

2003 SENATE BILL 514

March 1, 2004 – Introduced by Senators LASSA, HARSDORF, ROBSON, PLALE, SCHULTZ, RISSER and HANSEN, cosponsored by Representatives SCHOOFF, SHILLING, McCORMICK, SUDER, RICHARDS, BERCEAU, BALOW, HUBER, J. LEHMAN, PLOUFF, GRONEMUS, MOLEPSKE, MUSSER and MILLER. Referred to Committee on Economic Development, Job Creation and Housing.

1 **AN ACT** *to renumber* 44.02 (24), 71.10 (4) (dr) and 101.121 (4) (a); *to renumber*
2 *and amend* 71.07 (9m) (a), 71.07 (9r) (a), 71.28 (6) (a) and 71.47 (6) (a); *to*
3 *amend* 13.48 (7), 13.48 (15), 59.69 (4m), 60.64, 62.23 (7) (em), 71.07 (5m) (a) 4.,
4 71.07 (9m) (c), 71.28 (6) (c), 71.47 (6) (c), 101.121 (4) (b), 101.19 (1) (intro.),
5 254.61 (1) (f) 2. and 823.21; and *to create* 13.48 (10) (c), 20.143 (1) (gb), 41.11
6 (1) (bm), 44.02 (24) (b), 44.02 (24d), 71.07 (9m) (a) 2., 71.07 (9m) (g), 71.07 (9m)
7 (h), 71.07 (9r) (a) 2., 71.28 (6) (a) 2., 71.28 (6) (g), 71.28 (6) (h), 71.47 (6) (a) 2.,
8 71.47 (6) (g), 71.47 (6) (h), 84.013 (3g), 86.36, 86.37, 101.121 (3) (c), 101.121 (4)
9 (a) 2., 101.121 (5), 101.121 (6), 101.975 (4), 560.03 (21m) and 560.083 of the
10 statutes; **relating to:** the regulation, preservation, and restoration of historic
11 buildings, the supplement to the federal historic rehabilitation tax credit and
12 the state historic rehabilitation tax credit, requiring the certification of
13 downtowns, promoting certain downtown areas in this state, highway projects
14 involving business and downtown areas, the construction of major highway

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1 projects involving a bypass, granting rule-making authority, and making
2 appropriations.

Analysis by the Legislative Reference Bureau

This bill makes numerous changes with regard to downtown development and historic buildings and also makes a change to current law regarding the construction of major highway projects involving a bypass. Significant provisions include the following:

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

Current law authorizes the Department of Commerce (department) 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 the department, 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, the department 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 the department 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 the department review any decision of a local governmental unit that requires the owner to comply with a provision in a local ordinance. The department must review the decision to determine whether the provision in the ordinance concerns a matter dealt with in the

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State Historic Building Code, in which case the owner would be exempt from the provision. The bill specifies that, in performing this review, the department must follow the existing procedure for resolving conflicts between local orders and orders of the department that relate to the safety of places of employment or public buildings.

This bill also expands the role of the State Historical Society relating to the State Historic Building Code. Under the bill, the owner of a qualified historic building may request that the State Historical Society review certain decisions of the department, or of a local governmental unit acting as an agent of the department, relating to the State Historic Building Code, variances under the State Historic Building Code, or the inspection of qualified historic buildings for compliance with the State Historic Building Code. The State Historical Society must review the particular decision and issue an advisory opinion as to whether the decision or an alternate decision is consistent with the State Historic Building Code. The bill permits the State Historical Society to negotiate with the department or the particular local governmental unit to achieve an alternate decision that would allow the greatest possible degree of restoration and preservation, while still providing for the health, safety, and welfare of occupants of and visitors to the qualified historic building. The bill also permits the department or the particular local governmental unit to modify a reviewed decision, based upon these negotiations. In addition, the bill requires the department, in cooperation with the State Historical Society, to develop an informational pamphlet to increase public awareness and use of the State Historic Building Code.

Historic preservation in local governmental units

This bill directs local governmental units to interpret liberally their regulations that apply to historic structures in order to facilitate the preservation and restoration of historic buildings and structures.

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 2004, 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 a certified downtown or is included in a business area revitalization under the State Main Street Program and the state Historical Society 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 a certified downtown or is included in a business area revitalization under the State Main Street Program, and the state Historical Society

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certifies the rehabilitation. The state Historical Society may charge and collect a fee for the certifications described in this paragraph in an amount equal to two 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 Historical Society will be used to provide additional staffing for the administration of the State Main Street Program.

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 state Historical Society certifies such expenses.

Under this bill, for taxable years beginning in 2004, 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 a certified downtown or is included in a business area revitalization under the State Main Street Program and the state Historical Society approves the preservation or rehabilitation. The state Historical Society 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 state Historical Society determines that the preservation or rehabilitation does not comply with the standards established by the society, 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 state Historical Society 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 state Historical Society determines that the preservation or rehabilitation does not comply with the standards established by the society, 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 state Historical Society standards.

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

This bill requires the department 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 the department to promulgate rules pursuant to which the department 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

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revitalization efforts under the State Main Street Program (a program that promotes revitalization efforts in certain business areas).

Currently, the Building 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 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 the Department of 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 in that portion of the geographic area 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 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 in that portion of the geographic area 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 the Department of 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 the Department of Commerce and, unless none exists, with a local board or downtown planning organization of that municipality. Second, DOT must give priority to retaining any on-street parking with respect to a highway-widening project in a business or certified downtown area.

This bill specifies that DOT, in providing any matching funds for local highway projects, is required to fund the construction of any highway lane without regard to whether it is a travel lane or a parking lane. This requirement applies only to local highway projects that are in business areas under the State Main Street Program or in downtowns certified by the Department of Commerce.

MAJOR HIGHWAY PROJECTS

Under current law, DOT administers a major highway projects program. A major highway project is a project having a total cost of more than \$5,000,000 and involving construction of a new highway 2.5 miles or more in length; reconstruction

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or reconditioning of an existing highway that relocates at least 2.5 miles of the highway or adds one or more lanes at least five miles in length to the highway; or improvement of an existing multilane divided highway to freeway standards. Any major highway project, unlike other highway construction projects undertaken by DOT, requires the approval of the Transportation Projects Commission and the legislature before the project may be constructed. The current list of major highway projects that are approved for construction includes six projects that involve bypasses.

This bill provides that, prior to constructing a major highway project involving a bypass, DOT must notify the governing body of the city, village, or town primarily to be affected by the bypass of DOT's proposed construction of the bypass. If the governing body of the city, village, or town adopts a resolution, within 90 days of being notified by DOT, stating that an active bypass is in the best public interest of the city, village, or town and sends a copy of the resolution to DOT within seven days of its adoption, DOT is required to design and construct an active bypass. The bill defines "active bypass" as a bypass of an existing highway that is designed and constructed in such a way that access to the bypass requires motorists to exit the existing highway in order to travel on the bypass.

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
5 proposed by the state fair park board involving a cost of not more than \$250,000,
6 together with the method of financing those projects proposed by the board, without
7 recommendation. Unless a later date is requested by the building commission and
8 approved by the joint committee on finance, the building commission shall, no later
9 than the first Tuesday in April of each odd-numbered year, transmit the report
10 prepared by the department of administration under s. 16.40 (20) and the
11 commission's recommendations for the succeeding fiscal biennium that require

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1 legislative approval to the joint committee on finance in the form of proposed
2 legislation prepared in proper form. If the building commission includes any
3 recommendation for construction of a state office building, the commission shall
4 ensure that the recommended location of the building is consistent with construction
5 requirements under sub. (10) (c).

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

7 13.48 (10) (c) Unless otherwise required by law, the building commission shall
8 not authorize the construction of any state office building, whether for utilization by
9 a single agency or otherwise, to be located outside of a downtown area, as certified
10 under s. 560.03 (21m), unless the cost of locating the building inside a downtown area
11 is more than 10 percent greater than the average cost of locating the building in that
12 portion of the geographic area that is served by the functions to be performed in the
13 building on the date of initial occupancy outside of any downtown area, as
14 determined by the department of administration.

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

16 13.48 (15) ACQUISITION OF LEASEHOLD INTERESTS. Subject to the requirements
17 of s. 20.924 (1) (i), the building commission shall have the authority to acquire
18 leasehold interests in land and buildings where such authority is not otherwise
19 provided to an agency by law. The building commission shall not approve any lease
20 for state office facilities, whether for utilization by a single agency or otherwise, to
21 be located outside of a downtown area, as certified under s. 560.03 (21m), unless the
22 cost of locating the facilities inside a downtown area is more than 10 percent greater
23 than the average cost of locating the facilities in that portion of the geographic area
24 that is served by the functions to be performed in the facilities on the date of initial

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1 occupancy under the lease outside of any downtown area, as determined by the
2 department of administration.

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

4 20.143 (1) (gb) *Certified downtowns and business district reconstruction.* All
5 moneys received from the historical society under s. 44.02 (24d) (b) for the purpose
6 of providing staff for the administration of ss. 560.03 (21m) and 560.083.

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

8 41.11 (1) (bm) Promote travel to business areas that are or have been the
9 subject of revitalization efforts under the State Main Street Program under s.
10 560.081 or that are certified downtowns under s. 560.03 (21m).

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

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

13 44.02 (24) (b) Charge a fee of \$150 for a certification under par. (a). The
14 historical society shall collect the fee under this paragraph when an applicant
15 applies for certification under par. (a).

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

17 44.02 (24d) (a) Promulgate by rule procedures, standards, and forms necessary
18 to certify, and shall certify, expenditures for preservation or rehabilitation of historic
19 property for the purposes of ss. 71.07 (9m) (a), 71.28 (6) (a), and 71.47 (6) (a). Such
20 standards shall be substantially similar to the standards used by the secretary of the
21 interior to certify rehabilitations under 26 USC 47 (c) (2).

22 (b) Charge a fee for a certification under par. (a) equal to 2 percent of the
23 qualified rehabilitation expenditures for the historic property that is the subject of
24 the certification, except that no fee under this paragraph may be less than \$300 nor
25 more than \$20,000. The historical society shall collect the fee under this paragraph

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1 when an applicant applies for certification under par. (a). Fifty percent of the amount
2 collected under this paragraph shall be deposited in the appropriation account under
3 s. 20.143 (1) (gb).

4 **SECTION 9.** 59.69 (4m) of the statutes is amended to read:

5 59.69 **(4m)** HISTORIC PRESERVATION. A county, as an exercise of its zoning and
6 police powers for the purpose of promoting the health, safety and general welfare of
7 the community and of the state, may regulate by ordinance any place, structure or
8 object with a special character, historic interest, aesthetic interest or other
9 significant value, for the purpose of preserving the place, structure or object and its
10 significant characteristics. The county may create a landmarks commission to
11 designate historic landmarks and establish historic districts. The county may
12 regulate all historic landmarks and all property within each historic district to
13 preserve the historic landmarks and property within the district and the character
14 of the district, and shall interpret the county's regulations liberally to facilitate the
15 preservation and restoration of historic buildings and structures.

16 **SECTION 10.** 60.64 of the statutes is amended to read:

17 **60.64 Historic preservation.** The town board, in the exercise of its zoning
18 and police powers for the purpose of promoting the health, safety and general welfare
19 of the community and of the state, may regulate any place, structure or object with
20 a special character, historic interest, aesthetic interest or other significant value for
21 the purpose of preserving the place, structure or object and its significant
22 characteristics. The town board may create a landmarks commission to designate
23 historic landmarks and establish historic districts. The board may regulate all
24 historic landmarks and all property within each historic district to preserve the
25 historic landmarks and property within the district and the character of the district,

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1 and shall interpret the board's regulations liberally to facilitate the preservation and
2 restoration of historic buildings and structures.

3 **SECTION 11.** 62.23 (7) (em) of the statutes is amended to read:

4 62.23 (7) (em) *Historic preservation.* A city, as an exercise of its zoning and
5 police powers for the purpose of promoting the health, safety and general welfare of
6 the community and of the state, may regulate by ordinance, or if a city contains any
7 property that is listed on the national register of historic places in Wisconsin or the
8 state register of historic places shall, not later than 1995, enact an ordinance to
9 regulate, any place, structure or object with a special character, historic,
10 archaeological or aesthetic interest, or other significant value, for the purpose of
11 preserving the place, structure or object and its significant characteristics. A city
12 may create a landmarks commission to designate historic or archaeological
13 landmarks and establish historic districts. The city may regulate, or if the city
14 contains any property that is listed on the national register of historic places in
15 Wisconsin or the state register of historic places shall regulate, all historic or
16 archaeological landmarks and all property within each historic district to preserve
17 the historic or archaeological landmarks and property within the district and the
18 character of the district, and shall interpret the city's regulations liberally to
19 facilitate the preservation and restoration of historic buildings and structures.

20 **SECTION 12.** 71.07 (5m) (a) 4. of the statutes is amended to read:

21 71.07 (5m) (a) 4. "Net tax liability" means a claimant's income tax liability after
22 he or she completes the computations listed in s. 71.10 (4) (a) to ~~(d)~~ (dm).

23 **SECTION 13.** 71.07 (9m) (a) of the statutes is renumbered 71.07 (9m) (a) 1. and
24 amended to read:

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1 71.07 (9m) (a) 1. ~~Any~~ Except as provided in subd. 2., any person may claim as
2 a credit against the taxes otherwise due imposed under this chapter s. 71.02, up to
3 the amount of those taxes, an amount equal to 5% of the costs of qualified
4 rehabilitation expenditures, as defined in section 47 (c) (2) of the ~~internal revenue~~
5 ~~code~~ Internal Revenue Code, for certified historic structures on property located in
6 this state, if the physical work of construction or destruction in preparation for
7 construction begins after December 31, 1988, and the rehabilitated property is
8 placed in service after June 30, 1989.

9 **SECTION 14.** 71.07 (9m) (a) 2. of the statutes is created to read:

10 71.07 (9m) (a) 2. a. Any person may claim as a credit against the taxes
11 otherwise due under this chapter, up to the amount of those taxes, an amount equal
12 to 20 percent of the costs of qualified rehabilitation expenditures, as defined in
13 section 47 (c) (2) of the Internal Revenue Code, for certified historic structures on
14 property located in a certified downtown under s. 560.03 (21m) or included in a
15 business revitalization under s. 560.081, if the physical work of construction or
16 destruction in preparation for construction begins after December 31, 2003.

17 b. A person whose qualified rehabilitation expenditures do not satisfy the
18 adjusted basis requirement under section 47 (c) (1) of the Internal Revenue Code, but
19 who otherwise would be eligible to claim the rehabilitation credit under section 47
20 of the Internal Revenue Code, may claim as a credit against taxes imposed under s.
21 71.02, up to the amount of those taxes, an amount equal to 20 percent of the costs of
22 qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal
23 Revenue Code, if the property is located in a certified downtown under s. 560.03
24 (21m) or is included in a business area revitalization under s. 560.081; if the person's
25 qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal

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1 Revenue Code, are at least \$10,000; if the rehabilitation is approved by the state
2 historical society before the physical work of construction, or destruction in
3 preparation for construction, begins; if the person includes evidence of such approval
4 with the person's return; if the physical work of construction, or destruction in
5 preparation for construction, begins after December 31, 2003; and if the person
6 claims the credit for the same taxable year in which the person would have claimed
7 the credit for federal purposes.

8 **SECTION 15.** 71.07 (9m) (c) of the statutes is amended to read:

9 71.07 **(9m)** (c) ~~No~~ Except as provided in par. (a) 2., no person may claim the a
10 credit under this subsection unless the claimant includes with the claimant's return
11 evidence that the rehabilitation was approved recommended by the state historic
12 preservation officer for approval by the secretary of the interior under 36 CFR 67.6
13 before the physical work of construction, or destruction in preparation for
14 construction, began; and the claimant claims the credit for the same taxable year in
15 which the claimant would have claimed the credit for federal purposes.

16 **SECTION 16.** 71.07 (9m) (g) of the statutes is created to read:

17 71.07 **(9m)** (g) A person who has incurred qualified rehabilitation
18 expenditures, as defined in section 47 (c) (2) of the Internal Revenue Code, for
19 certified historic structures located in this state, as described in par. (a), but who is
20 not a resident of this state and who is not required to file a return under this chapter,
21 may enter into an agreement with another person, with the department's approval
22 and in the manner prescribed by the department, so that the other person may claim
23 the credit under this subsection, if the other person is subject to the taxes imposed
24 under s. 71.02.

25 **SECTION 17.** 71.07 (9m) (h) of the statutes is created to read:

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1 71.07 (9m) (h) A person who receives a credit under this subsection shall add
2 to the person's liability for taxes imposed under s. 71.02 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 18.** 71.07 (9r) (a) of the statutes is renumbered 71.07 (9r) (a) 1. and
21 amended to read:

22 71.07 (9r) (a) 1. ~~For Except as provided in subd. 2., for taxable years beginning~~
23 on or after August 1, 1988, any natural person may claim as a credit against the taxes
24 ~~otherwise due imposed~~ under s. 71.02, up to the amount of those taxes, an amount
25 equal to 25% of the costs of preservation or rehabilitation of historic property located

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1 in this state, including architectural fees and costs incurred in preparing nomination
2 forms for listing in the national register of historic places in Wisconsin or the state
3 register of historic places, if the nomination is made within 5 years prior to
4 submission of a preservation or rehabilitation plan under par. (b) 3. b., and if the
5 physical work of construction or destruction in preparation for construction begins
6 after December 31, 1988, except that the credit may not exceed \$10,000, or \$5,000
7 for married persons filing separately, for any preservation or rehabilitation project.

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

9 71.07 **(9r)** (a) 2. For taxable years beginning after December 31, 2003, any
10 natural person may claim as a credit against the taxes imposed under s. 71.02, up
11 to the amount of those taxes, an amount equal to 30 percent of the costs of
12 preservation or rehabilitation of property that is located in a certified downtown
13 under s. 560.03 (21m) or is included in a business area revitalization under s.
14 560.081, including architectural fees and costs incurred in preparing nomination
15 forms for listing in the national register of historic places in Wisconsin or the state
16 register of historic places, if the nomination is made within 5 years prior to
17 submission of a preservation or rehabilitation plan under par. (b) 3. b., and if the
18 physical work of construction or destruction in preparation for construction begins
19 after December 31, 2003, except that the credit may not exceed \$10,000, or \$5,000
20 for married persons filing separately, for any preservation or rehabilitation project.

21 **SECTION 20.** 71.10 (4) (dr) of the statutes is renumbered 71.10 (4) (fm).

22 **SECTION 21.** 71.28 (6) (a) of the statutes is renumbered 71.28 (6) (a) 1. and
23 amended to read:

24 71.28 **(6)** (a) 1. Any Except as provided in subd. 2., any person may claim as a
25 credit against the taxes otherwise due imposed under this chapter s. 71.23, up to the

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1 amount of those taxes, an amount equal to 5% of the costs of qualified rehabilitation
2 expenditures, as defined in section 47 (c) (2) of the ~~internal revenue code~~ Internal
3 Revenue Code, for certified historic structures on property located in this state, if the
4 physical work of construction or destruction in preparation for construction begins
5 after December 31, 1988, and the rehabilitated property is placed in service after
6 June 30, 1989.

7 **SECTION 22.** 71.28 (6) (a) 2. of the statutes is created to read:

8 71.28 (6) (a) 2. a. Any person may claim as a credit against the taxes otherwise
9 due under this chapter, up to the amount of those taxes, an amount equal to 20
10 percent of the costs of qualified rehabilitation expenditures, as defined in section 47
11 (c) (2) of the Internal Revenue Code, for certified historic structures on property
12 located in a certified downtown under s. 560.03 (21m) or included in a business
13 revitalization under s. 560.081, if the physical work of construction or destruction in
14 preparation for construction begins after December 31, 2003.

15 b. A person whose qualified rehabilitation expenditures do not satisfy the
16 adjusted basis requirement under section 47 (c) (1) of the Internal Revenue Code, but
17 who otherwise would be eligible to claim the rehabilitation credit under section 47
18 of the Internal Revenue Code, may claim as a credit against taxes imposed under s.
19 71.23, up to the amount of those taxes, an amount equal to 20 percent of the costs of
20 qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal
21 Revenue Code, if the property is located in a certified downtown under s. 560.03
22 (21m) or is included in a business area revitalization under s. 560.081; if the person's
23 qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal
24 Revenue Code, are at least \$10,000; if the rehabilitation is approved by the state
25 historical society before the physical work of construction, or destruction in

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1 preparation for construction, begins; if the person includes evidence of such approval
2 with the person's return; if the physical work of construction, or destruction in
3 preparation for construction, begins after December 31, 2003; and if the person
4 claims the credit for the same taxable year in which the person would have claimed
5 the credit for federal purposes.

6 **SECTION 23.** 71.28 (6) (c) of the statutes is amended to read:

7 71.28 (6) (c) ~~No~~ Except as provided in par. (a) 2., no person may claim the a
8 credit under this subsection unless the claimant includes with the claimant's return
9 evidence that the rehabilitation was ~~approved~~ recommended by the state historic
10 preservation officer for approval by the secretary of the interior under 36 CFR 67.6
11 before the physical work of construction, or destruction in preparation for
12 construction, began; and the claimant claims the credit for the same taxable year in
13 which the claimant would have claimed the credit for federal purposes.

14 **SECTION 24.** 71.28 (6) (g) of the statutes is created to read:

15 71.28 (6) (g) A person who has incurred qualified rehabilitation expenditures,
16 as defined in section 47 (c) (2) of the Internal Revenue Code, for certified historic
17 structures located in this state, as described in par. (a), but who is not a resident of
18 this state and who is not required to file a return under this chapter, may enter into
19 an agreement with another person, with the department's approval and in the
20 manner prescribed by the department, so that the other person may claim the credit
21 under this subsection, if the other person is subject to the taxes imposed under s.
22 71.23.

23 **SECTION 25.** 71.28 (6) (h) of the statutes is created to read:

24 71.28 (6) (h) A person who receives a credit under this subsection shall add to
25 the person's liability for taxes imposed under s. 71.23 one of the following

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

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

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

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

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

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

18 **SECTION 26.** 71.47 (6) (a) of the statutes is renumbered 71.47 (6) (a) 1. and
19 amended to read:

20 71.47 (6) (a) 1. ~~Any~~ Except as provided in subd. 2., any person may claim as a
21 credit against the taxes otherwise due imposed under this chapter s. 71.43, up to the
22 amount of those taxes, an amount equal to 5% of the costs of qualified rehabilitation
23 expenditures, as defined in section 47 (c) (2) of the internal revenue code Internal
24 Revenue Code, for certified historic structures on property located in this state, if the
25 physical work of construction or destruction in preparation for construction begins

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1 after December 31, 1988, and the rehabilitated property is placed in service after
2 June 30, 1989.

3 **SECTION 27.** 71.47 (6) (a) 2. of the statutes is created to read:

4 71.47 **(6)** (a) 2. a. Any person may claim as a credit against the taxes otherwise
5 due under this chapter, up to the amount of those taxes, an amount equal to 20
6 percent of the costs of qualified rehabilitation expenditures, as defined in section 47
7 (c) (2) of the Internal Revenue Code, for certified historic structures on property
8 located in a certified downtown under s. 560.03 (21m) or included in a business
9 revitalization under s. 560.081, if the physical work of construction or destruction in
10 preparation for construction begins after December 31, 2003.

11 b. A person whose qualified rehabilitation expenditures do not satisfy the
12 adjusted basis requirement under section 47 (c) (1) of the Internal Revenue Code, but
13 who otherwise would be eligible to claim the rehabilitation credit under section 47
14 of the Internal Revenue Code, may claim as a credit against taxes imposed under s.
15 71.43, up to the amount of those taxes, an amount equal to 20 percent of the costs of
16 qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal
17 Revenue Code, if the property is located in a certified downtown under s. 560.03
18 (21m) or is included in a business area revitalization under s. 560.081; if the person's
19 qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal
20 Revenue Code, are at least \$10,000; if the rehabilitation is approved by the state
21 historical society before the physical work of construction, or destruction in
22 preparation for construction, begins; if the person includes evidence of such approval
23 with the person's return; if the physical work of construction, or destruction in
24 preparation for construction, begins after December 31, 2003; and if the person

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1 claims the credit for the same taxable year in which the person would have claimed
2 the credit for federal purposes.

3 **SECTION 28.** 71.47 (6) (c) of the statutes is amended to read:

4 71.47 (6) (c) ~~No~~ Except as provided in par. (a) 2., no person may claim the a
5 credit under this subsection unless the claimant includes with the claimant's return
6 evidence that the rehabilitation was ~~approved~~ recommended by the state historic
7 preservation officer for approval by the secretary of the interior under 36 CFR 67.6
8 before the physical work of construction, or destruction in preparation for
9 construction, began; and the claimant claims the credit for the same taxable year in
10 which the claimant would have claimed the credit for federal purposes.

11 **SECTION 29.** 71.47 (6) (g) of the statutes is created to read:

12 71.47 (6) (g) A person who has incurred qualified rehabilitation expenditures,
13 as defined in section 47 (c) (2) of the Internal Revenue Code, for certified historic
14 structures located in this state, as described in par. (a), but who is not a resident of
15 this state and who is not required to file a return under this chapter, may enter into
16 an agreement with another person, with the department's approval and in the
17 manner prescribed by the department, so that the other person may claim the credit
18 under this subsection, if the other person is subject to the taxes imposed under s.
19 71.43.

20 **SECTION 30.** 71.47 (6) (h) of the statutes is created to read:

21 71.47 (6) (h) A person who receives a credit under this subsection shall add to
22 the person's liability for taxes imposed under s. 71.43 one of the following
23 percentages of the amount of the credits received under this subsection for
24 rehabilitating or preserving the property if, within 5 years after the date on which
25 the preservation or rehabilitation work that was the basis of the credit is completed,

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1 the person either sells or conveys the property by deed or land contract or the state
2 historical society certifies to the department of revenue that the historic property has
3 been altered to the extent that it does not comply with the standards promulgated
4 under s. 44.02 (24d):

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

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

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

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

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

15 **SECTION 31.** 84.013 (3g) of the statutes is created to read:

16 84.013 **(3g)** Before commencing construction of a major highway project that
17 is listed under sub. (3) or approved under sub. (6) and that involves construction of
18 a bypass, the department shall notify the governing body of the city, village, or town
19 in which a majority of the land affected by the proposed bypass is located that the
20 department is authorized to construct such bypass. If, within 90 days after the date
21 of the department's notification, the governing body of the city, village, or town
22 adopts a resolution stating that construction of an active bypass is in the best public
23 interest of the city, village, or town and, within 7 days after adoption of the resolution,
24 sends a copy of the resolution to the department, the department shall design and
25 construct the major highway project as an active bypass. For purposes of this

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1 subsection, an “active bypass” is a bypass of an existing highway that is designed and
2 constructed so that access to the bypass requires motorists to exit the existing
3 highway in order to travel upon the bypass. This subsection shall apply to the use
4 of any federal funds only to the extent that such use does not result in the loss of any
5 federal funds. This subsection does not apply to any major highway project that is
6 subject to a contract for its construction and that is in effect on the effective date of
7 this subsection [revisor inserts date].

8 **SECTION 32.** 86.36 of the statutes is created to read:

9 **86.36 Matching funds for local highway projects.** Notwithstanding any
10 other provision of law relating to the funding of local highway projects by the
11 department, if the department provides matching funds to a city, village, town, or
12 county on or after the effective date of this section [revisor inserts date], for a local
13 highway project involving the construction of one or more lanes of highway, the
14 department shall fund the construction of any lane of highway affected by the project
15 without regard to its designation as a travel lane or a parking lane. This section
16 applies only to local highway projects that involve a highway in a business area that
17 is the subject of revitalization efforts under the State Main Street Program under s.
18 560.081 (2) (e) or in a certified downtown under s. 560.03 (21m). This section shall
19 apply to the use of any federal funds only to the extent that such use does not result
20 in the loss of any federal funds.

21 **SECTION 33.** 86.37 of the statutes is created to read:

22 **86.37 Highway projects involving business and downtown areas. (1)**

23 In this section:

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

25 (b) “Municipality” means a city, village, or town.

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1 **(2)** In the preliminary stages of considering and planning any highway project
2 to be funded by the department that involves a highway in which a business area that
3 is the subject of revitalization efforts under the State Main Street Program under s.
4 560.081 (2) (e) or a certified downtown under s. 560.03 (21m) is located, the
5 department shall consult on issues concerning the proposed highway project and its
6 effects on the business or certified downtown area with the department of commerce
7 and, unless no such board or organization exists, with the business improvement
8 district board appointed under s. 66.1109 (3) (a), the main street board associated
9 with the State Main Street Program under s. 560.081 (2) (e), or the nonprofit
10 downtown planning organization of that municipality. This subsection does not
11 apply to any highway project for which preliminary engineering was begun before
12 the effective date of this subsection [revisor inserts date].

13 **(3)** Notwithstanding any other provision of law relating to highway projects
14 funded by the department, the department shall give priority to the retention of any
15 on-street parking with respect to a highway project involving the widening of a
16 highway in which a business area that is the subject of revitalization efforts under
17 the State Main Street Program under s. 560.081 or a certified downtown under s.
18 560.03 (21m) is located. This subsection shall apply to the use of any federal funds
19 only to the extent that such use does not result in the loss of any federal funds. This
20 subsection does not apply to any highway project that is subject to a contract for its
21 construction and that is in effect on the effective date of this subsection [revisor
22 inserts date].

23 **SECTION 34.** 101.121 (3) (c) of the statutes is created to read:

24 101.121 **(3)** (c) The Historic Building Code shall be liberally interpreted to
25 facilitate the preservation and restoration of qualified historic buildings.

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1 **SECTION 35.** 101.121 (4) (a) of the statutes is renumbered 101.121 (4) (a) 1.

2 **SECTION 36.** 101.121 (4) (a) 2. of the statutes is created to read:

3 101.121 (4) (a) 2. Upon the request of the owner of a qualified historic building
4 who elects under subd. 1. to be subject to the Historic Building Code, the department
5 shall review any decision of a city, village, town, or county that requires the owner
6 to comply with a provision of a county or municipal building code, or of any other local
7 ordinance or regulation, to determine if the provision concerns a matter dealt with
8 in the Historic Building Code. The procedures in s. 101.02 (7) apply to any review
9 conducted by the department under this subdivision.

10 **SECTION 37.** 101.121 (4) (b) of the statutes is amended to read:

11 101.121 (4) (b) Paragraph (a) 1. does not apply to any owner of a nursing home,
12 as defined in s. 50.01 (3), a hospital, as defined in s. 50.33 (2) (a) and (c), or an
13 approved public or private treatment facility for alcoholics, as defined in s. 51.45 (2)
14 (b) and (c).

15 **SECTION 38.** 101.121 (5) of the statutes is created to read:

16 101.121 (5) **ADVISORY OPINION OF STATE HISTORICAL SOCIETY.** (a) The owner of a
17 qualified historic building may submit to the state historical society a request for an
18 advisory opinion with respect to any decision of the department, or of a city, village,
19 town, or county that is an agent of the department, if the decision pertains to any of
20 the following:

21 1. This section or a rule promulgated under this section, except for a decision
22 of the department under sub. (4) (a) 2.

23 2. A variance to a rule promulgated under this section.

24 3. The inspection of a qualified historic building for compliance with a rule
25 promulgated under this section.

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1 (b) Upon receiving a request under par. (a), the state historical society shall
2 review all information related to the decision and shall render a written opinion on
3 each of the following:

4 1. Whether the decision is consistent with this section and the rules
5 promulgated under this section.

6 2. Whether the alternative decision requested by the owner of the qualified
7 historic building, or any other alternative decision, is consistent with this section and
8 the rules promulgated under this section.

9 (c) The state historical society may negotiate with the department or the city,
10 village, town, or county and the owner of the qualified historic building to seek
11 agreement on an alternative decision that will allow the greatest possible degree of
12 restoration and preservation of the qualified historic building, while continuing to
13 meet the standards for the health, safety, and welfare of occupants of and visitors to
14 the qualified historic building.

15 (d) The department or a city, village, town, or county may modify any decision
16 described under par. (a) based on negotiations with the state historical society.

17 (e) This subsection does not modify any procedures for appeal of a decision of
18 the department or of a city, village, town, or county under this section.

19 **SECTION 39.** 101.121 (6) of the statutes is created to read:

20 101.121 (6) INFORMATIONAL PAMPHLET. (a) In cooperation with the state
21 historical society, the department shall develop an informational pamphlet designed
22 to increase awareness and use of the Historic Building Code. The department, in
23 cooperation with the State Historical Society, shall update the pamphlet as statutes
24 and rules relating to the Historic Building Code are amended. The pamphlet shall
25 include all of the following information:

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- 1 1. A description of the Historic Building Code.
- 2 2. A description of the types and qualities of buildings that are subject to the
- 3 Historic Building Code.
- 4 3. An explanation of how the owner of a qualified historic building may elect
- 5 to be subject to the Historic Building Code and a description of the consequences of
- 6 that election.
- 7 4. A description of other alternative building codes that the owner of a historic
- 8 building may be eligible to use.
- 9 5. A description of where a person may obtain further information regarding
- 10 historic buildings and the Historic Building Code.

11 (b) The department and the state historical society shall distribute the

12 pamphlets as they consider necessary to increase awareness of the Historic Building

13 Code.

14 **SECTION 40.** 101.19 (1) (intro.) of the statutes is amended to read:

15 101.19 (1) (intro.) The department, ~~by rule promulgated under ch. 227,~~ shall

16 ~~fix and collect~~ promulgate rules establishing and providing for the collection of fees

17 which shall, as closely as possible, equal the cost of providing the following services:

18 **SECTION 41.** 101.975 (4) of the statutes is created to read:

19 101.975 (4) (a) A political subdivision may adopt an ordinance that permits the

20 political subdivision to grant a variance to the Uniform Multifamily Dwelling Code

21 if all of the following apply:

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

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

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

9 **SECTION 42.** 254.61 (1) (f) 2. of the statutes is amended to read:

10 254.61 (1) (f) 2. A structural addition, including a renovation, made to a
11 structure that was originally constructed at least 50 years before an initial or
12 renewal application for a permit under s. 254.64 (1) (b) is made and for which no use
13 other than as a bed and breakfast establishment is proposed. The structural addition
14 under this subdivision shall comply with the rules promulgated under s. 101.63 (1)
15 and (1m).

16 **SECTION 43.** 560.03 (21m) of the statutes is created to read:

17 560.03 (21m) (a) Promulgate rules for the certification of downtowns by the
18 department. The rules promulgated under this subsection shall require the
19 department to consider at least all of the following factors with regard to an area
20 being a certified downtown:

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

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

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

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

3 5. The historical value of the area.

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

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

8 **SECTION 44.** 560.083 of the statutes is created to read:

9 **560.083 Central business district reconstruction guidelines.** The
10 department shall develop and publish guidelines to aid communities in
11 reconstructing central business districts that are destroyed or severely damaged in
12 major disasters. The guidelines shall include information on relevant financial and
13 other assistance available to communities from the state government.

14 **SECTION 45.** 823.21 of the statutes is amended to read:

15 **823.21 Dilapidated buildings declared nuisances.** Any building which,
16 under s. 66.0413 (1) (b) 1., has been declared so ~~old~~, dilapidated or out of repair as
17 to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or has
18 been determined to be unreasonable to repair under s. 66.0413 (1) (b) 1. is a public
19 nuisance and may be proceeded against under this chapter.

20 **SECTION 46. Nonstatutory provisions.**

21 (1) CERTIFIED DOWNTOWNS AND BUSINESS DISTRICT RECONSTRUCTION. The
22 authorized FTE positions for the department of commerce are increased by 2.0 PR
23 positions, to be funded from the appropriation under section 20.143 (1) (gb) of the
24 statutes, for the purpose of providing increased staff for the administration of
25 sections 560.03 (21m) and 560.083 of the statutes.

