

Becher, Scott

From: Becher, Scott
Sent: Friday, August 08, 2003 3:18 PM
To: *Legislative All Assembly; *Legislative All Senate; 'Jerry Deschane (E-mail)'; 'Peter C. Christianson (E-mail)'; 'John R. Mielke (E-mail)'; Gunst, Chris; Olver, Aaron; 'Ben Jones (E-mail)'; 'CAE Michael C. Theo (E-mail)'; 'Wheeler News Service'; 'jmurray@wra.org'; 'mtheo@wra.org'
Subject: Assembly Committee on Housing Public Hearing- August 28th

Assembly

PUBLIC HEARING

Committee on Housing

The committee will hold a public hearing on the following items at the time specified below:

Thursday, August 28, 2003

10:00 AM

400 Northeast

State Capitol

Assembly Bill 347

Relating to: enforcement of the one- and two-family dwelling code in certain cities, villages, and towns.

By Representatives J. Wood, Hebl, M. Lehman, Wieckert, Huber, J. Lehman, Cullen, Towns, Berceau, Krawczyk, Loeffelholz, Jeskewitz, Albers, Shilling, Ladwig, Gunderson, McCormick, Pope-Roberts, Van Roy, Gronemus, Suder, Ott, Musser, Bies, Vrakas and Petrowski; cosponsored by Senators Brown, Stepp, Darling, Cowles, Kanavas, Roessler and Plale.

An Executive Session may be held on this bill and Assembly Bill 370.

08/27/2003

Representative Steve Wieckert

Chair

5/8/03

Steve, I submitted a
bill to eliminate the exemption
for municipalities less than 2,500
people in regard to ~~the~~ home
inspections. I am still working
with the builders on this. Please
don't move on this bill yet.

Thank you
Jeffrey



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

September 30, 2003

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Senate Bill 168 and Assembly Bill 347: Enforcement of the One- and Two-Family Dwelling Code in Municipalities with a Population of 2,500 or Less

Senate Bill 168 and Assembly Bill 347 would require a city, village or town with a population of 2,500 or less to enforce the one- and two-family dwelling code or contract with the Department of Commerce for the necessary building inspection services. SB 168 was introduced on May 14, 2003, and was referred to the Senate Committee on Economic Development, Job Creation and Housing. On August 14, 2003, the Senate Committee recommended adoption of Senate Substitute Amendment 1 to SB 168 by a vote of 5-0, and recommended the bill for passage as amended, also by a vote of 5-0. SB 168 was referred to the Joint Committee on Finance on September 23, 2003. AB 347 was introduced on May 20, 2003, and was referred to the Assembly Committee on Housing. On August 28, 2003, The Assembly Committee recommended adoption of Assembly Substitute Amendment 1 to AB 347 by a vote of 5-0, and recommended the bill for passage as amended, also by a vote of 5-0. On September 18, 2003, AB 347 was referred to the Joint Committee on Finance. SSA 1 to SB 168 and ASA 1 to AB 347 are identical.

CURRENT LAW

The Department of Commerce is responsible for administering a one- and two-family dwelling code that includes statewide construction standards and inspection procedures. With certain exceptions, a city, village, town, or county is required to provide for the enforcement of the one- and two-family dwelling code, or may contract with Commerce to provide building inspection services under the dwelling code. Prior to 1999 Act 9, cities, villages, and towns with a population of 2,500 or less were exempt from the code. 1999 Act 9 established a requirement that cities, villages, and towns with a population of 2,500 or less are required to administer the one- and two-family dwelling code, unless: (a) the municipality adopts a resolution requesting the county to

enforce the code or an ordinance that meets the requirements of the dwelling code; or (2) adopts a resolution exempting itself from enforcement of the code, including provision of building inspection by Commerce.

In any small municipality that does not administer the code, request the county to administer the code, or exempt itself from enforcement of the code, Commerce is required to enforce the dwelling code, or an ordinance that meets the requirements of the code, in the municipality, and to provide inspection services in the municipality. Commerce provides inspection services by contracting with private inspection agencies in municipalities with populations of more than 2,500, and issues credentials to private agencies to provide inspection services in municipalities with populations of 2,500 or less. In municipalities with populations of 2,500 or less, the cost of the inspection is covered through fees charged by the private inspection agency to the building permit applicant. The building permit applicant can choose from among the approximately 46 credentialed private agencies to arrange for a building inspection. Commerce officials estimate that the cost of a building inspection ranges from \$300 to \$500. Commerce's costs of administering the statewide one- and two-family dwelling code are covered through a \$25 building permit seal fee submitted by municipalities that exercise jurisdiction of the code and private inspection agencies that provide inspection services for Commerce in other small municipalities. The municipality or private inspection agency typically passes along the cost of the \$25 building permit seal to the building permit applicant.

Currently, 754 municipalities exercise jurisdiction over one-and two-family dwelling construction, including 301 municipalities with populations of more than 2,500 and 453 municipalities with populations of 2,500 or less. In addition, Commerce provides inspection services related to the one- and two-family dwelling code in 167 municipalities. Two of them have populations of more than 2,500 and 165 have populations of 2,500 or less. Commerce estimates that statewide, approximately 16,000 dwellings are inspected annually.

There are 1,524 municipalities with populations of 2,500 or less, 618 have administration of the code (453 exercise jurisdiction directly and 165 have service provided by private inspection agencies that have been issued credentials by Commerce to administer the code), and 906 have adopted a resolution to exempt the municipality from enforcement of the code.

SUMMARY OF THE SUBSTITUTE AMENDMENTS

SSA 1 to SB 168 and ASA 1 to AB 347 would repeal the authority of a city, village or town with a population of 2,500 or less to exempt itself from enforcement of the one- and two-family dwelling code. The substitute amendments would retain the authority of these municipalities to request the county to enforce the dwelling code, or an ordinance meeting the requirements of the code. The substitute amendments would require that if the municipality does not enforce the code or request the county to enforce the code, Commerce would be required to enforce the dwelling code in the municipality. The substitute amendments delete the provision that Commerce could

administer an ordinance that meets the requirements of the code, instead of enforcing the actual dwelling code in the municipality. The provisions would be effective on the effective date of the bill. As a result of enactment of the bill, in the 906 municipalities that, under current law, exempt themselves from administration and enforcement of the one- and two-family dwelling code, the code would be enforced either by the municipality, the county (at the request of the municipality), or Commerce (through inspections by private inspection agencies credentialed by Commerce).

FISCAL EFFECT

Commerce officials indicate that the fiscal estimate submitted for SB 168 and AB 347 assumes inclusion of the changes made in the substitute amendments. The original bills would have required municipalities with a population of 2,500 or less that do not provide or contract for inspection services, to contract with Commerce to provide the services. The substitute amendments would require Commerce to provide the services, but would not require the municipalities to contract with Commerce.

Currently, 73% of the municipalities with population of 2,500 or less that provide for administration of the code administer it directly. Commerce anticipates that, under the substitute amendments, the Department would be responsible for providing inspection service and code enforcement in the 906 municipalities that, under current law, exempted themselves from administration and enforcement of the one- and two-family dwelling code, and that none of the 906 municipalities would choose to administer the code directly. Commerce would issue credentials to private inspection agencies to provide inspection services in the 906 municipalities, as it currently does in 165 small municipalities. The building permit applicant would pay the inspection agency for the inspection and building permit, including a \$25 building permit seal fee that the private agency would pay to Commerce.

The Department estimates that approximately 7,000 dwellings would be inspected annually in addition to the 16,000 inspected under current law. This would result in additional revenue to Commerce of approximately \$175,000 annually (\$25 building permit seal fee for each of 7,000 dwellings). The revenue would be deposited in the Commerce Safety and Buildings Division general operations program revenue (PR) appropriation. Other revenues deposited in the appropriation are provided from several plan review and inspection fees related to construction such as commercial buildings, multi-family and manufactured dwellings, one- and two-family dwellings, plumbing, private sewage systems, electrical and heating systems, and elevators.

Commerce estimates that it would need \$137,300 PR and 2.0 PR positions annually to administer the provisions of the substitute amendment. The Department's costs would include: (a) processing permit applications and issuing building permit seals to municipalities that administer the program and private agencies that provide inspections; (b) providing technical consultation regarding the one- and two-family dwelling code, including telephone consultation with municipalities, home owners, home builders and inspection agencies, field work in municipalities,

and education of affected parties about the code; and (c) administering contracts if Commerce contracts with private inspection agencies to provide inspections in municipalities. Commerce requests 2.0 positions, including 1.5 building inspectors (1.0 for technical consultation and 0.5 for contract administration) and 0.5 program assistant for processing of building permit seal applications. The requested funds also include \$18,300 for supplies costs of \$9,150 per position in payment of departmental administrative overhead costs. While a question could be raised about whether Commerce consultation activities would decline if some of the 906 municipalities affected by the bill would administer the code directly instead of having Commerce work with credentialed inspection agencies to administer it, Commerce officials indicate that the amount of technical consultation by Commerce would be similar whether the code is administered by the municipality or by private credentialed inspection agencies.

Commerce officials have recently indicated that the costs of administering contracts with private agencies (\$37,000 PR and 0.5 building inspector) relate more to the provisions of the original bills, (that would require municipalities with populations of 2,500 or less to contract with Commerce if they do not provide inspection services or request the county to do so), than to the substitute amendments (that would allow Commerce to provide inspection services by issuing credentials to private agencies and would not require municipalities to contract with the Department). Commerce officials indicate that while Department contracts with private agencies could increase under the substitute amendments, it is more likely that inspections would be provided by credentialed private inspection agencies.

In 2003 Act 33, the Safety and Buildings Division general operations appropriation was decreased by \$2,098,500 PR annually (a 12% reduction from base level expenditure authority) with 20.55 positions (out of 189.35 funded from the appropriation). In addition, \$2,098,500 is transferred in each of 2003-04 and 2004-05 from the safety and buildings appropriation account to the general fund. Commerce may submit an alternative plan to the Secretary of Administration for the allocation of the lapse amounts from this and other Commerce appropriations. All of the 20.55 deleted positions are vacant, and include 4.0 building inspector 2 positions. After deletion of the 4.0 building inspector positions, 17 PR building inspector positions remain to administer and provide for inspection under the commercial building code and one- and two-family dwelling code, and 1.0 federally-funded building inspector administers the manufactured home manufacturer program.

The substitute amendments do not appropriate any funding or provide additional position authority to Commerce. Thus, if the bills are not amended to provide resources, the Department would have to absorb any additional costs and workload into its base budget or request funding or positions in subsequent legislation or under a s. 16.505/515 request to the Joint Committee on Finance. If the bill would be amended to provide additional resources, 1.5 positions could be authorized (excluding the 0.5 building inspector for contract administration) and \$86,600 PR could be provided beginning in 2004-05 (excluding the supplies costs for administrative overhead). Funding of \$43,300 PR in 2003-04 would allow Commerce to hire staff in January, 2004, for the program.

Commerce is holding positions vacant in excess of the 20.55 deleted under Act 33, including a building inspector and program assistant, in order to reduce authorized expenditures to a level necessary to ensure the required lapse to the general fund can be made. If the bills are not amended to provide position authority, Commerce could use revenue received under the bill to fill currently vacant building inspector and program assistant positions to administer the provisions of the bill.

Prepared by: Kendra Bonderud

Becher, Scott

From: Jerry Deschane [jdeschane@wisbuild.org]

Sent: Thursday, June 19, 2003 4:23 PM

To: Bob DuPont

Cc: Becher, Scott

Subject: Building inspection bill

Bob,

Scott is concerned that the drafters will be backed up for several weeks and will not be able to get a redraft done in a timely way. He has asked if you could provide him with some written "specs" or instructions that can expedite the redraft process.

Can you forward that to him?

Jerry

Becher, Scott

From: DuPont, Robert
Sent: Thursday, June 19, 2003 4:50 PM
To: 'Jerry Deschane'
Cc: Becher, Scott; Walker, Kimberly; Buchholz, Ron
Subject: RE: Building inspection bill

I think we can do that. I will be back in the office next week and could work on it then.

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

From: Jerry Deschane [mailto:jdeschane@wisbuild.org]
Sent: Thursday, June 19, 2003 4:23 PM
To: Bob DuPont
Cc: Becher, Scott
Subject: Building inspection bill

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Jerry

Becher, Scott

From: Jerry Deschane [jdeschane@wisbuild.org]
Sent: Monday, July 07, 2003 7:52 AM
To: DuPont, Robert; Becher, Scott
Cc: Olver, Aaron; Walker, Kimberly; Buchholz, Ron; Swaziek, Larry J.; Bresser, Debra; 'Jane Witt'
Subject: Re: Revisions to AB 347

The Wisconsin Builders Association supports these suggested revisions. We believe it is an improvement over the original bill.

Jerry Deschane

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

From: "DuPont, Robert" <rdupont@commerce.state.wi.us>
To: "Becher, Scott" <Scott.Becher@legis.state.wi.us>
Cc: "Olver, Aaron" <AOlver@commerce.state.wi.us>; "Walker, Kimberly" <kwalker@commerce.state.wi.us>; "Buchholz, Ron" <rbuchholz@commerce.state.wi.us>; "Swaziek, Larry J." <lswaziek@commerce.state.wi.us>; "Bresser, Debra" <dbresser@commerce.state.wi.us>; "'Jerry Deschane'" <jdeschane@wisbuild.org>; "'Jane Witt'" <jwitt@wisbuild.org>
Sent: Thursday, June 26, 2003 11:48 AM
Subject: Revisions to AB 347

> Scott,
>
> Here are the Commerce recommendations for revising AB 347. These changes do
> not affect the end result of the bill, that being the inspection of all new
> dwellings in municipalities of under 2500. Rather, these changes would
> streamline the inspection process in those towns that do not enforce the
> dwelling code themselves (or have the county do it on their behalf).
> Basically, under our recommendation, such non-participating municipalities
> would not have to do anything to have Commerce handle the enforcement of the
> dwelling code in their area; they would not have to contract with Commerce,
> nor would they have to pass any sort of resolution opting in or out of
> having Commerce enforce the code in their area.
>
> We have tried to leave as much of s. 101.651, stats., in place as possible
> so that the smaller towns see that they still have some options customized
> for them.
>
> I would be happy to meet with you and/or the bill drafter to review and
> discuss our recommendations.
>
>
> Section 1. Leave this section as proposed in the original Bill.
> [Amending s.101.63 (3), stats.]
>
>
> Section 2. Leave this section as proposed in the original Bill.
> [Amending title of s.101.651, stats.]
>
>
> Section 3. Instead of repealing s.101.651(2m), stats. in it's entirety,
> repeal and recreate the title to read:
>
> "Enforcement options". Also repeal s.101.651(2m) (b) and amend
> s.101.651(2m) (c), stats. to read:



Wisconsin Builders Association

Dedicated to Preserving and Promoting the American Dream

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Jim Selting
Eau Claire

**Deputy Executive
Vice President**
Jerry Deschane



NAHB

MEMORANDUM

TO: Representative Steve Wieckert, and
Members of the Assembly Housing Committee

FROM: Jerry Deschane, Mike Semmann

DATE: Wednesday, August 27, 2003

RE: AB 347

Tomorrow you will hear testimony about AB 347, the Home Safety Act, sponsored by Representative Jeff Wood. The 7,250 members of the Wisconsin Builders Association strongly encourage your support for this critical consumer protection legislation.

To help in your decision-making, we are providing you with the attached information:

- Information about the need for AB 347
- A substitute amendment offered at the request of the department of Commerce
- Answers to common questions about this issue.

We truly hope that you will vote "yes" for this important legislation. If you have any questions, please contact me at (608) 242-5155, ext. 15. I will also be available before and during tomorrow's hearing.

Answers to Frequently Asked Questions

Q. What does SB 168/AB 347 do?

A. The bill requires all new single family homes built in the state to be inspected during construction. The inspections may be done by a local government, county government, or a private, state-licensed inspection agency. The state department of Commerce will oversee the inspections.

Q. How is this different from current law?

A. Currently, homes built in communities with a population over 2,500 must be inspected, while those built in smaller communities may or may not be inspected. The department of Commerce estimates 80% of all new homes built are inspected and 20% are not. Local governments may "opt out" of providing the inspection, and there is no provision for anyone else to provide it. Approximately 906 communities do not have building inspections.

Q. How many homes are affected?

A. At least 3,000 homes aren't being inspected every year. That's approximately 20% of all new homes.

Q. How many people are affected?

A. At least three thousand families each year are buying new homes with no inspection. That's an investment of over \$500 million.

Q. Does this law affect remodeling projects?

A. No.

Q. How do inspections benefit the homebuyer?

A. Building inspections provide an independent, objective safeguard to ensure that a new home meets all the required safety codes. It provides peace of mind to the homebuyer. Furthermore, it increases the value of homes and reduces insurance premiums.

Q. What's in it for the builder?

A. Builders want to ensure the quality of the industry. Inspections during construction ensure that the work is done properly and improves the reputation of the industry. It also allows mistakes to be discovered early in the process, when they are the least expensive to fix.

Q. Wouldn't a builder licensing law do the same thing?

A. No. Licensing addresses who can be a builder, but it does not deal with what actually happens during construction. Even a good builder can make a mistake. Building inspections catch those mistakes during the construction process, before they become a safety hazard, and when they are the least expensive to fix.

Q. Aren't there other options?

A. No other option gets at the problem as directly and efficiently. Licensing does not guarantee a mistake-free home. Financial bonds, recovery funds and other legal tools are very expensive and tend to benefit suppliers and subcontractors more than homeowners. Worst of all, they are "after the fact," protections. Inspection catches problems before they become disasters.

Q. What will this cost local governments?

A. Nothing. Building inspections are paid for by the builder. Most communities find the inspections are useful in keeping property assessments up to date, so it could be argued that it makes money for local governments.

Q. What will this cost the state?

A. Less than nothing. According to the department of Commerce fiscal estimate, this legislation produces \$37,700 more revenue for the state than it would cost to implement.

Q. What will local governments have to do?

A. Nothing. Local governments can choose to manage the inspections, but they do not have to. The State Department of Commerce has an existing network of licensed, private inspectors who will conduct the inspections in areas without local government inspectors.

Q. Isn't this an "unfunded mandate"?

A. No. This isn't even a "funded" mandate. Local governments do not have to do anything at all. The department will train, monitor, and license private inspection agencies who will provide inspection services where needed.

Q. What if a town wants to manage the inspection process?

A. It can. Many towns have found a building inspector is helpful in monitoring community development. The bill provides multiple options for conducting inspections. A town may, at any time, choose to manage the process itself.

Q. Isn't this an infringement on "property rights"?

A. No. Current law requires all homes to be built in compliance with the Uniform Dwelling Code. This bill closes an enforcement gap that exists for 20% of all new homes.

Q. Are there any environmental benefits?

A. Yes. The Uniform Dwelling code has important environmental components, including energy conservation requirements and soil erosion regulations. Those requirements are either not inspected, or seldom inspected in rural areas. By assuring the inspection, energy demand and nonpoint source pollution will be reduced in some of Wisconsin's most environmentally-sensitive areas.

Q. Who pays for the inspection?

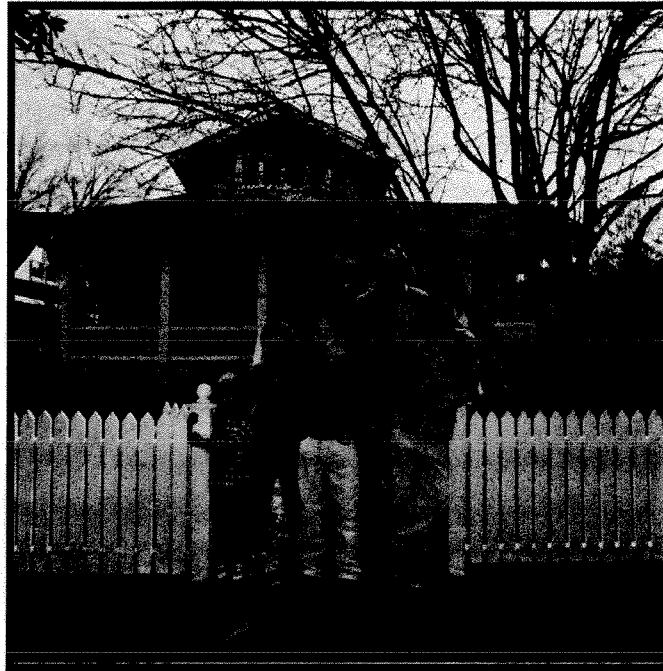
A. The builder pays through inspection fees, as is the case in most of Wisconsin and the rest of the country. Fees are expected to range from \$250 to \$500 per home. These costs will be added to the final price of the home, and amortized over the life of that home.

Wisconsin Has a Problem...

1/5 of all new homes built in WI are not inspected

Rural residents are penalized for choosing to live in small communities

Current law protects some citizens but not others -- this disparity is unfair



Over 3,000 WI families are at risk each year

Consumers spend \$1/2 billion per year with little or no protection

Lack of inspection threatens:

- * Property Value
- * Insurance Rates
- * The Environment
- * SAFETY

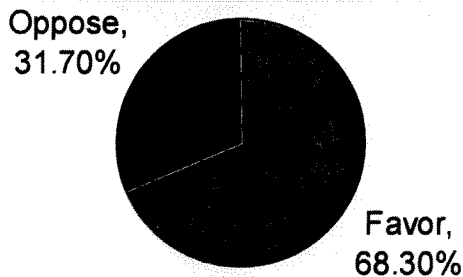
Lawmakers Have the Opportunity to Fix It:

Support AB347/SB168

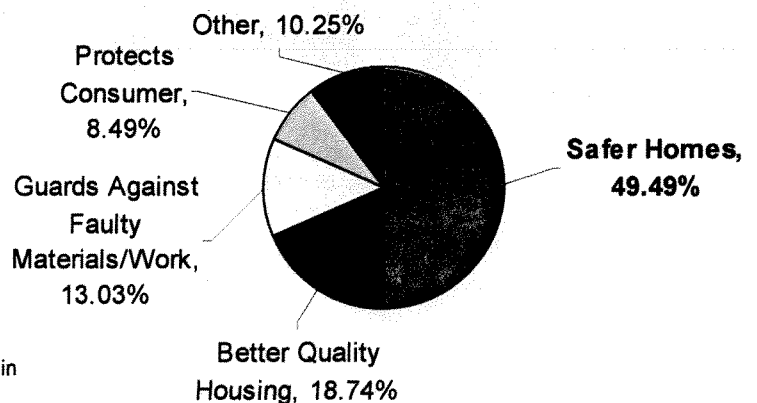
Wisconsin's Home Safety Act:

Protecting Families, Preserving the American Dream

More than 68% of Residents Support Statewide Inspection*



50% Look to Inspections for SAFETY



* Survey done by the Wisconsin Builders Association of registered voters in communities of less than 2,500 people. +/-3.2% margin of error.



HOUSING FACT:

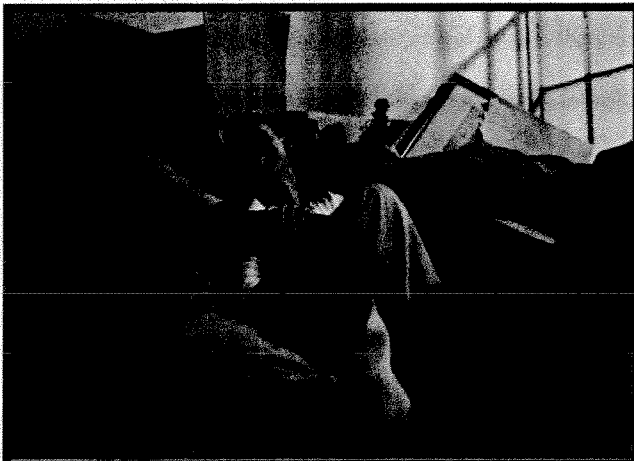
In Fiscal Year 2001-2002, 18,172 new single-family homes were built in Wisconsin, costing consumers approximately \$3 billion. A total of 3,346 of those new homes may or may not meet Wisconsin's minimum standards for health and safety...we may never know because these homes were not inspected during construction.

A product of a lifetime commitment to hard work and family, home ownership is a bedrock of the American Dream. It's a symbol of achievement. And it's one of the largest and often safest investments a family will make during their lifetime.

Inspections not only reveal construction oversights early on, when they are the least expensive to repair, but they also serve as a double-check that a home will be safe and will endure for many years.

As damage and structural problems surface in new homes that weren't properly inspected, it is not just the homeowner who suffers. Neighbors are affected because property values in their neighborhood fall when a nearby home is reduced in value. And homeowners across the state are obligated to pay higher insurance rates to help pay for the costs of repairing damage in new homes.

There is an environmental reason to inspect homes as well. Soil erosion from unprotected construction sites is a threat to Wisconsin's lakes and rivers. Soil erosion control is expensive and the temptation to avoid its use in remote areas can be strong.



WHEN THE DREAM BECOMES A NIGHTMARE

This is an actual case that has been brought to the attention of the Wisconsin Builders Association. Names and addresses have been deleted because this situation may become the subject of legal action.

A home was built in 1996. It was purchased in the fall and was completed shortly after the family moved in. Problems were noticed immediately, including discolored molding, poor quality of finish work and a basement stairway that bounced when used. Within a short time, the homeowners began to see cracks in the walls and ceilings, a bulge appeared in the living room, nails began to pop out of the walls, and the concrete floor in the garage began to flake away. Ominously, electrical circuit breakers began to snap open for no apparent reason, and lights in various parts of the home would go on and off without any switch being thrown.

Builders, electricians and building inspectors were called in. Entire walls of the home needed to be removed, concrete broken up and completely replaced, and the kitchen needed to be stripped to bare walls and all cabinets re-installed. Roof leaks were detected, siding was sagging, and the floor was not adequately supported.

The total cost to repair this home was \$43,164, and the homeowners learned that these expenses were not covered by insurance. Inspections for errors and code violations during construction could have saved this family far more than the cost of repairs.

Homes built along Wisconsin lakes must observe very strict setback regulations. The cost to a homeowner for a simple mistake can be catastrophic. Several new homes in Wisconsin have been torn down because they were built a few feet too close to the water; a problem that an inspection would have caught prior to construction.

Most importantly of all, inspections can greatly reduce serious safety concerns. New homes need to meet all the current building codes, including those addressing such important things as fire, electrical, insulation, etc. Without inspections, how can families feel safe in the one place they should be able to feel the most safe of all -- their home?

By enhancing the Uniform Dwelling Code to ensure inspections for all Wisconsin homes at a cost to builders—not communities—we can help provide homeowners, communities, and our environment with protection against damage and deterioration which occurs in homes not built to minimum Wisconsin safety and health standards.

**Please join WBA in supporting
Wisconsin's Home Safety Act**

AB347/SB168



4868 High Crossing Blvd. • Madison, WI 53704
Ph: 608.242.5151 • Fx: 608.242.5150
www.wisbuild.org

Becher, Scott

From: DuPont, Robert
Sent: Thursday, June 26, 2003 11:48 AM
To: Becher, Scott
Cc: Olver, Aaron; Walker, Kimberly; Buchholz, Ron; Swaziek, Larry J.; Bresser, Debra; 'Jerry Deschane'; 'Jane Witt'
Subject: Revisions to AB 347

Scott,

Here are the Commerce recommendations for revising AB 347. These changes do not affect the end result of the bill, that being the inspection of all new dwellings in municipalities of under 2500. Rather, these changes would streamline the inspection process in those towns that do not enforce the dwelling code themselves (or have the county do it on their behalf). Basically, under our recommendation, such non-participating municipalities would not have to do anything to have Commerce handle the enforcement of the dwelling code in their area; they would not have to contract with Commerce, nor would they have to pass any sort of resolution opting in or out of having Commerce enforce the code in their area.

We have tried to leave as much of s. 101.651, stats., in place as possible so that the smaller towns see that they still have some options customized for them.

I would be happy to meet with you and/or the bill drafter to review and discuss our recommendations.

Section 1. Leave this section as proposed in the original Bill. [Amending s.101.63 (3), stats.]

Section 2. Leave this section as proposed in the original Bill. [Amending title of s.101.651, stats.]

Section 3. Instead of repealing s.101.651(2m), stats. in it's entirety, repeal and recreate the title to read:

"Enforcement options". Also repeal s.101.651(2m) (b) and amend s.101.651(2m) (c), stats. to read:

(c) Under sub. (3) (b), the department enforces this subchapter ~~or an ordinance enacted under s. 101.65 (1) (a)~~ throughout the municipality and provides inspection services in the municipality to administer and enforce this subchapter ~~or an ordinance enacted under s. 101.65 (1) (a)~~.

Also, renumber s.101.651(2m) (c) to s. 101.651 (2m) (b).

Section 4. Instead of repealing s.101.651 (3), stats., amend s.101.651 (3) (b), stats. to read:

(b) The department shall provide inspection services and shall enforce this subchapter ~~or an ordinance enacted under s. 101.65 (1) (a)~~ throughout any municipality that does not exercise jurisdiction under sub. (2m) and that has not adopted a resolution under sub. (2m) (a) ~~or (b)~~.

Sections 5 & 6. Instead of repealing just s.101.651 (3m) (a), stats., and renumbering s.101.651 (3m) (b), stats., repeal all of s.101.651 (3m), stats.

Section 7. Leave this section as proposed in the original Bill. [Repealing s.101.651 (6), stats.]

Discussion:

The changes under Section 3. would eliminate the need/option for municipalities as defined in s. 101.651 (1), stats., to opt out of exercising jurisdiction over the construction and the inspection of new one-and 2 family dwellings. Also, references to the department enforcing local ordinances would be eliminated because Commerce should only be bound to enforce state law and state codes, not local ordinances.

The changes under Section 4 would reflect that Commerce would enforce the dwelling code where municipalities as defined in s. 101.651 (1), stats., do not enforce it themselves and where counties do not enforce it. Also, reference to local ordinances would be eliminated.

The changes under Sections 5 and 6 reflect the fact that under this proposal all municipalities will have the dwelling code enforced by either the local government, the county or Commerce. Enforcement of the dwelling code and soil erosion regulations go hand in hand.



WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO

2003 Assembly Bill 347

Assembly Substitute
Amendment __ (LRB-0130/1)

Memo published: August 21, 2003

Contact: Mary Matthias, Senior Staff Attorney (266-0932)

Under *current law*, with certain limited exceptions, any city, village, town, or county (municipality) may provide for the enforcement of the one- and two-family dwelling code (the dwelling code). With certain exceptions, any municipality that does not provide for this enforcement must contract with the Department of Commerce (department) for necessary building inspection services under the dwelling code. However, a city, village, or town with a population of 2,500 or less may adopt a resolution generally exempting itself from any enforcement of the dwelling code, including inspections by the department. A city, village, or town with a population of 2,500 or less may also adopt a resolution requesting a county to enforce the dwelling code, or an ordinance that meets the requirements of the dwelling code, throughout the municipality.

2003 Assembly Bill 347 repeals the authority of a city, village, or town with a population of 2,500 or less to exempt itself from enforcement of the dwelling code. The bill also repeals the authority of a city, village, or town with a population of 2,500 or less to request a county to enforce the dwelling code, or an ordinance that meets the requirements of the dwelling code, throughout the municipality. Thus, under the bill, a city, village, or town with a population of 2,500 or less is subject to the general requirement to either provide for the enforcement of the dwelling code or an ordinance that meets the requirements of the code or to contract with the department for necessary building inspection services.

The *substitute amendment* also repeals the authority of a city, village, or town with a population of 2,500 or less to exempt itself from enforcement of the dwelling code. However, the substitute amendment retains the authority of a city, village, or town with a population of 2,500 or less to request a county to enforce the dwelling code, or an ordinance meeting the requirements of the code, throughout the municipality, in lieu of enforcing the code or an ordinance itself or contracting with the department to provide enforcement.

Also, under current law, if a city, village, or town with a population of 2,500 or less has not exempted itself from enforcement of the one- and two-family dwelling code and has not requested a county to provide enforcement, the department must enforce the code or an ordinance that meets requirements of the code, throughout the municipality. The substitute amendment provides that in this situation, the department must enforce the dwelling code itself in the municipality, not an ordinance.

TESTIMONY
AB-347
ASSEMBLY HOUSING COMMITTEE
REPRESENTATIVE STEVE WIECKERT, CHAIR
THURSDAY, AUGUST 28, 2003
10:00 A.M.
ROOM 400 NE, STATE CAPITOL

Thank you Representative Wieckert for allowing me an opportunity to speak at today's hearing regarding AB-347. I have been asked by Commerce Secretary Cory Nettles to represent the Department and speak in support of AB-347 contingent upon the changes as outlined in the Technical Amendment to the Bill submitted with Department's Fiscal Estimate.

The current law and resulting chapters Comm 20-25 - Uniform Dwelling Code (UDC) apply statewide to all newly constructed 1-and 2-family dwellings. However, administration and enforcement of the code is not statewide. Under current law, municipalities under 2500 population may "opt out" of the enforcement of the UDC. Of the 1524 municipalities with populations under 2500, 906 have opted out of the enforcement of the UDC. New homes constructed in those 906 municipalities are not being inspected at this time to determine compliance with the provisions of the UDC. AB-347 eliminates the opt out ability and requires that all newly constructed homes in Wisconsin be inspected. As indicated in the Department's Fiscal Estimate for the Bill, an estimated 7000 new dwellings each year would be inspected as a result of the Bill.

UDC inspections for which the Commerce Department has authority are conducted by private inspection agencies. Those agencies employ UDC Inspectors certified by the state. This method is the most efficient one for the Department to provide inspection services where required to do so. Department employed inspectors do not make UDC inspections. Under this method, there are no costs incurred by the municipalities.

Initial UDC Inspector Certification is obtained by successfully completing a written examination and renewal of the UDC Certification requires ongoing participation in approved Continuing Education classes. This inspection/enforcement process remains unchanged under this bill. The Bill does expand the coverage of where these inspections will be made to all parts of the state.

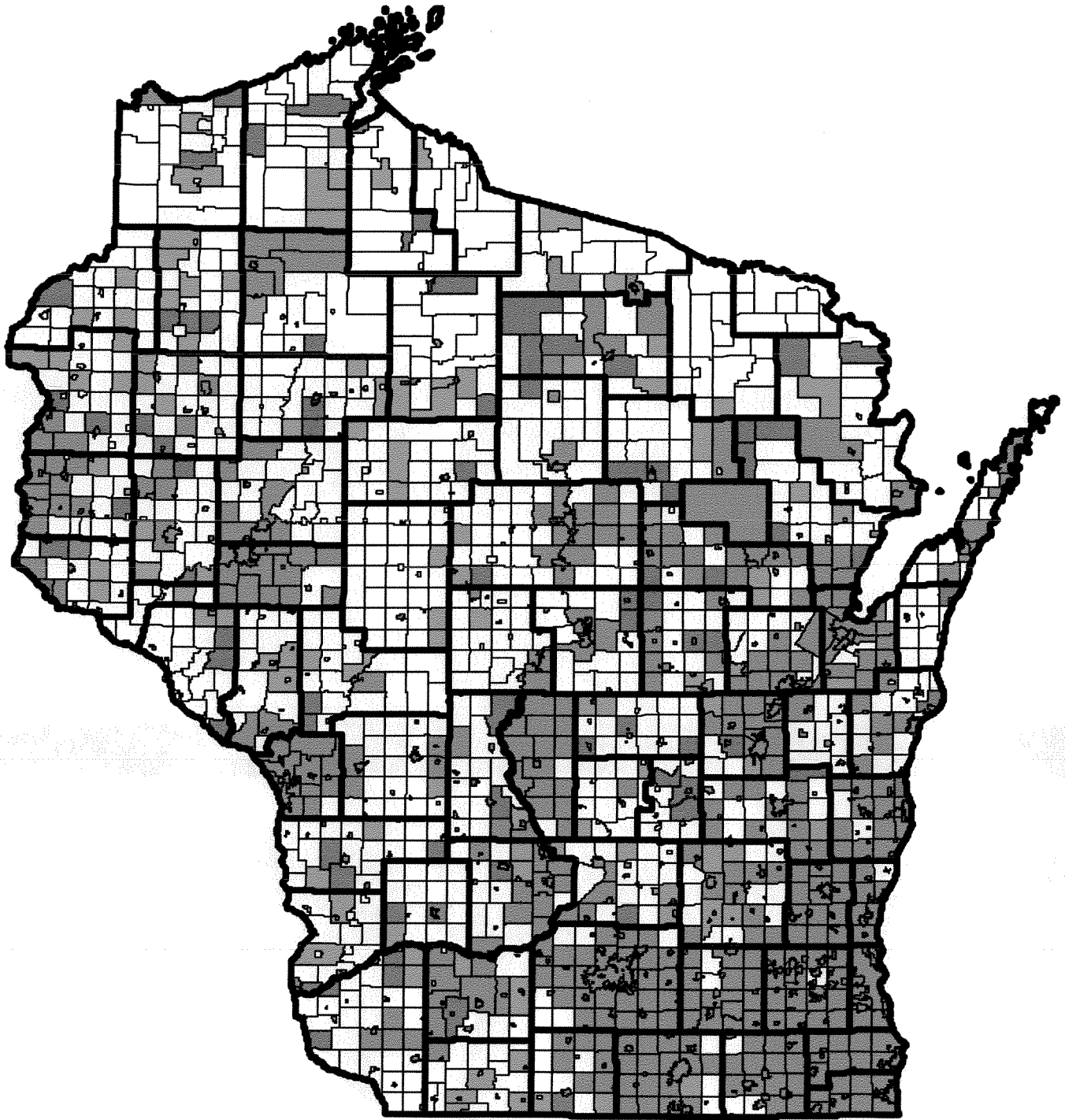
The costs of inspections are covered through a transaction between the private inspection agency and the building permit applicant. The Department's costs involve processing permit applications, issuing seals to municipalities that administer the program and to private inspection agencies that conduct inspections, credentialing inspectors, consulting regarding the UDC Code and contract administration. No GPR funding is used for this program under the current law or under the bill. There would be no fiscal impact on local units of government resulting from AB-347 with the process changes as described in the Technical Amendment.

The other enforcement options currently available (except the "opt out" provision) remain unchanged by the bill. Under the bill, municipalities may continue to "opt out", but inspections will be performed on the homes.

To conclude, the Department of Commerce is in support of AB-347 contingent upon the changes as outlined in the Technical Amendment to the Bill submitted with the Department's Fiscal Estimate.

Thank you for allowing me to speak this morning. I will try to answer any questions that you might have at this time.

File Ref: SB168 Hearing Testimony 081403.doc



UDC Enforcement Status, October 10, 2000

White = None

- Blue = Undecided - Defaults to State Enforcement**
- Medium shade = Municipal or County Enforcement**
- Dark shade = State Enforcement**

Wisconsin Towns Association

Richard J. Stadelman, Executive Director

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Shawano, Wis. 54166

Telephone: (715) 526-3157

Fax: (715) 524-3917

E-mail: wtowns@frontiernet.net

To: Members of Assembly Housing Committee

From: Richard J. Stadelman, Executive Director

Re: AB 347 (as amended Substitute Amendment 1)

Elimination of Exemption for Towns and Villages under 2,500 in population

From Enforcement of 1 & 2 Family Dwelling Code

Date: August 25, 2003

Wisconsin Towns Association Board of Directors has reviewed AB 347 and the companion SB 168, which repeals the current exemption from the requirement to enforce the one & two family dwelling code for new dwellings in towns and villages under 2,500 in population. We were also informed of the substitute amendment that was anticipated to be introduced to AB 347 (which we believe will be the same as the substitute amendment introduced to SB 168).

First, the substitute amendment as introduced to SB 168 would provide that if the town or village under 2,500 in population did not enforce the uniform dwelling code by inspection and the county was not enforcing the code by inspection, then a home owner or builder would be required to arrange inspections by a certified building inspector designated by the Department of Commerce for the locality. {See Sec. 6 & 7 of the substitute amendment on page 2} While this substitute amendment will eliminate the requirement for towns and villages to administer the inspection program, it must be stated that the home owner or builder will be required to have the dwelling inspected and will have to bear the costs of such inspection.

The substitute amendment eliminates the mandate upon the town or village government. However, there are town and village officers who have often expressed their personal concern that they do not believe mandatory inspection should be required. They have pointed out that in some areas of the state where limited inspectors are available the costs of inspection have exceeded \$500 to \$750 per dwelling of modest value. This is an added cost to the home owner that will increase the cost of housing. In addition, it needs to be stated that inspection alone will not guarantee "quality workmanship."

At the Senate hearing on SB 168 testimony was given by some homeowners who were victimized by builders who failed to meet minimum standards of workmanship for builders. It can not be stated that inspection of every dwelling will necessarily avoid poor workmanship by "disreputable builders."

(over)

Secondly, we want to point out that in 1999 Wis. Act 9 (the state budget bill) the requirements of Sec. 101.651 (2m) were adopted requiring towns and villages under 2,500 in population to make a conscious decision to adopt a resolution if they wanted to opt out of required building inspection. It appears many towns and villages under 2,500 in population made that conscious decision, often with public input and public hearings in their own towns and villages. For those towns and villages who did not adopt a resolution to opt out, Sec. 101.651 (3)(b) of Wis. Statutes provided that the Department of Commerce shall provide inspection services to those town and village home owners and builders without town or village administration. (This last option is what substitute amendment 1 to AB 347 and SB 168 will now provide). We believe that the fact that many small towns and villages formally opted out of inspection by adoption of a resolution to do so was a conscious decision of not only the town and village boards, but also what their electors wanted.

We question why the State want to repeal the provisions of 1999 Wis. Act 9 less than five years later, other than some believe that mandatory building inspections should be required statewide for all new one and two family dwellings. This is a position not shared by most towns and villages under 2,500 in population or they would have opted to either enforce inspections or done nothing (which would have allowed the Department of Commerce to provide such inspections).

On behalf of the Wisconsin Towns Association we would respectfully request that AB 347 (even with the substitute amendment) not be passed. We have heard loud and clear from numerous small towns and villages that the legislative intent and local decision process of 1999 Wis. Act 9 should be honored. Thank you for your consideration in this matter.



State Senator

Cathy Stepp

WISCONSIN'S 21ST DISTRICT

Memorandum

TO: Members of the Assembly Committee on Housing
FROM: State Senator Cathy Stepp
DATE: August 28, 2003
RE: Support for Assembly Bill 347 - Home Inspection Bill

Dear Members of the Assembly Committee on Housing,

Thank you for the opportunity to provide you with written comments in support of Assembly Bill 347. I would like to express my sincere thanks to Representative Wieckert for his willingness to schedule this important bill for a prompt hearing.

Assembly Bill 347 will provide an important safeguard for homeowners in the building construction process. As a homebuilder, I know firsthand how important it is to have a state-licensed inspector reviewing plumbing, electrical and other construction work to ensure compliance with the safety standards in Wisconsin's building code. AB 347 protects homeowners by ensuring that new home construction meets these safety standards throughout the construction process.

Home builders are required to pay for home inspections on new construction under current law, unless the home is built in a community with a population less than 2,500 people. The important safeguards offered by these inspections should apply to construction of all new homes, regardless of where they are built. Assembly Bill 347 will enhance home safety and provide new-construction homeowners in smaller communities with the peace-of-mind that their home meets Wisconsin's stringent construction standards.

Identifying potential structural problems or code violations immediately through the inspection process allows these issues to be fixed right away. Correcting any potential problems as they occur is in the best interest of homeowners, and will save customers the frustration of having to deal with issues after they occupy their new home.

I thank the members of the Assembly Committee on Housing for their thoughtful consideration of Assembly Bill 347, and I urge your support for this consumer-friendly legislation.

RP Tamil

Having \$500M but
with you in help.

Fix pillars before they start

USC = 75 yrs

5-0

40.00% of lady

Becher, Scott

From: Wisconsin Towns Assoc [wtowns@frontiernet.net]
Sent: Monday, August 25, 2003 10:38 PM
To: rep.hebl@legis.state.wi.us; sen.brown@legis.state.wi.us; rep.wieckert@legis.state.wi.us
Subject: AB 347 and SB 168



Comments on AB
347 Mandato...

Dear Senator Brown, Rep. Hebl and Rep Wieckert:

Attached is a copy of a letter that will be submitted at the hearing on Thursday, August 28th on AB 347.

I recognize that the substitute amendment introduced in the Senate (which presumably will also be introduced in the Assembly) will eliminate the requirement for towns and villages to administer the inspection program for one and two family dwellings, but for the reasons expressed in the letter, our Association wants to still be of record as opposed to mandatory building inspections for all new one and two family dwellings, especially in many small and rural towns and villages. Thank you for considering our other concern about the cost and time of administration of the inspection program by introducing the substitute amendment. However, our board still want to express the concerns for the home owner (primarily the cost of inspection).

If you have any questions please feel free to contact me.

Very truly yours,

Rick Stadelman Executive Director Wisconsin Towns Association



**WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO**

2003 Assembly Bill 347

**Assembly Substitute
Amendment __ (LRB-0130/1)**

Memo published: August 21, 2003

Contact: Mary Matthias, Senior Staff Attorney (266-0932)

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MM:wu;jal