761 (3), 1999 stats.

6 **SECTION 9410. Effective dates; commerce.**

7 (1) MANUFACTURED BUILDING CODE. The treatment of sections 101.76 (1) (a) and  
8 101.761 (title), (1) (title), (2), (2m), (4) (title), (5) (title), and (6) (title) of the statutes,  
9 the renumbering and amendment of section 101.761 (3) of the statutes, the creation  
10 of section 101.761 (3) (title) and (b) of the statutes, and SECTION 9110 (1) of this act  
11 take effect on July 1, 2002.

12 (END)





DOA:.....Walker – Inspections under the manufactured building code in municipalities with populations of 2,500 or less

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** the budget.

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*Analysis by the Legislative Reference Bureau*

**COMMERCE AND ECONOMIC DEVELOPMENT**

**BUILDINGS AND SAFETY**

Under current law, the department of commerce (department) administers the manufactured building code to ensure that minimum standards are met for the manufacture and installation of manufactured buildings as dwellings. Currently, a city, village, town, or county (municipality) may, with the approval of the department, enact an ordinance to enforce the manufactured building code with regard to the installation of manufactured buildings as dwellings in the municipality. A county ordinance applies in any city, village, or town within the county that has not adopted ordinances to enforce the manufactured building code, unless the city, village, or town is exempt from administration of the manufactured building code. Currently, any city, village, or town with a population of 2,500 or less (small municipality) is exempt from administration of the manufactured building code.

Generally, inspections must be performed to enforce the manufactured building code in a municipality (manufactured building code inspections). Current law permits a municipality to perform these manufactured building code inspections and, unless the particular municipality is exempt from administration of the

manufactured building code, requires the department to perform manufactured building code inspections that are not otherwise provided for in a municipality. Current law also requires the department to contract, at municipal expense, to perform any manufactured building code inspections that a municipality requires. It is unclear, however, whether this contracting requirement permits the department to perform required manufactured building code inspections directly or requires the manufactured building code inspections to be performed by a third party under contract with the department.

This bill removes the requirement that a municipality obtain department approval before enacting an ordinance to enforce the manufactured building code with regard to the installation of manufactured buildings as dwellings in the municipality. In addition, this bill creates new requirements relating to the administration of the manufactured building code in small municipalities. Under this bill, a small municipality may do any of the following:

A) Enact an ordinance to enforce the manufactured building code, either independently or jointly with another municipality, with regard to the installation of manufactured buildings as dwellings in the small municipality.

B) Adopt a resolution requesting the appropriate county to enforce the manufactured building code with regard to the installation of manufactured buildings as dwellings in the municipality.

C) Adopt a resolution not to exercise either of the above options, in which case the small municipality is exempt from administration of the manufactured building code.

D) Take no action, in which case the department must enforce the manufactured building code throughout the municipality.

The bill also changes the provisions regarding manufactured building code inspections performed by the department in municipalities. Under this bill, the department may perform these inspections directly or may contract with a third party for the inspections. In addition, the bill removes the requirement that a municipality pay for any manufactured building code inspections that are provided by the department under contract. However, under the bill, the department retains the authority to establish a fee, by rule, to defray the cost of performing manufactured building code inspections in a municipality.

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

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

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2           101.73 (3) Provide for examination of plans and specifications and in-plant  
3           inspections when contracted for by the manufacturer under s. 101.75 (1) ~~and shall~~

1 ~~contract to provide on-site inspection services for the installation of manufactured~~  
2 ~~buildings for dwellings, at municipal expense, for any municipality which requires~~  
3 ~~such service under s. 101.76 or 101.761.~~

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5 101.74 (8) Contract with any person to provide inspection services, or may  
6 provide inspection services directly, in any city, village, town, or county which  
7 requires the services pursuant to s. 101.76 (2) or in which the department is required  
8 or authorized to provide the services under s. 101.761 (3).

9 **SECTION 3.** 101.76 (1) (a) of the statutes is amended to read:

10 101.76 (1) (a) ~~With the approval of the department, exercise~~ Exercise  
11 jurisdiction over the installation of manufactured buildings for dwellings by passage  
12 of ordinances, provided such ordinances are in strict conformance with this  
13 subchapter and the on-site inspection is performed by persons certified by the  
14 department. Except as provided by s. 101.761, a county ordinance shall apply in any  
15 city, village or town which has not enacted such ordinance.

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24 enacting ordinances under s. 101.76 (1) (a) or shall exercise the jurisdiction granted

1 under s. 101.76 (1) (a) jointly under s. 101.76 (1) (b), unless any of the following  
2 conditions are met:

3 (a) The municipality adopts a resolution requesting under sub. (3) (a) that a  
4 county enforce this subchapter or an ordinance enacted under s. 101.76 (1) (a)  
5 throughout the municipality and that a county provide inspection services in the  
6 municipality to administer and enforce this subchapter or an ordinance enacted  
7 under s. 101.76 (1) (a).

8 (b) The municipality adopts a resolution determining not to exercise  
9 jurisdiction over the installation of manufactured buildings for dwellings under s.  
10 101.76 (1) (a), not to exercise jurisdiction jointly under s. 101.76 (1) (b), not to request  
11 under sub. (3) (a) that a county enforce this subchapter or an ordinance enacted  
12 under s. 101.76 (1) (a) throughout the municipality and not to request under sub. (3)  
13 (a) that a county provide inspection services in the municipality to administer and  
14 enforce this subchapter or an ordinance enacted under s. 101.76 (1) (a).

15 (c) Under sub. (3) (b), the department enforces this subchapter or an ordinance  
16 enacted under s. 101.76 (1) (a) throughout the municipality and provides inspection  
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2 with respect to a particular manufactured building or by the municipality. A request  
3 by a person or a municipality with respect to a particular manufactured building  
4 does not give the department or a county authority with respect to any other  
5 manufactured building. Costs shall be collected under s. 101.76 (1) (c) or ss. 101.73  
6 (12) and 101.76 (2) from the person or municipality making the request.

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10 any municipality that does not exercise jurisdiction under sub. (2m) and that has not  
11 adopted a resolution under sub. (2m) (a) or (b).

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2 statutes, as created by this act, a person is not required to obtain a building permit  
3 for installation of a manufactured building in a municipality, if the installation  
4 begins before the effective date of this paragraph and if, at the time that the  
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6 the municipality has not enacted an ordinance requiring a building permit for the  
7 installation, the municipality does not jointly exercise jurisdiction with a political  
8 subdivision that requires a building permit for the installation, and the municipality  
9 has not requested a county or the department of commerce to provide building permit  
10 services under section 101.761 (3), 1999 stats.

11

**(END)**