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2007 - 2008 LEGISLATURE

CS/MS/MG/GM/PH/JK/JTK/wljnn

LRB-1073/3

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2007 BILL

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1 AN ACT *to renumber* 44.02 (24) and 101.121 (4) (a); *to renumber and amend*
2 71.07 (9m) (a), 71.07 (9r) (a), 71.28 (6) (a) and 71.47 (6) (a); *to amend* 13.48 (7),
3 13.48 (15), 71.07 (9m) (c), 71.28 (6) (c), 71.47 (6) (c), 86.19 (1), 101.121 (4) (b),
4 101.19 (1) (intro.), 254.61 (1) (f) 2. and 823.21; and *to create* 13.48 (10) (c),
5 20.143 (1) (gb), 41.11 (1) (bm), 44.02 (24) (b), 44.02 (24d), 71.07 (9m) (a) 2., 71.07
6 (9m) (g), 71.07 (9m) (h), 71.07 (9r) (a) 2., 71.28 (6) (a) 2., 71.28 (6) (g), 71.28 (6)
7 (h), 71.47 (6) (a) 2., 71.47 (6) (g), 71.47 (6) (h), 84.013 (3g), 86.19 (4m), 86.36,
8 86.37, 101.121 (3) (c), 101.121 (4) (a) 2., 101.121 (5), 101.975 (4), 227.01 (13) (zy),
9 560.03 (21m) and 560.083 of the statutes; **relating to:** the regulation,
10 preservation, and restoration of historic buildings; the supplement to the
11 federal historic rehabilitation tax credit and the state historic rehabilitation
12 tax credit; requiring the certification of downtowns; promoting certain
13 downtown areas in this state; highway projects involving business and

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1 downtown areas; the construction of major highway projects involving a
2 bypass; granting rule-making authority; and making appropriations.

Analysis by the Legislative Reference Bureau

This bill makes numerous changes with regard to historic buildings and downtown development and 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 (Commerce) 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 Commerce, 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, Commerce 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 Commerce 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 Commerce review any decision of a local governmental unit that requires the owner to comply with a provision in a local ordinance. Commerce must review the decision to determine whether the provision in the ordinance concerns a matter dealt with in the State

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Historic Building Code, in which case the owner would be exempt from the provision. Commerce must consult with the State Historical Society before making its determination. The bill specifies that, in performing this review, Commerce must follow the existing procedure for resolving conflicts between local orders and orders of Commerce that relate to the safety of places of employment or public buildings. In addition, the bill requires Commerce, in cooperation with the State Historical Society, to develop an informational pamphlet to increase public awareness and use of the State Historic Building Code. In addition, the bill requires Commerce, 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 buildings used as multifamily dwellings

Current law requires Commerce to promulgate a multifamily dwelling code that provides uniform standards for the construction of multifamily dwellings and their components. With certain exceptions, a multifamily dwelling is an apartment building, row house, town house, condominium, or manufactured building that does not exceed 60 feet in height or six stories and that consists of three or more attached dwelling units. The Multifamily Dwelling Code currently applies to any building or portion of a building that is converted to a multifamily dwelling after April 1, 1995, unless the building is a qualified historic building and the owner elects to be subject to the State Historic Building Code. Rules promulgated by Commerce also permit a local governmental unit to exercise jurisdiction over the construction and inspection of multifamily dwellings by adopting ordinances that are consistent with the multifamily dwelling code. Currently, the multifamily dwelling code contains specific requirements relating to the type, height, and design of handrails and guardrails that are required to be used in multifamily dwellings.

This bill permits a local governmental unit to adopt an ordinance that requires the local governmental unit to grant a variance from these handrail and guardrail requirements, as they apply to a qualified historic building that is converted from a single-family dwelling to a multifamily dwelling, if the owner of the qualified historic building shows that the type, height, and design of the handrail or guardrail proposed for installation is historically appropriate and if the handrail or guardrail is at least as protective of public safety as the rail that is otherwise required.

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 2008, 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 this state 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

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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 this state and the State Historical Society 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 2 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 State 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 2008, 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 this state 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 Commerce 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 Commerce to promulgate rules pursuant to which Commerce will certify downtowns. In addition, under the bill, the Department of Tourism must promote travel to these certified downtowns

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and to business areas that are or have been the subject of revitalization efforts under the State Main Street Program.

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 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 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 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, must 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 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 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

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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 must 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 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
12 legislative approval to the joint committee on finance in the form of proposed

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

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

6 13.48 (10) (c) Unless otherwise required by law, the building commission shall
7 not authorize the construction of any state office building, whether for utilization by
8 a single agency or otherwise, to be located outside of a downtown area, as certified
9 under s. 560.03 (21m), unless the cost of locating the building inside a downtown area
10 is more than 10 percent greater than the average cost of locating the building in that
11 portion of the geographic area that is served by the functions to be performed in the
12 building on the date of initial occupancy outside of any downtown area, as
13 determined by the department of administration.

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

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

BILL**SECTION 4**

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

2 20.143 (1) (gb) *Certified downtowns and business district reconstruction.* All
3 moneys received from the historical society under s. 44.02 (24d) (b) for the purpose
4 of providing staff for the administration of ss. 560.03 (21m) and 560.083.

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

6 41.11 (1) (bm) Promote travel to business areas that are or have been the
7 subject of revitalization efforts under the State Main Street Program under s.
8 560.081 or that are certified downtowns under s. 560.03 (21m).

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

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

11 44.02 (24) (b) Charge a fee of \$150 for a certification under par. (a). The
12 historical society shall collect the fee under this paragraph when an applicant
13 applies for certification under par. (a).

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

15 44.02 (24d) (a) Promulgate by rule procedures, standards, and forms necessary
16 to certify, and shall certify, expenditures for preservation or rehabilitation of historic
17 property for the purposes of ss. 71.07 (9m), 71.28 (6), and 71.47 (6). Those standards
18 shall be substantially similar to the standards used by the secretary of the interior
19 to certify rehabilitations under 26 USC 47 (c) (2).

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

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1 collected under this paragraph shall be deposited into the appropriation account
2 under s. 20.143 (1) (gb).

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

5 71.07 (9m) (a) 1. Any person may claim as a credit against the taxes otherwise
6 due imposed under this chapter s. 71.02, up to the amount of those taxes, an amount
7 equal to ~~5%~~ 5 percent of the costs of qualified rehabilitation expenditures, as defined
8 in section 47 (c) (2) of the ~~internal revenue code~~ Internal Revenue Code, for certified
9 historic structures on property located in this state, if the physical work of
10 construction or destruction in preparation for construction begins after December
11 31, 1988, and before January 1, 2008, and the rehabilitated property is placed in
12 service after June 30, 1989.

13 **SECTION 10.** 71.07 (9m) (a) 2. of the statutes is created to read:

14 71.07 (9m) (a) 2. a. Any person may claim as a credit against the taxes imposed
15 under s. 71.02, up to the amount of those taxes, an amount equal to 20 percent of the
16 costs of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the
17 Internal Revenue Code, for certified historic structures on property located in this
18 state, if the physical work of construction or destruction in preparation for
19 construction begins after December 31, 2007.

20 b. A person whose qualified rehabilitation expenditures do not satisfy the
21 adjusted basis requirement under section 47 (c) (1) of the Internal Revenue Code, but
22 who otherwise would be eligible to claim the rehabilitation credit under section 47
23 of the Internal Revenue Code, may claim as a credit against the taxes imposed under
24 s. 71.02, up to the amount of those taxes, an amount equal to 20 percent of the costs
25 of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal

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1 Revenue Code, if the property is located in this state; if the person's qualified
2 rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal Revenue
3 Code, are at least \$10,000; if the rehabilitation is approved by the state historical
4 society before the physical work of construction, or destruction in preparation for
5 construction, begins; if the person includes evidence of such approval with the
6 person's return; if the physical work of construction, or destruction in preparation
7 for construction, begins after December 31, 2007; and if the person claims the credit
8 for the same taxable year in which the person would have claimed the credit for
9 federal purposes.

10 **SECTION 11.** 71.07 (9m) (c) of the statutes is amended to read:

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

18 **SECTION 12.** 71.07 (9m) (g) of the statutes is created to read:

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

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1 may claim the credit under this subsection, if the other person is subject to the taxes
2 imposed under s. 71.02.

3 **SECTION 13.** 71.07 (9m) (h) of the statutes is created to read:

4 71.07 (9m) (h) A person who receives a credit under this subsection shall add
5 to the person's liability for taxes imposed under s. 71.02 one of the following
6 percentages of the amount of the credits received under this subsection for
7 rehabilitating or preserving the property if, within 5 years after the date on which
8 the preservation or rehabilitation work that was the basis of the credit is completed,
9 the person either sells or conveys the property by deed or land contract or the state
10 historical society certifies to the department of revenue that the historic property has
11 been altered to the extent that it does not comply with the standards promulgated
12 under s. 44.02 (24d):

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

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

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

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

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

23 **SECTION 14.** 71.07 (9r) (a) of the statutes is renumbered 71.07 (9r) (a) 1. and
24 amended to read:

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1 71.07 (9r) (a) 1. For taxable years beginning ~~on or after August 1, 1988~~ July
2 31, 1988, and before January 1, 2008, any natural person may claim as a credit
3 against the taxes otherwise due imposed under s. 71.02, up to the amount of those
4 taxes, an amount equal to ~~25%~~ 25 percent of the costs of preservation or
5 rehabilitation of historic property located in this state, including architectural fees
6 and costs incurred in preparing nomination forms for listing in the national register
7 of historic places in Wisconsin or the state register of historic places, if the
8 nomination is made within 5 years prior to submission of a preservation or
9 rehabilitation plan under par. (b) 3. b., and if the physical work of construction or
10 destruction in preparation for construction begins after December 31, 1988, except
11 that the credit may not exceed \$10,000, or \$5,000 for married persons filing
12 separately, for any preservation or rehabilitation project.

13 **SECTION 15.** 71.07 (9r) (a) 2. of the statutes is created to read:

14 71.07 (9r) (a) 2. For taxable years beginning after December 31, 2007, any
15 natural person may claim as a credit against the taxes imposed under s. 71.02, up
16 to the amount of those taxes, an amount equal to 30 percent of the costs of
17 preservation or rehabilitation of historic property that is located in this state,
18 including architectural fees and costs incurred in preparing nomination forms for
19 listing in the national register of historic places in Wisconsin or the state register of
20 historic places, if the nomination is made within 5 years prior to submission of a
21 preservation or rehabilitation plan under par. (b) 3. b., and if the physical work of
22 construction or destruction in preparation for construction begins after December
23 31, 2007, except that the credit may not exceed \$10,000, or \$5,000 for married
24 persons filing separately, for any preservation or rehabilitation project.

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1 **SECTION 16.** 71.28 (6) (a) of the statutes is renumbered 71.28 (6) (a) 1. and
2 amended to read:

3 71.28 (6) (a) 1. Any person may claim as a credit against the taxes otherwise
4 due imposed under this chapter s. 71.23, up to the amount of those taxes, an amount
5 equal to ~~5%~~ 5 percent of the costs of qualified rehabilitation expenditures, as defined
6 in section 47 (c) (2) of the ~~internal revenue code~~ Internal Revenue Code, for certified
7 historic structures on property located in this state, if the physical work of
8 construction or destruction in preparation for construction begins after December
9 31, 1988, and before January 1, 2008, and the rehabilitated property is placed in
10 service after June 30, 1989.

11 **SECTION 17.** 71.28 (6) (a) 2. of the statutes is created to read:

12 71.28 (6) (a) 2. a. Any person may claim as a credit against the taxes imposed
13 under s. 71.23, up to the amount of those taxes, an amount equal to 20 percent of the
14 costs of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the
15 Internal Revenue Code, for certified historic structures on property located in this
16 state, if the physical work of construction or destruction in preparation for
17 construction begins after December 31, 2007.

18 b. A person whose qualified rehabilitation expenditures do not satisfy the
19 adjusted basis requirement under section 47 (c) (1) of the Internal Revenue Code, but
20 who otherwise would be eligible to claim the rehabilitation credit under section 47
21 of the Internal Revenue Code, may claim as a credit against the taxes imposed under
22 s. 71.23, up to the amount of those taxes, an amount equal to 20 percent of the costs
23 of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal
24 Revenue Code, if the property is located in this state; if the person's qualified
25 rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal Revenue

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1 Code, are at least \$10,000; if the rehabilitation is approved by the state historical
2 society before the physical work of construction, or destruction in preparation for
3 construction, begins; if the person includes evidence of such approval with the
4 person's return; if the physical work of construction, or destruction in preparation
5 for construction, begins after December 31, 2007; and if the person claims the credit
6 for the same taxable year in which the person would have claimed the credit for
7 federal purposes.

8 **SECTION 18.** 71.28 (6) (c) of the statutes is amended to read:

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

16 **SECTION 19.** 71.28 (6) (g) of the statutes is created to read:

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

25 **SECTION 20.** 71.28 (6) (h) of the statutes is created to read:

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1 71.28 (6) (h) A person who receives a credit under this subsection shall add to
2 the person's liability for taxes imposed under s. 71.23 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 21.** 71.47 (6) (a) of the statutes is renumbered 71.47 (6) (a) 1. and
21 amended to read:

22 71.47 (6) (a) 1. Any person may claim as a credit against the taxes otherwise
23 due imposed under this chapter s. 71.43, up to the amount of those taxes, an amount
24 equal to ~~5%~~ 5 percent of the costs of qualified rehabilitation expenditures, as defined
25 in section 47 (c) (2) of the ~~internal revenue code~~ Internal Revenue Code, for certified

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1 historic structures on property located in this state, if the physical work of
2 construction or destruction in preparation for construction begins after December
3 31, 1988, and before January 1, 2008, and the rehabilitated property is placed in
4 service after June 30, 1989.

5 **SECTION 22.** 71.47 (6) (a) 2. of the statutes is created to read:

6 71.47 (6) (a) 2. a. Any person may claim as a credit against the taxes imposed
7 under s. 71.43, up to the amount of those taxes, an amount equal to 20 percent of the
8 costs of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the
9 Internal Revenue Code, for certified historic structures on property located in this
10 state, if the physical work of construction or destruction in preparation for
11 construction begins after December 31, 2007.

12 b. A person whose qualified rehabilitation expenditures do not satisfy the
13 adjusted basis requirement under section 47 (c) (1) of the Internal Revenue Code, but
14 who otherwise would be eligible to claim the rehabilitation credit under section 47
15 of the Internal Revenue Code, may claim as a credit against the taxes imposed under
16 s. 71.43, up to the amount of those taxes, an amount equal to 20 percent of the costs
17 of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal
18 Revenue Code, if the property is located in this state; if the person's qualified
19 rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal Revenue
20 Code, are at least \$10,000; if the rehabilitation is approved by the state historical
21 society before the physical work of construction, or destruction in preparation for
22 construction, begins; if the person includes evidence of such approval with the
23 person's return; if the physical work of construction, or destruction in preparation
24 for construction, begins after December 31, 2007; and if the person claims the credit

BILL

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

3 **SECTION 23.** 71.47 (6) (c) of the statutes is amended to read:

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

11 **SECTION 24.** 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 25.** 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,

BILL**SECTION 25**

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 26.** 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

BILL

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 27.** 86.19 (1) of the statutes is amended to read:

9 86.19 (1) Except as provided in sub. (1m) or (4m) or s. 84.01 (30) (g), no sign
10 shall be placed within the limits of any street or highway except such as are
11 necessary for the guidance or warning of traffic or as provided by ss. 60.23 (17m) and
12 66.0429. The authorities charged with the maintenance of streets or highways shall
13 cause the removal therefrom and the disposal of all other signs.

14 **SECTION 28.** 86.19 (4m) of the statutes is created to read:

15 86.19 (4m) In a business area that is the subject of revitalization efforts under
16 the State Main Street Program under s. 560.081 or that is a certified downtown
17 under s. 560.03 (21m), the holder of a privilege under s. 66.0425 may erect awning
18 or other signage that projects from a building over a sidewalk, provided that the
19 awning or other signage does not encroach upon the traveled portion of a highway
20 and the awning or other signage provides adequate clearance for equipment used to
21 maintain or clear the sidewalks of snow or debris. If the department removes an
22 awning or other signage erected under this subsection in connection with a state
23 highway project, the owner of the awning or other signage may not be compensated
24 for the removal, damage, or loss of the sign by local or state authorities.

25 **SECTION 29.** 86.36 of the statutes is created to read:

BILL**SECTION 29**

1 **86.36 Matching funds for local highway projects.** Notwithstanding any
2 other provision of law relating to the funding of local highway projects by the
3 department, if the department provides matching funds to a city, village, town, or
4 county on or after the effective date of this section [revisor inserts date], for a local
5 highway project involving the construction of one or more lanes of highway, the
6 department shall fund the construction of any lane of highway affected by the project
7 without regard to its designation as a travel lane or a parking lane. This section
8 applies only to local highway projects that involve a highway in a business area that
9 is the subject of revitalization efforts under the State Main Street Program under s.
10 560.081 (2) (e) or in a certified downtown under s. 560.03 (21m). This section shall
11 apply to the use of any federal funds only to the extent that such use does not result
12 in the loss of any federal funds.

13 **SECTION 30.** 86.37 of the statutes is created to read:

14 **86.37 Highway projects involving business and downtown areas. (1)**

15 In this section:

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

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

18 **(2)** In the preliminary stages of considering and planning any highway project
19 to be funded by the department that involves a highway in which a business area that
20 is the subject of revitalization efforts under the State Main Street Program under s.
21 560.081 (2) (e) or a certified downtown under s. 560.03 (21m) is located, the
22 department shall consult on issues concerning the proposed highway project and its
23 effects on the business or certified downtown area with the department of commerce
24 and, unless no such board or organization exists, with the business improvement
25 district board appointed under s. 66.1109 (3) (a), the main street board associated

BILL

1 with the State Main Street Program under s. 560.081 (2) (e), or the nonprofit
2 downtown planning organization of that municipality. This subsection does not
3 apply to any highway project for which preliminary engineering was begun before
4 the effective date of this subsection [revisor inserts date].

5 (3) Notwithstanding any other provision of law relating to highway projects
6 funded by the department, the department shall give priority to the retention of any
7 on-street parking with respect to a highway project involving the widening of a
8 highway in which a business area that is the subject of revitalization efforts under
9 the State Main Street Program under s. 560.081 or a certified downtown under s.
10 560.03 (21m) is located. This subsection shall apply to the use of any federal funds
11 only to the extent that such use does not result in the loss of any federal funds. This
12 subsection does not apply to any highway project that is subject to a contract for its
13 construction and that is in effect on the effective date of this subsection [revisor
14 inserts date].

15 **SECTION 31.** 101.121 (3) (c) of the statutes is created to read:

16 101.121 (3) (c) The Historic Building Code shall be liberally interpreted to
17 facilitate the preservation and restoration of qualified historic buildings.

18 **SECTION 32.** 101.121 (4) (a) of the statutes is renumbered 101.121 (4) (a) 1.

19 **SECTION 33.** 101.121 (4) (a) 2. of the statutes is created to read:

20 101.121 (4) (a) 2. Upon the request of the owner of a qualified historic building
21 who elects under subd. 1. to be subject to the Historic Building Code, the department
22 shall review any decision of a city, village, town, or county that requires the owner
23 to comply with a provision of a county or municipal building code, or of any other local
24 ordinance or regulation, to determine if the provision concerns a matter dealt with
25 in the Historic Building Code. The department shall consult with the state historical

BILL**SECTION 33**

1 society before making this determination. The procedures in s. 101.02 (7) apply to
2 any review conducted by the department under this subdivision.

3 **SECTION 34.** 101.121 (4) (b) of the statutes is amended to read:

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

8 **SECTION 35.** 101.121 (5) of the statutes is created to read:

9 101.121 (5) INFORMATIONAL PAMPHLET. (a) In cooperation with the state
10 historical society, the department shall develop an informational pamphlet designed
11 to increase awareness and use of the Historic Building Code. The department, in
12 cooperation with the state historical society, shall update the pamphlet as statutes
13 and rules relating to the Historic Building Code are amended. The pamphlet shall
14 include all of the following information:

15 1. A description of the Historic Building Code.

16 2. A description of the types and qualities of buildings that are subject to the
17 Historic Building Code.

18 3. An explanation of how the owner of a qualified historic building may elect
19 to be subject to the Historic Building Code and a description of the consequences of
20 that election.

21 4. A description of other alternative building codes that the owner of a historic
22 building may be eligible to use.

23 5. A description of where a person may obtain further information regarding
24 historic buildings and the Historic Building Code.

BILL

1 (b) The department and the state historical society shall distribute the
2 pamphlets as they consider necessary to increase awareness of the Historic Building
3 Code.

4 **SECTION 36.** 101.19 (1) (intro.) of the statutes is amended to read:

5 101.19 (1) (intro.) The department, ~~by rule promulgated under ch. 227,~~ shall
6 ~~fix and collect~~ promulgate rules establishing and providing for the collection of fees
7 which shall, as closely as possible, equal the cost of providing the following services:

8 **SECTION 37.** 101.975 (4) of the statutes is created to read:

9 101.975 (4) (a) A political subdivision may adopt an ordinance that permits the
10 political subdivision to grant a variance to the Uniform Multifamily Dwelling Code
11 if all of the following apply:

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

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

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

23 **SECTION 38.** 227.01 (13) (zy) of the statutes is created to read:

BILL**SECTION 38**

1 227.01 (13) (zy) Establishes guidelines pursuant to s. 560.083 to aid
2 communities in reconstructing central business districts that are destroyed or
3 severely damaged in major disasters.

4 **SECTION 39.** 254.61 (1) (f) 2. of the statutes is amended to read:

5 254.61 (1) (f) 2. A structural addition, including a renovation, made to a
6 structure that was originally constructed at least 50 years before an initial or
7 renewal application for a permit under s. 254.64 (1) (b) is made and for which no use
8 other than as a bed and breakfast establishment is proposed. The structural addition
9 under this subdivision shall comply with the rules promulgated under s. 101.63 (1)
10 and (1m).

11 **SECTION 40.** 560.03 (21m) of the statutes is created to read:

12 560.03 (21m) (a) Promulgate rules for the certification of downtowns by the
13 department. The rules promulgated under this subsection shall require the
14 department to consider at least all of the following factors with regard to an area
15 being a certified downtown:

- 16 1. Whether the area is or is located in a central business district.
- 17 2. The extent to which the structures located in the area are in commercial use,
18 or zoned for commercial use, and oriented for pedestrian traffic.
- 19 3. The compactness of the area and the extent to which the area includes a
20 regular pattern of sidewalks facilitating commercial activity by pedestrians.
- 21 4. The extent to which the linear street frontage in the area is set back from
22 the sidewalk.
- 23 5. The historical value of the area.

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

BILL

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

3 **SECTION 41.** 560.083 of the statutes is created to read:

4 **560.083 Central business district reconstruction guidelines.** The
5 department shall develop and publish guidelines to aid communities in
6 reconstructing central business districts that are destroyed or severely damaged in
7 major disasters. The guidelines shall include information on relevant financial and
8 other assistance available to communities from the state government.

9 **SECTION 42.** 823.21 of the statutes is amended to read:

10 **823.21 Dilapidated buildings declared nuisances.** Any building which,
11 under s. 66.0413 (1) (b) 1., has been declared so ~~old~~, dilapidated or out of repair as
12 to be dangerous, unsafe, unsanitary, or otherwise unfit for human habitation or has
13 been determined to be unreasonable to repair under s. 66.0413 (1) (b) 1. is a public
14 nuisance and may be proceeded against under this chapter.

15 **SECTION 43. Nonstatutory provisions.**

16 (1) **CERTIFIED DOWNTOWNS AND BUSINESS DISTRICT RECONSTRUCTION.** The
17 authorized FTE positions for the department of commerce are increased by 2.0 PR
18 positions, to be funded from the appropriation under section 20.143 (1) (gb) of the
19 statutes, as created by this act, for the purpose of providing increased staff for the
20 administration of sections 560.03 (21m) and 560.083 of the statutes, as created by
21 this act.

22 (2) **HISTORICAL SOCIETY.** The authorized FTE positions for the historical society
23 are increased by 1.0 PR position, to be funded from the appropriation under section
24 20.245 (1) (ks) of the statutes, for the purpose of providing increased staff for the
25 administration section 44.02 (24d) (a) of the statutes, as created by this act.

BILL**SECTION 44****1 SECTION 44. Fiscal changes.**

2 (1) SURVEY OF RURAL HISTORIC BUILDINGS. In the schedule under section 20.005
3 (3) of the statutes for the appropriation to the state historical society under section
4 20.245 (1) (a) of the statutes, as affected by the acts of 2007, the dollar amount is
5 increased by \$75,000 for fiscal year 2007–08 and the dollar amount is increased by
6 \$75,000 for fiscal year 2008–09 for the purpose of entering into a contract for a survey
7 under section 44.34 (1) of the statutes to identify and document historic properties
8 in rural areas of the state.

9 SECTION 45. Initial applicability.

10 (1) HISTORIC REHABILITATION TAX CREDITS. The treatment of sections 44.02 (24d),
11 71.07 (9m) (c), (g), and (h), 71.28 (6) (c), (g), and (h), 71.47 (6) (c), (g), and (h) of the
12 statutes, the renumbering of section 44.02 (24) of the statutes; the renumbering and
13 amendment of sections 71.07 (9m) (a), 71.07 (9r) (a), 71.28 (6) (a), and 71.47 (6) (a)
14 of the statutes; and the creation of sections 44.02 (24) (b), 71.07 (9m) (a) 2. and (9r)
15 (a) 2., 71.28 (6) (a) 2., and 71.47 (6) (a) 2. of the statutes first apply to taxable years
16 beginning on January 1, 2008.

17 (END)

Gary, Aaron

From: Houdek, Nathan
Sent: Thursday, October 18, 2007 9:36 AM
To: Gary, Aaron
Cc: Wilson, Danielle
Subject: RE: Rep Shilling draft request, changes to LRB 1222/3

Thanks Aaron.

It sounds like the language you are proposing is in line with what Rep Shilling and Senator Lassa are trying to accomplish with this bill.

Please send the draft to editing. We look forward to seeing the modified version.

-Nathan

Nathan Houdek
Office of Representative Jennifer Shilling
95th Assembly District
phone 608.266.5780
toll-free 888.534.0095
fax 608.282.3695

From: Gary, Aaron
Sent: Thursday, October 18, 2007 9:22 AM
To: Houdek, Nathan
Cc: Wilson, Danielle
Subject: RE: Rep Shilling draft request, changes to LRB 1222/3

Nathan,

DOT reviewed the proposed language and got back to me this morning. DOT has no immediate objection to the language, so it is probably satisfactory, but DOT reserved the right to review and comment when the bill becomes available and won't "sign off" on this now. DOT has a legislative review committee and this is about the most positive response on proposed language that we could get without it going through their review process.

I talked to the expert on CSD at DOT, Jerry Zogg. He said that a Level A rating is pretty hard to get, as it general requires elements of national historical prominence or significance. Where the elements are of regional or local historical prominence or significance, typically the CSD rating would be a Level B. DOT recognized the proposed language as an expression of the legislative intent that these projects be valued highly without requiring a specific end result of the rating system.

If you are still OK with the proposed language I drafted, I will get this redraft into editing, and then I assume DOT will give a formal response down the road (so to speak).

Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Houdek, Nathan
Sent: Monday, October 15, 2007 11:59 AM
To: Gary, Aaron
Cc: Wilson, Danielle
Subject: RE: Rep Shilling draft request, changes to LRB 1222/3

Sure. The language you propose sounds fine, as long as DOT doesn't have any concerns with it.

Thanks,

-Nathan

Nathan Houdek
Office of Representative Jennifer Shilling
95th Assembly District
phone 608.266.5780
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fax 608.282.3695

From: Gary, Aaron
Sent: Friday, October 12, 2007 3:03 PM
To: Houdek, Nathan
Cc: Wilson, Danielle; Groves Batiza, Monica
Subject: RE: Rep Shilling draft request, changes to LRB 1222/3

Hi Nathan,

Since these changes are all DOT related, Chris forwarded your e-mail to me and I have made changes 1) and 2) but am having some difficulty with change 3). I contacted DOT to learn more about the CSD program and what "Level A" means, and have spoken with DOT personnel and reviewed their manual. "Level A" is a means of measuring attributes of a project; it is an assessment tool. DOT conducts an evaluation of visual and aesthetic impacts for virtually every project and the results of the evaluation are ranked as Level A, B, or C (highest to lowest). There is not a specific source of money [like an appropriation] for a Level A ranking following the evaluation, but this ranking may have an impact on the amount of the eventual amenities budget for the project.

Given this system, it seems anomalous to specify that all downtown / Main Street projects (as described in the bill) are Level A, regardless of how they actually rank in the assessment of the project attributes. Would it be satisfactory to instead provide in the draft something along the following lines: "In evaluating the aesthetic and visual impact of [downtown / Main Street] projects during the concept definition phase of these projects, DOT shall recognize the high visual and aesthetic significance of, and impact related to, these projects." This language is basically modeled after language appearing in the DOT Facilities Development Manual. Would this language be acceptable to you?

Thanks. Aaron

Aaron R. Gary
Legislative Attorney
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aaron.gary@legis.state.wi.us

From: Houdek, Nathan
Sent: Friday, October 05, 2007 4:25 PM
To: Sundberg, Christopher
Cc: Wilson, Danielle; Groves Batiza, Monica
Subject: Rep Shilling draft request, changes to LRB 1222/3

Hello Chris,

Rep Shilling would like to request the following changes to LRB 1222/3: (these changes will also need to be made to the Senate companion bill, LRB 1073. Danielle and Monica in Senator Lassa's office are also CC'd on this message. Please contact Danielle if you have any questions about the Senate version.)

1) Remove on-street parking requirement

The reference to this requirement is on page 5. Please remove all statutory language in the draft referring to the LRB analysis that reads, "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, must 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 Commerce."

2) Remove "active bypass" requirement

The reference to this requirement is on pages 5 and 6 under the MAJOR HIGHWAY PROJECTS section. Please remove all statutory language in the draft referring to the active bypass requirement, beginning with, "Under current law, DOT administers a major highway projects program." and ending with, "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 to travel on the bypass."

3) Include required eligibility of Community Sensitive Design (CSD) funding for Main Street Communities and certified downtowns

Community Sensitive Design is a current DOT initiative to identify and consider the physical, environmental, social, cultural, aesthetic and transportation elements in the planning, design, construction, operation and maintenance of transportation projects. CSD is an enhancement program with a percentage of project dollars used to improve the landscape along the highway or the character of a local community. CSD funds could be used to improve the physical appearance of the Main Street business districts. Projects in the downtown area could include; decorative lighting, landscaping, planting, bicycle and pedestrian facilities, park benches, banners and signage.

Rep Shilling and Senator Lassa would like to add language that would officially state that business areas included in the State Main Street Program or downtowns certified by Commerce are eligible to receive funding for Community Sensitive Design projects at Level A.

Paul Nilsen at DOT can provide you with further information about the details of the CSD program.

Feel free to contact me at 266-5780 if you have any questions.

Thanks,

-Nathan

Nathan Houdek
Office of Representative Jennifer Shilling
95th Assembly District
phone 608.266.5780
toll-free 888.534.0095
fax 608.282.3695

Gary, Aaron

From: Houdek, Nathan
Sent: Monday, October 15, 2007 12:04 PM
To: Gary, Aaron
Cc: Wilson, Danielle
Subject: RE: Rep Shilling draft request, changes to LRB 1222/3

Yes. We want to do our best to ensure that DOT is supportive of the final draft.

Nathan Houdek
Office of Representative Jennifer Shilling
95th Assembly District
phone 608.266.5780
toll-free 888.534.0095
fax 608.282.3695

From: Gary, Aaron
Sent: Monday, October 15, 2007 12:02 PM
To: Houdek, Nathan
Cc: Wilson, Danielle
Subject: RE: Rep Shilling draft request, changes to LRB 1222/3

Thanks Nathan. Can I check with DOT, then?

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Houdek, Nathan
Sent: Monday, October 15, 2007 11:59 AM
To: Gary, Aaron
Cc: Wilson, Danielle
Subject: RE: Rep Shilling draft request, changes to LRB 1222/3

Sure. The language you propose sounds fine, as long as DOT doesn't have any concerns with it.

Thanks,

-Nathan

Nathan Houdek
Office of Representative Jennifer Shilling
95th Assembly District
phone 608.266.5780
toll-free 888.534.0095
fax 608.282.3695

Gary, Aaron

From: Gary, Aaron
Sent: Monday, October 15, 2007 1:19 PM
To: Nilsen, Paul - DOT; Zogg, Jerry - DOT; Woltmann, Mark - DOT
Subject: Community sensitive design

Greetings,

I recently contacted Paul and Jerry to try to obtain additional information regarding the community sensitive design component of project planning, and greatly appreciate the assistance provided.

I am making the inquiry because I am working on a draft for Rep. Schilling related to Main Street/downtown development areas. The draft crosses over several subjects and agencies (Dept. of Commerce; historical buildings and preservation). It is my understanding that some discussion was had between Rep. Schilling's office and DOT about the legislation. Based upon these discussions with DOT, I was given drafting instructions that included the following:

3) Include required eligibility of Community Sensitive Design (CSD) funding for Main Street Communities and certified downtowns

Community Sensitive Design is a current DOT initiative to identify and consider the physical, environmental, social, cultural, aesthetic and transportation elements in the planning, design, construction, operation and maintenance of transportation projects. CSD is an enhancement program with a percentage of project dollars used to improve the landscape along the highway or the character of a local community. CSD funds could be used to improve the physical appearance of the Main Street business districts. Projects in the downtown area could include; decorative lighting, landscaping, planting, bicycle and pedestrian facilities, park benches, banners and signage.

Rep Shilling and Senator Lassa would like to add language that would officially state that business areas included in the State Main Street Program or downtowns certified by Commerce are eligible to receive funding for Community Sensitive Design projects at Level A.

Paul Nilsen at DOT can provide you with further information about the details of the CSD program.

I was not familiar with CSD so I contacted DOT and you generously helped me gain a better understanding of the program. Based upon those discussions and the FDM provisions I reviewed, I modified the approach described above and drafted the following language:

"In evaluating the aesthetic and visual impact of [downtown / Main Street] projects during the concept definition phase of these projects, DOT shall recognize the high visual and aesthetic significance of, and impact related to, these projects."

The requester has asked me to follow up with DOT to see if DOT would have any concerns with this proposed language. I would appreciate you letting me know if DOT has any such concerns. Otherwise, I will go ahead and include it in the bill draft.

Thank you. Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)

10/15/2007

~~Draft #~~

~~50520~~

~~50522~~

~~in A~~

~~8~~

~~63~~

Re: Jerry Zegg - DOT

• follow up on e-mail

CSD criteria

• info. re FDM on internet

out tomorrow call (608) 235-4501

Gary, Aaron

From: Zogg, Jerry - DOT
Sent: Wednesday, October 10, 2007 5:44 PM
To: Gary, Aaron
Cc: Nilsen, Paul - DOT; Miller, Donald - DOT; Cannestra, Beth - DOT; Hubbard, Leif - DOT; Moss, Richard - DOT
Subject: Community sensitive design initiative

Aaron,

We have some background info on this topic in our Facilities Development Manual (FDM) at the link below.

<<http://roadwaystandards.dot.wi.gov/standards/fdm/03/3-5-1.pdf>>

On page 3, you'll start to find info on CSD and the different levels (A, B, & C) of a potential amenities budget that may be available for visual and aesthetic quality treatments.

As I mentioned in my voice mail, I will be out of the office at meetings tomorrow, but would be glad to try and talk if you want to call my cell.

Otherwise, I will be back in the office on Friday.

I think it would be helpful if either I or Leif Hubbard could share some additional perspectives with you beyond what's in the FDM.

Jerry H. Zogg, P.E.
Chief Roadway Standards Engineer
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Facilities Development Manual

ORIGINATOR Director, Bureau of Highway Development		PROCEDURE 3-5-1
CHAPTER 3	Facilities Development Process	
SECTION 5	Concept Definition	
SUBJECT 1	Concept Definition Report	

General

The concept definition phase of the process begins with the decision that "... something must be done . . ." From this point on, the district formulates its recommendations based upon what is already known about the problem area under consideration. The first action taken in this regard is the district's preparation of a decision document called the Concept Definition Report or **CDR**. Its purpose is to establish initial agreement between the District Project Development (**PD**), System Planning and Operations (**SPO**), Technical Services (**TS**) and other sections as to the timing and scope of the project, and to initiate authorization to incur engineering charges. The CDR also provides various central office sections information about the project and an opportunity to offer their comments and perspectives.

The Concept Definition Report also identifies whether the project is located on a National Highway System route and, if so, establishes whether the project will be subject to oversight by the Federal Highway Administration or will be exempt from federal oversight. Procedure 5-5-15 describes the WisDOT-FHWA relationship in the development of federally-funded projects.

Content

Limit the length of the CDR to one sheet and present the basic project concepts in as brief and concise a manner as possible. The necessary elements of a CDR are as follows:

1. Where - Describe the project location.
2. Why - State the justification for establishing a project.
3. What - State the project concepts that the district is proposing.

Bicycle and pedestrian needs and the potential type(s) of accommodations should be made part of this report.

Note the Level of Aesthetic and Visual Impact in this report also. Make the Level of Impact worksheet available to the Project Development Section by passing it along with the CDR or by placing it in the project file, so it is available to them during project scoping.

Figure 1 is a recommended format for presenting the text information required in a CDR.

Include a map that is appropriate to the scope of the project within the report. For rural projects this should be a county map showing the project termini. For urban projects this

should be a street map, again showing project termini. For spot improvements like bridge projects, it can be either a county or street map with the project location circled. Typically, this map is printed on the reverse side of the CDR.

CDR Process

The CDR is typically prepared by district SPO staff for regular improvement projects, based on information gathered during program development (needs identification, evaluation, etc.). Procedures for acceptance vary among districts, but generally indicate agreement between SPO, PD, TS, and others involved. A statement of anticipated environmental documentation type serves to alert FHWA, Bureau of Equity & Environmental Services, and other central office sections of the extent of involvement or, in the case of Categorical Exclusions, completes the documentation.

Updated CDR's are prepared and distributed when there is a change in concept, such as project description (revised length or limits), scope of improvement or improvement type (e.g. Resurface to Recondition) or a significant change in combined scope, special features, or cost that could cause a change in federal oversight status.

Treat CDRs written before project scoping is completed as an initial document until the scoping process is completed. At that time the project manager shall decide if the current CDR is accurate or if it needs to be updated to reflect pertinent changes in project scope resulting from the scoping process.

The district should forward copies of the completed CDR to the individuals listed below for purposes indicated.

Table 1 - CDR Distribution

Organization, Attn.	Which Projects	Purpose
Bureau of Highway Development, Chief of Design Services	All	Information & comment. This copy and notation will be maintained in C.O. File.
Bureau of Highway Structures, Chief Structural Design Engineer	Projects involving bridgework	Information & comment.
Bureau of Highway Operations, Chief Traffic Operations Engineer	Projects involving signals, lighting, special traffic issues	Information & comment.
Bureau of Highway Operations, Chief Winter Operations and Roadside Management Engineer	All projects. Include Aesthetic and Visual Level of Impact Worksheet as an attachment.	Information & comment
District Railroad Coordinator (DRC)	All projects with a railroad crossing located within the project limits or within 1000 feet of the project location. All projects with grade separations between highway and railroad. All projects that parallel a railroad on adjacent right of way.	Information & comment. Begin railroad coordination efforts. The DRC will send a copy to the affected railroads and to the Bureau of Railroads & Harbors.
Bureau of Equity & Environmental Services	All	Preparation of "quarterly listing" of ER and pER

USDA - Forest Service	All projects located within the Chequamegon and Nicolet National Forest	Information & Comment (see Procedure 5-5-5, Figure 1, M.O.U.)
FHWA, "Point of Contact"	All projects located on the National Highway System with an estimated project cost of \$2,000,000 or more intended to be eligible for federal participation in any phase.	Information, reference, and to establish responsibility for oversight of 23 USC requirements.

NOTE: SHRM, TOIPS, or other special interest projects may warrant wider or targeted distribution as appropriate. See the Maintenance or Traffic Manuals regarding these.

Community Sensitive Design

Community Sensitive Design (CSD) is a philosophy of involving the "community" impacted by an improvement project early in the design process. See Procedure 11-3-1 for a detailed explanation of Community Sensitive Design.

During the Concept Definition phase, meetings with the public should be used to determine the "community values" which will be used to assess various alternates. At the same time, the community should be informed that there are certain physical and legal requirements that WisDOT and other agencies must meet when developing an improvement project. Each party needs to learn the issues important to the others. WisDOT and their consultant should host the meeting and both the public and other key agencies affected by the project should be invited to attend. At the public meeting:

WisDOT reports: "This is what the standards suggest we do" by providing a range of alternatives.

Other agencies report: "These are the non-highway related legal requirements for a project of this type."

Community reports: "This is what is important to us."

The goal of a public meeting held during this phase is to reach consensus on the project scope.

Notes to Design

The district Systems Planning & Operations Section will include a "Notes to Design" document as an attachment to the CDR. The "Notes to Design" document is a means of providing the people involved in scoping and design with background information that was gathered by SPO staff in the development of the project CDR. It also describes the local desires and commitments that may have been made when a project was put into the program. The document consists of 1 or 2 pages of text providing information on the most important factors affecting the projects schedule, cost and concept. Subjects that it might address are:

- Community growth, planning and development issues;
- Corridor-specific issues that the community or public may have with this route;
- Summary of public inquiries received or Safety Commission comments made
- Current pavement condition and history and where it is in its life cycle;
- Any known desires on pavement type or roadway treatments requested by local government;
- Any legislative interest in the project;

- Any known detour issues;
- A generic statement on guidelines in place at the time the project was originally programmed;
- Any traffic capacity or access control issues;
- Any other information relevant to project development, cost or schedule;
- Recommendations to incorporate or not incorporate bicycle and pedestrian accommodations.

Concept Definition Level of Impact

During the Concept Definition Phase, the aesthetic and visual impacts of projects need to be evaluated. The level of aesthetic and visual impacts will be determined based on three levels:

Level A: For a limited number of projects that are of major state or federal aesthetic significance. The project has unique or sensitive features. Aesthetic features may substantially control design of these projects or project elements. This level includes projects that are located in highly sensitive, social, economic, environmental or historic locations, or impact items that are historic themselves. The aesthetic impacts of these projects are often addressed in partnership with other federal and state agencies.

Level B: For projects where some aesthetic treatment may be appropriate, but not to the extent that it may substantially control the design. These projects typically involve state trunk highway corridors that have had substantial prior development on the adjacent land. This level includes projects in urban settings, and settings near recreation areas, parks or other waterways not categorized as unique or sensitive. The aesthetic impacts of these types of projects are often addressed in coordination with state agencies and local units of government.

Level C: For projects where the existing setting is not unique or sensitive. The aesthetic impacts of these types of projects can often be addressed without coordination with other agencies.

To aid in the determination of which level of aesthetic impact applies to a project, the worksheet in Figure 2 has been developed. The worksheet is to be used by District Planning staff during the development of the CDR to assign a Level of Visual and Aesthetic Impact and to help with the development of a preliminary Aesthetics Budget cost estimate for the project.

The worksheet provides an early indication of the level of impact and it is to be used to develop a rough estimate of resource needs for this element of work on a project. Through working with the public affected by the project during the design process, an understanding and comprehension of the true level of impact will be determined and at that point refinements to the funding needs can be made.

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CONCEPT DEFINITION REPORT (click [here](#) for a working file of this template)

Date: _____ To: _____ From: District _____

I. Design ID: _____ Related ID(s): _____
Highway No. or Local Road Name: _____
Title: _____
County: _____ Length: _____
Functional Class: _____ Current AADT: _____
LOCATION: _____

II. A. Roadway Conditions:

Pavement: Type: _____ Width: _____ Year: _____
IRI: _____ PDI: _____
Shoulder: Type: _____ Width: _____
Crash Rate: _____ Year: _____
Improvement Flags: From RP _____ to RP _____
From RP _____ to RP _____
Substandard Alignment: Horizontal: _____ Vertical: _____

B. Structure: Type: _____

Bridge Number: _____ Year Constructed: _____
Clear roadway width: _____ SR: _____ RS: _____

C. Railroad: _____ Existing Facility _____

JUSTIFICATION: _____

III. PROPOSED IMPROVEMENT: _____

Environmental documentation type: _____

Improvement Type: _____ PMSID: _____

Cost: _____ Program Year: _____ Program: _____

Local Participation: _____ Access Control: _____

Aesthetic/Visual Level of Impact Rating _____ % of Project Cost _____

Real Estate: _____ R/E Cost: _____

NATIONAL HIGHWAY SYSTEM: _____ EXEMPT: _____

Railroad Crossing/Structure: _____

Project Supervisor: _____ Recommend Acceptance: _____

Accepted By: _____ Date: _____

The following instructions are for use in completing the standardized Concept Definition Report (CDR) format. A CDR can be prepared by simply filling out the form shown (type or print please). The information requested is the minimum needed to show the "where", "why" and "what" aspects of the project as well as give some preliminary indications about critical issues such as local participation, environmental document type, access control, etc.

Top Portion:	Date: Date the CDR is completed or submitted.
	From: District number.
Section I.	Design ID. 8 - digit FOS ID number. This will usually be completed by DOT if a consultant prepares the report.
	Related Design ID(s). FOS ID's for associated design projects; that is, projects tied to this one for bidding purposes. This most commonly occurs with bridges.
	Highway No. or Local Road Name. Self explanatory (e.g. USH 12)
	Title: Project limits or termini (i.e. CTH "X" - Sunset drive) or common name for the project (e.g. Crandon Overhead) when termini are not applicable.
	County. Self explanatory.
	Length. In miles to nearest one hundredth for most highway projects and number of feet for bridges.
	Functional Class. Self explanatory (e.g. Principal Arterial)
	Current ADT. Average daily traffic for most recent year counted. If counts were made at more than one location on the project, list the range of values.
	Location. General description of the area (e.g. north of the City of Whitewater in northwestern Walworth County). This is required only if the location is not readily discernible from the description under Title above.
Section II	Pavement Type. Indicate whether the existing pavement is concrete (PCC) or asphaltic (AC) or road mix.
	Pavement: Width. Total width of existing travel lanes in feet. Gutter widths should be included for urban roadways but indicate "F-F" after the dimension. Do not include shoulder paving.
	Pavement Year. Year the existing pavement was constructed.
	Pavement: IRI. Latest International Roughness Index. This is required for <u>rural</u> <u>STH projects only</u> but should be included for local projects also if the data is available.
	Pavement: PDI. Latest Pavement Distress Index rating. This is required for <u>STH projects only</u> but should be included for local projects also if the data is available.
	Shoulder Type. Surface type: turf, aggregate, asphalt paving (AC), or concrete paving (PCC).

<p>Section II - cont.</p>	<p>Shoulder Width. Total width. If paved also indicate the paved width.</p>
	<p>Crash Rate. Number of crashes per 100 million vehicle miles of travel. This is required for <u>STH projects only</u> but should be included for local projects also when the data is available.</p>
	<p>Crash Year. Year(s) for which the crash rate was computed. This should generally be the average for the latest three years for which crash data is available.</p>
	<p>Substandard Alignment: Horizontal and Vertical. At a minimum provide a "yes" or "no" response. If information is available indicate the number of curves by speed rating (in 5 mph increments) which are substandard (below posted speed).</p>
	<p>Improvement Flags: For 3R projects, identify those highway segments that have been assigned Improvement Flags by the Safety Programming Process described in Procedure 11-1-4.</p>
	<p>Structure Type. Existing bridge type as commonly described by bridge engineers (e.g. steel girder, slab span, haunched slab, concrete box culvert, etc.)</p>
	<p>Bridge Number. WisDOT assigned bridge number(s) (e.g. B-28-0064). If there are bridges within the project limits, complete this section whether or not they are proposed for improvement. List all bridges within the project.</p>
	<p>Bridge: Year Constructed. Year construction of the existing structure was completed.</p>
	<p>Clear Roadway Width. Distance between sidewalk curbs or parapet walls.</p>
	<p>SR. Latest Sufficiency Rating for the structure.</p>
	<p>RS. Latest Rate Score for the structure.</p>
	<p>Railroad. Name of railroad.</p>
	<p>Existing Facility. At grade crossing or grade separation. If crossing, specify current warning device (cross bucks only, flashing light signals, cantilevers, gates.)</p>
	<p>Justification. Brief statement describing problems with the existing facility. This is required only if data showing the deficiencies is not available or if the deficiencies are not readily apparent from the data given (e.g. PDI may be fairly low even though there is severe pavement rutting or faulting).</p>
<p>Section III</p>	<p>Proposed Improvement. Narrative recommendation; a description of the major elements of the proposed project (e.g. reconstruct, resurface and widen shoulders to 6 feet, overlay bridge deck, etc.). The proposed improvement would logically address the deficiencies stated in "Justification."</p>
	<p>Environmental Document Type. Proposed environmental action type as defined in Facilities Development Manual Procedures 21-5-5 and 21-5-1.</p>

Section III - cont.	Improvement Type. Program name for the type of improvement. These are identified in Procedure 3-5-2.
	PMSID. Program Management System ID number. This is a 10-digit program identifier assigned by the District SPO Section. This is required for <u>STH project only</u> .
	Cost. Anticipated cost of construction, real estate, utilities, and railroads.
	Program Year. Fiscal year for which construction dollars are included in the applicable program.
	Program. Title of the applicable program (i.e. Interstate, HES, Local Bridge, etc.) or (some prefer to show Program Code, or both).
	Local Participation. Identify whether cost sharing is expected to apply or there will be substantial amounts of non-participating work (i.e. parking lanes). Indicate "yes" or "no". This is required for <u>STH projects only</u> .
	Access control. Identify whether or not access control will be acquired as part of the project. If it will, indicate whether the route is TIER I or TIER II. If it won't, write "N/A". If existing, write "Exist." This is required for <u>STH projects only</u> .
	Aesthetic/Visual Level of Impact Rating: Specify A, B, or C based on the results of the worksheet in Figure 2.
	% of Project Cost: Identify the % of project cost available for aesthetic or visual enhancements that are eligible for federal or state funding.
	Real Estate: Right of Way Acquisition. Anticipated "None", "Minor" or "Yes".
	National Highway System. Identify if the project is located on the NHS by entering "yes" or "no."
	Exempt. If the project is on the NHS, and based on the estimated construction dollar value (including estimated right-of-way costs) and the improvement type, determine whether project development will be subject to FHWA oversight, or exempt, and identify by entering "Yes" (exempt) or "No" (oversight). See Facilities Development Manual Procedure 5-5-15.
	Railroad Crossing/Structure: Identify what work is proposed at each existing crossing on (or within 1000 feet of) the project or if new crossings are being proposed.
Bottom Portion	Project Supervisor. Provide the name of the District supervisor who will be responsible for the project.
	Recommended for Acceptance. Provide the name of the District SPO or PD Supervisor who is responsible for preparing the Concept Definition Report.
	Accepted By. District Director, Manager, or Designee, Date.
	Other acknowledgements.

CONCEPT DEFINITION LEVEL OF IMPACT WORKSHEET

Using this table and the notes below will provide information on the level of community impact of the proposed project on the existing setting. One of the three levels will apply (A, B, C).

	ELEMENT	SCORE
1	The project's aesthetic significance is: Local: minor State or local: moderate National or state: major	1 5 10
2	Anticipated level of visual impact on the existing/proposed setting: Resurface: minor Recondition: moderate Reconstruction: major Major: major New Construction: major	0 1 2 3 3
3	The project has unique or sensitive feature(s): None One to three Four to six More than six	0 1 2 3
4	The project is located in a unique or sensitive area: (Social, Environmental, Historic and/or Economic) One of the four Two of the four Three of the four All four	1 2 3 4
5	Level of community use of a theme near the project: None Plans exist Plans and timetable exist Plans, timetable and funding exist Under development at this time (time of filling out this form) Theme completed	0 1 2 3 4 5
6	The projected 20-year design AADT is: Less than 5,000 5,000 to 10,000 Greater than 10,000	1 2 3
7	The posted speed limit will be: Greater than 55 35 to 55 Less than 35	1 2 3

8	The major uses of the facility will be: (Designated Truck Route, Commuting Route and/or Rural Route) One of the three Two of the three Three of the three or Tourist Route Designated Scenic Byway	1 2 3 4 5
9	The project is located in or near: (Urban Setting, Recreation Area /Park or Waterway) One of the three Two of the three All three	1 2 3
10	Does aesthetics control design or project advancement: No Not determined at this time Yes	0 2 5
11	Total	
	COMMUNITY IMPACT LEVEL	A (38-44) B (24-37) C (6-23)

NOTE: What follows is additional information about each item in the table above:

1. **Aesthetic significance:** The greater the aesthetic significance the more time and money the transportation agency should consider using to enhance a corridor. Examples of aesthetic significance are: *Entry points:* to a community this translates to local minor; if to the state, moderate; if to a national forest etc. major. *Area of significance:* a corridor in a downtown translates to local minor; a corridor that has a regional interest (downtown: Wisconsin Dells, Minocqua; the corridor that provides entrance and exit to the Milwaukee Airport etc.) is moderate; a corridor over a national scenic river, State Capitol, University etc is major. Another way to think about aesthetic significance is the more man-made elements encroach on a natural setting the more significance the impact on the setting.
2. **Visual impact on setting:** As the transportation agency's projects become more significant the greater the impact on the visual aspects of the corridor. For example the visual impact from resurfacing a corridor is much less than from a major project or a project on new alignment where the roadsides are disturbed.
3. **Unique or sensitive feature(s):** A single element along a corridor that is key such as landform(s), water, vegetation or a cultural feature of visual importance: a building (State Capitol, big fish etc.). The more unique or sensitive features identified, the more time and money the transportation agency should consider spending on enhancing the

corridor. During the scoping stage it may not be apparent how many unique or sensitive features there are. It may be only during public involvement that this becomes apparent.

4. **Located in a unique or sensitive area:** The area is unique or sensitive in its entirety such as: a corridor along the Great Lakes with views of the lakes, area recognized as historical. The transportation agency should consider spending more time and money on enhancing the corridor. During the scoping stage it may not be apparent that the corridor is in a unique or sensitive area. It may be only during public involvement that this becomes apparent. A unique area has been recognized as an historic district, part of a Main Street program, etc.
5. **Community use of a theme:** The more work a community has done in this area the more the transportation agency should take into account this activity and the more importance it has on the transportation agency's project. To give a rating of complete means the theme has been completed adjacent to the project area. The use of a theme could take into account many things, for example it may be period lighting, a sidewalk material or design etc.
6. **Project AADT:** The higher the AADT the more opportunity (number of viewers) there is to view a corridor and the transportation agency should consider doing more to enhance the corridor.
7. **Posted speed limit:** The lower the speed the more time there is to view a corridor and the transportation agency should consider doing more to enhance the corridor.
8. **Major use:** The more a corridor is used for leisure types of travel the more opportunity there is to view a corridor and the transportation agency should consider doing more to enhance the corridor. Do not combine the ratings of either Tourist Route or Designated Scenic Byway with any combination of the upper three ratings in this item. For example, do not rate a rural tourist route as 5 (1 point for rural + 4 points for tourist route). Instead, rate it as just 4 (a tourist route).
9. **Project location:** The more a corridor is in an area where greater numbers of people or leisure activities take place, the more opportunity there is to view a corridor and the transportation agency should consider doing more to enhance the corridor.
10. **Aesthetics control design or project advancement:** This rating is based on how locals perceive the importance of aesthetics to their community. If aesthetics is not taken into consideration the project will not be built or advanced until aesthetics is taken into account.
11. **Total Score:** This is the basis on which the Community Impact Level is determined.

10/18/07

Jerry Zogg

- majority of time, probably Level B unless something of national historical prominence or significance - majority is at best a regional significance
- they are also in process of evaluating changes to ~~the~~ CSD program



State of Wisconsin
2007 - 2008 LEGISLATURE

AG LRB-1222/4
CS/MS/MG/GM/PH/JK/JTK:wjs
soon
in 10/19
WLJ RMR

2007 BILL

Regen

1 AN ACT *to renumber* 44.02 (24) and 101.121 (4) (a); *to renumber and amend*
2 71.07 (9m) (a), 71.07 (9r) (a), 71.28 (6) (a) and 71.47 (6) (a); *to amend* 13.48 (7),
3 13.48 (15), 71.07 (9m) (c), 71.28 (6) (c), 71.47 (6) (c), 86.19 (1), 101.121 (4) (b),
4 101.19 (1) (intro.), 254.61 (1) (f) 2. and 823.21; and *to create* 13.48 (10) (c),
5 20.143 (1) (gb), 41.11 (1) (bm), 44.02 (24) (b), 44.02 (24d), 71.07 (9m) (a) 2., 71.07
6 (9m) (g), 71.07 (9m) (h), 71.07 (9r) (a) 2., 71.28 (6) (a) 2., 71.28 (6) (g), 71.28 (6)
7 (h), 71.47 (6) (a) 2., 71.47 (6) (g), 71.47 (6) (h), 84.013 (3g), 86.19 (4m), 86.36,
8 86.37, 101.121 (3) (c), 101.121 (4) (a) 2., 101.121 (5), 101.975 (4), 227.01 (13) (zy),
9 560.03 (21m) and 560.083 of the statutes; **relating to:** the regulation,
10 preservation, and restoration of historic buildings; the supplement to the
11 federal historic rehabilitation tax credit and the state historic rehabilitation
12 tax credit; requiring the certification of downtowns; promoting certain
13 downtown areas in this state; highway projects involving business and

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1 downtown areas; the construction of major highway projects involving a
2 bypass; ^{and} granting rule-making authority; and making appropriations.

Analysis by the Legislative Reference Bureau

This bill makes numerous changes with regard to historic buildings and downtown development ~~and 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 (Commerce) 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 Commerce, 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, Commerce 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 Commerce 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 Commerce review any decision of a local governmental unit that requires the owner to comply with a provision in a local ordinance. Commerce must review the decision to determine whether the provision in the ordinance concerns a matter dealt with in the State

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Historic Building Code, in which case the owner would be exempt from the provision. Commerce must consult with the State Historical Society before making its determination. The bill specifies that, in performing this review, Commerce must follow the existing procedure for resolving conflicts between local orders and orders of Commerce that relate to the safety of places of employment or public buildings. In addition, the bill requires Commerce, in cooperation with the State Historical Society, to develop an informational pamphlet to increase public awareness and use of the State Historic Building Code. In addition, the bill requires Commerce, 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 buildings used as multifamily dwellings

Current law requires Commerce to promulgate a multifamily dwelling code that provides uniform standards for the construction of multifamily dwellings and their components. With certain exceptions, a multifamily dwelling is an apartment building, row house, town house, condominium, or manufactured building that does not exceed 60 feet in height or six stories and that consists of three or more attached dwelling units. The Multifamily Dwelling Code currently applies to any building or portion of a building that is converted to a multifamily dwelling after April 1, 1995, unless the building is a qualified historic building and the owner elects to be subject to the State Historic Building Code. Rules promulgated by Commerce also permit a local governmental unit to exercise jurisdiction over the construction and inspection of multifamily dwellings by adopting ordinances that are consistent with the multifamily dwelling code. Currently, the multifamily dwelling code contains specific requirements relating to the type, height, and design of handrails and guardrails that are required to be used in multifamily dwellings.

This bill permits a local governmental unit to adopt an ordinance that requires the local governmental unit to grant a variance from these handrail and guardrail requirements, as they apply to a qualified historic building that is converted from a single-family dwelling to a multifamily dwelling, if the owner of the qualified historic building shows that the type, height, and design of the handrail or guardrail proposed for installation is historically appropriate and if the handrail or guardrail is at least as protective of public safety as the rail that is otherwise required.

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 2008, 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 this state 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

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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 this state and the State Historical Society 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 2 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 State 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 2008, 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 this state 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 Commerce 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 Commerce to promulgate rules pursuant to which Commerce will certify downtowns. In addition, under the bill, the Department of Tourism must promote travel to these certified downtowns

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and to business areas that are or have been the subject of revitalization efforts under the State Main Street Program.

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 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 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 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, must 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 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 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

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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 must 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 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
12 legislative approval to the joint committee on finance in the form of proposed

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

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

6 13.48 (10) (c) Unless otherwise required by law, the building commission shall
7 not authorize the construction of any state office building, whether for utilization by
8 a single agency or otherwise, to be located outside of a downtown area, as certified
9 under s. 560.03 (21m), unless the cost of locating the building inside a downtown area
10 is more than 10 percent greater than the average cost of locating the building in that
11 portion of the geographic area that is served by the functions to be performed in the
12 building on the date of initial occupancy outside of any downtown area, as
13 determined by the department of administration.

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

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

BILL**SECTION 4**

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

2 20.143 (1) (gb) *Certified downtowns and business district reconstruction.* All
3 moneys received from the historical society under s. 44.02 (24d) (b) for the purpose
4 of providing staff for the administration of ss. 560.03 (21m) and 560.083.

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

6 41.11 (1) (bm) Promote travel to business areas that are or have been the
7 subject of revitalization efforts under the State Main Street Program under s.
8 560.081 or that are certified downtowns under s. 560.03 (21m).

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

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

11 44.02 (24) (b) Charge a fee of \$150 for a certification under par. (a). The
12 historical society shall collect the fee under this paragraph when an applicant
13 applies for certification under par. (a).

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

15 44.02 (24d) (a) Promulgate by rule procedures, standards, and forms necessary
16 to certify, and shall certify, expenditures for preservation or rehabilitation of historic
17 property for the purposes of ss. 71.07 (9m), 71.28 (6), and 71.47 (6). Those standards
18 shall be substantially similar to the standards used by the secretary of the interior
19 to certify rehabilitations under 26 USC 47 (c) (2).

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

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1 collected under this paragraph shall be deposited into the appropriation account
2 under s. 20.143 (1) (gb).

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

5 71.07 (9m) (a) 1. Any person may claim as a credit against the taxes otherwise
6 due imposed under this chapter s. 71.02, up to the amount of those taxes, an amount
7 equal to ~~5%~~ 5 percent of the costs of qualified rehabilitation expenditures, as defined
8 in section 47 (c) (2) of the ~~internal revenue code~~ Internal Revenue Code, for certified
9 historic structures on property located in this state, if the physical work of
10 construction or destruction in preparation for construction begins after December
11 31, 1988, and before January 1, 2008, and the rehabilitated property is placed in
12 service after June 30, 1989.

13 **SECTION 10.** 71.07 (9m) (a) 2. of the statutes is created to read:

14 71.07 (9m) (a) 2. a. Any person may claim as a credit against the taxes imposed
15 under s. 71.02, up to the amount of those taxes, an amount equal to 20 percent of the
16 costs of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the
17 Internal Revenue Code, for certified historic structures on property located in this
18 state, if the physical work of construction or destruction in preparation for
19 construction begins after December 31, 2007.

20 b. A person whose qualified rehabilitation expenditures do not satisfy the
21 adjusted basis requirement under section 47 (c) (1) of the Internal Revenue Code, but
22 who otherwise would be eligible to claim the rehabilitation credit under section 47
23 of the Internal Revenue Code, may claim as a credit against the taxes imposed under
24 s. 71.02, up to the amount of those taxes, an amount equal to 20 percent of the costs
25 of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal

BILL**SECTION 10**

1 Revenue Code, if the property is located in this state; if the person's qualified
2 rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal Revenue
3 Code, are at least \$10,000; if the rehabilitation is approved by the state historical
4 society before the physical work of construction, or destruction in preparation for
5 construction, begins; if the person includes evidence of such approval with the
6 person's return; if the physical work of construction, or destruction in preparation
7 for construction, begins after December 31, 2007; and if the person claims the credit
8 for the same taxable year in which the person would have claimed the credit for
9 federal purposes.

10 **SECTION 11.** 71.07 (9m) (c) of the statutes is amended to read:

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

18 **SECTION 12.** 71.07 (9m) (g) of the statutes is created to read:

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

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1 may claim the credit under this subsection, if the other person is subject to the taxes
2 imposed under s. 71.02.

3 **SECTION 13.** 71.07 (9m) (h) of the statutes is created to read:

4 71.07 (9m) (h) A person who receives a credit under this subsection shall add
5 to the person's liability for taxes imposed under s. 71.02 one of the following
6 percentages of the amount of the credits received under this subsection for
7 rehabilitating or preserving the property if, within 5 years after the date on which
8 the preservation or rehabilitation work that was the basis of the credit is completed,
9 the person either sells or conveys the property by deed or land contract or the state
10 historical society certifies to the department of revenue that the historic property has
11 been altered to the extent that it does not comply with the standards promulgated
12 under s. 44.02 (24d):

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

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

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

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

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

23 **SECTION 14.** 71.07 (9r) (a) of the statutes is renumbered 71.07 (9r) (a) 1. and
24 amended to read:

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1 71.07 (9r) (a) 1. For taxable years beginning ~~on or~~ after August 1, 1988 July
2 31, 1988, and before January 1, 2008, any natural person may claim as a credit
3 against the taxes otherwise due imposed under s. 71.02, up to the amount of those
4 taxes, an amount equal to ~~25%~~ 25 percent of the costs of preservation or
5 rehabilitation of historic property located in this state, including architectural fees
6 and costs incurred in preparing nomination forms for listing in the national register
7 of historic places in Wisconsin or the state register of historic places, if the
8 nomination is made within 5 years prior to submission of a preservation or
9 rehabilitation plan under par. (b) 3. b., and if the physical work of construction or
10 destruction in preparation for construction begins after December 31, 1988, except
11 that the credit may not exceed \$10,000, or \$5,000 for married persons filing
12 separately, for any preservation or rehabilitation project.

13 **SECTION 15.** 71.07 (9r) (a) 2. of the statutes is created to read:

14 71.07 (9r) (a) 2. For taxable years beginning after December 31, 2007, any
15 natural person may claim as a credit against the taxes imposed under s. 71.02, up
16 to the amount of those taxes, an amount equal to 30 percent of the costs of
17 preservation or rehabilitation of historic property that is located in this state,
18 including architectural fees and costs incurred in preparing nomination forms for
19 listing in the national register of historic places in Wisconsin or the state register of
20 historic places, if the nomination is made within 5 years prior to submission of a
21 preservation or rehabilitation plan under par. (b) 3. b., and if the physical work of
22 construction or destruction in preparation for construction begins after December
23 31, 2007, except that the credit may not exceed \$10,000, or \$5,000 for married
24 persons filing separately, for any preservation or rehabilitation project.

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1 **SECTION 16.** 71.28 (6) (a) of the statutes is renumbered 71.28 (6) (a) 1. and
2 amended to read:

3 71.28 (6) (a) 1. Any person may claim as a credit against the taxes otherwise
4 due imposed under this chapter s. 71.23, up to the amount of those taxes, an amount
5 equal to ~~5%~~ 5 percent of the costs of qualified rehabilitation expenditures, as defined
6 in section 47 (c) (2) of the ~~internal revenue code~~ Internal Revenue Code, for certified
7 historic structures on property located in this state, if the physical work of
8 construction or destruction in preparation for construction begins after December
9 31, 1988, and before January 1, 2008, and the rehabilitated property is placed in
10 service after June 30, 1989.

11 **SECTION 17.** 71.28 (6) (a) 2. of the statutes is created to read:

12 71.28 (6) (a) 2. a. Any person may claim as a credit against the taxes imposed
13 under s. 71.23, up to the amount of those taxes, an amount equal to 20 percent of the
14 costs of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the
15 Internal Revenue Code, for certified historic structures on property located in this
16 state, if the physical work of construction or destruction in preparation for
17 construction begins after December 31, 2007.

18 b. A person whose qualified rehabilitation expenditures do not satisfy the
19 adjusted basis requirement under section 47 (c) (1) of the Internal Revenue Code, but
20 who otherwise would be eligible to claim the rehabilitation credit under section 47
21 of the Internal Revenue Code, may claim as a credit against the taxes imposed under
22 s. 71.23, up to the amount of those taxes, an amount equal to 20 percent of the costs
23 of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal
24 Revenue Code, if the property is located in this state; if the person's qualified
25 rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal Revenue

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1 Code, are at least \$10,000; if the rehabilitation is approved by the state historical
2 society before the physical work of construction, or destruction in preparation for
3 construction, begins; if the person includes evidence of such approval with the
4 person's return; if the physical work of construction, or destruction in preparation
5 for construction, begins after December 31, 2007; and if the person claims the credit
6 for the same taxable year in which the person would have claimed the credit for
7 federal purposes.

8 **SECTION 18.** 71.28 (6) (c) of the statutes is amended to read:

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

16 **SECTION 19.** 71.28 (6) (g) of the statutes is created to read:

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

25 **SECTION 20.** 71.28 (6) (h) of the statutes is created to read:

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1 71.28 (6) (h) A person who receives a credit under this subsection shall add to
2 the person's liability for taxes imposed under s. 71.23 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 21.** 71.47 (6) (a) of the statutes is renumbered 71.47 (6) (a) 1. and
21 amended to read:

22 71.47 (6) (a) 1. Any person may claim as a credit against the taxes otherwise
23 due imposed under this chapter s. 71.43, up to the amount of those taxes, an amount
24 equal to ~~5%~~ 5 percent of the costs of qualified rehabilitation expenditures, as defined
25 in section 47 (c) (2) of the ~~internal revenue code~~ Internal Revenue Code, for certified

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1 historic structures on property located in this state, if the physical work of
2 construction or destruction in preparation for construction begins after December
3 31, 1988, and before January 1, 2008, and the rehabilitated property is placed in
4 service after June 30, 1989.

5 **SECTION 22.** 71.47 (6) (a) 2. of the statutes is created to read:

6 71.47 (6) (a) 2. a. Any person may claim as a credit against the taxes imposed
7 under s. 71.43, up to the amount of those taxes, an amount equal to 20 percent of the
8 costs of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the
9 Internal Revenue Code, for certified historic structures on property located in this
10 state, if the physical work of construction or destruction in preparation for
11 construction begins after December 31, 2007.

12 b. A person whose qualified rehabilitation expenditures do not satisfy the
13 adjusted basis requirement under section 47 (c) (1) of the Internal Revenue Code, but
14 who otherwise would be eligible to claim the rehabilitation credit under section 47
15 of the Internal Revenue Code, may claim as a credit against the taxes imposed under
16 s. 71.43, up to the amount of those taxes, an amount equal to 20 percent of the costs
17 of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal
18 Revenue Code, if the property is located in this state; if the person's qualified
19 rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal Revenue
20 Code, are at least \$10,000; if the rehabilitation is approved by the state historical
21 society before the physical work of construction, or destruction in preparation for
22 construction, begins; if the person includes evidence of such approval with the
23 person's return; if the physical work of construction, or destruction in preparation
24 for construction, begins after December 31, 2007; and if the person claims the credit

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

3 **SECTION 23.** 71.47 (6) (c) of the statutes is amended to read:

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

11 **SECTION 24.** 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 25.** 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 26.** 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 27.** 86.19 (1) of the statutes is amended to read:

9 86.19 (1) Except as provided in sub. (1m) or (4m) or s. 84.01 (30) (g), no sign
10 shall be placed within the limits of any street or highway except such as are
11 necessary for the guidance or warning of traffic or as provided by ss. 60.23 (17m) and
12 66.0429. The authorities charged with the maintenance of streets or highways shall
13 cause the removal therefrom and the disposal of all other signs.

14 **SECTION 28.** 86.19 (4m) of the statutes is created to read:

15 86.19 (4m) In a business area that is the subject of revitalization efforts under
16 the State Main Street Program under s. 560.081 or that is a certified downtown
17 under s. 560.03 (21m), the holder of a privilege under s. 66.0425 may erect awning
18 or other signage that projects from a building over a sidewalk, provided that the
19 awning or other signage does not encroach upon the traveled portion of a highway
20 and the awning or other signage provides adequate clearance for equipment used to
21 maintain or clear the sidewalks of snow or debris. If the department removes an
22 awning or other signage erected under this subsection in connection with a state
23 highway project, the owner of the awning or other signage may not be compensated
24 for the removal, damage, or loss of the sign by local or state authorities.

25

SECTION 29. 86.36 of the statutes is created to read:

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SECTION 29

1 **86.36 Matching funds for local highway projects.** Notwithstanding any
 2 other provision of law relating to the funding of local highway projects by the
 3 department, if the department provides matching funds to a city, village, town, or
 4 county on or after the effective date of this section [revisor inserts date], for a local
 5 highway project involving the construction of one or more lanes of highway, the
 6 department shall fund the construction of any lane of highway affected by the project
 7 without regard to its designation as a travel lane or a parking lane. This section
 8 applies only to local highway projects that involve a highway in a business area that
 9 is the subject of revitalization efforts under the State Main Street Program under s.
 10 560.081 (2) (e) or in a certified downtown under s. 560.03 (21m). This section shall
 11 apply to the use of any federal funds only to the extent that such use does not result
 12 in the loss of any federal funds.

13 **SECTION 30.** 86.37 of the statutes is created to read:

14 **86.37 Highway projects involving ^{certain} business and downtown areas.** (1)

15 In this section:

16 (a) "Business area" has the meaning given in s. 560.081 (1) (a). ✓

17 (c) (b) "Municipality" means a city, village, or town.

18 (2) In the preliminary stages of considering and planning any highway project
 19 ~~to be funded by the department that involves a highway in which a business area that~~
 20 ~~is the subject of revitalization efforts under the State Main Street Program under s.~~
 21 ~~560.081 (2) (e) or a certified downtown under s. 560.03 (21m) is located,~~ ↓
 22 the department shall consult on issues concerning the proposed highway project and its
 23 effects on the business or certified downtown area with the department of commerce
 24 and, unless no such board or organization exists, with the business improvement
 25 district board appointed under s. 66.1109 (3) (a), the main street board associated

Insert
20-16 →

BILL

1 with the State Main Street Program under s. 560.081 (2) (e), or the nonprofit
2 downtown planning organization of that municipality. This subsection does not
3 apply to any highway project for which preliminary engineering was begun before
4 the effective date of this subsection [revisor inserts date].

insert 21-5 (3) Notwithstanding any other provision of law relating to highway projects
6 funded by the department, the department shall give priority to the retention of any
7 on-street parking with respect to a highway project involving the widening of a
8 highway in which a business area that is the subject of revitalization efforts under
9 the State Main Street Program under s. 560.081 or a certified downtown under s.
10 560.03 (21m) is located. This subsection shall apply to the use of any federal funds
11 only to the extent that such use does not result in the loss of any federal funds. This
12 subsection does not apply to any highway project that is subject to a contract for its
13 construction and that is in effect on the effective date of this subsection [revisor
14 inserts date].

15 **SECTION 31.** 101.121 (3) (c) of the statutes is created to read:

16 101.121 (3) (c) The Historic Building Code shall be liberally interpreted to
17 facilitate the preservation and restoration of qualified historic buildings.

18 **SECTION 32.** 101.121 (4) (a) of the statutes is renumbered 101.121 (4) (a) 1.

19 **SECTION 33.** 101.121 (4) (a) 2. of the statutes is created to read:

20 101.121 (4) (a) 2. Upon the request of the owner of a qualified historic building
21 who elects under subd. 1. to be subject to the Historic Building Code, the department
22 shall review any decision of a city, village, town, or county that requires the owner
23 to comply with a provision of a county or municipal building code, or of any other local
24 ordinance or regulation, to determine if the provision concerns a matter dealt with
25 in the Historic Building Code. The department shall consult with the state historical

BILL**SECTION 33**

1 society before making this determination. The procedures in s. 101.02 (7) apply to
2 any review conducted by the department under this subdivision.

3 **SECTION 34.** 101.121 (4) (b) of the statutes is amended to read:

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

8 **SECTION 35.** 101.121 (5) of the statutes is created to read:

9 101.121 (5) INFORMATIONAL PAMPHLET. (a) In cooperation with the state
10 historical society, the department shall develop an informational pamphlet designed
11 to increase awareness and use of the Historic Building Code. The department, in
12 cooperation with the state historical society, shall update the pamphlet as statutes
13 and rules relating to the Historic Building Code are amended. The pamphlet shall
14 include all of the following information:

- 15 1. A description of the Historic Building Code.
- 16 2. A description of the types and qualities of buildings that are subject to the
17 Historic Building Code.
- 18 3. An explanation of how the owner of a qualified historic building may elect
19 to be subject to the Historic Building Code and a description of the consequences of
20 that election.
- 21 4. A description of other alternative building codes that the owner of a historic
22 building may be eligible to use.
- 23 5. A description of where a person may obtain further information regarding
24 historic buildings and the Historic Building Code.

BILL

1 (b) The department and the state historical society shall distribute the
2 pamphlets as they consider necessary to increase awareness of the Historic Building
3 Code.

4 **SECTION 36.** 101.19 (1) (intro.) of the statutes is amended to read:

5 101.19 (1) (intro.) The department, ~~by rule promulgated under ch. 227,~~ shall
6 fix and collect promulgate rules establishing and providing for the collection of fees
7 which shall, as closely as possible, equal the cost of providing the following services:

8 **SECTION 37.** 101.975 (4) of the statutes is created to read:

9 101.975 (4) (a) A political subdivision may adopt an ordinance that permits the
10 political subdivision to grant a variance to the Uniform Multifamily Dwelling Code
11 if all of the following apply:

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

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

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

23 **SECTION 38.** 227.01 (13) (zy) of the statutes is created to read:

BILL**SECTION 38**

1 227.01 (13) (zy) Establishes guidelines pursuant to s. 560.083 to aid
2 communities in reconstructing central business districts that are destroyed or
3 severely damaged in major disasters.

4 **SECTION 39.** 254.61 (1) (f) 2. of the statutes is amended to read:

5 254.61 (1) (f) 2. A structural addition, including a renovation, made to a
6 structure that was originally constructed at least 50 years before an initial or
7 renewal application for a permit under s. 254.64 (1) (b) is made and for which no use
8 other than as a bed and breakfast establishment is proposed. The structural addition
9 under this subdivision shall comply with the rules promulgated under s. 101.63 (1)
10 and (1m).

11 **SECTION 40.** 560.03 (21m) of the statutes is created to read:

12 560.03 (21m) (a) Promulgate rules for the certification of downtowns by the
13 department. The rules promulgated under this subsection shall require the
14 department to consider at least all of the following factors with regard to an area
15 being a certified downtown:

- 16 1. Whether the area is or is located in a central business district.
- 17 2. The extent to which the structures located in the area are in commercial use,
18 or zoned for commercial use, and oriented for pedestrian traffic.
- 19 3. The compactness of the area and the extent to which the area includes a
20 regular pattern of sidewalks facilitating commercial activity by pedestrians.
- 21 4. The extent to which the linear street frontage in the area is set back from
22 the sidewalk.
- 23 5. The historical value of the area.

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

BILL

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

3 **SECTION 41.** 560.083 of the statutes is created to read:

4 **560.083 Central business district reconstruction guidelines.** The
5 department shall develop and publish guidelines to aid communities in
6 reconstructing central business districts that are destroyed or severely damaged in
7 major disasters. The guidelines shall include information on relevant financial and
8 other assistance available to communities from the state government.

9 **SECTION 42.** 823.21 of the statutes is amended to read:

10 **823.21 Dilapidated buildings declared nuisances.** Any building which,
11 under s. 66.0413 (1) (b) 1., has been declared so old, dilapidated or out of repair as
12 to be dangerous, unsafe, unsanitary, or otherwise unfit for human habitation or has
13 been determined to be unreasonable to repair under s. 66.0413 (1) (b) 1. is a public
14 nuisance and may be proceeded against under this chapter.

15 **SECTION 43. Nonstatutory provisions.**

16 (1) **CERTIFIED DOWNTOWNS AND BUSINESS DISTRICT RECONSTRUCTION.** The
17 authorized FTE positions for the department of commerce are increased by 2.0 PR
18 positions, to be funded from the appropriation under section 20.143 (1) (gb) of the
19 statutes, as created by this act, for the purpose of providing increased staff for the
20 administration of sections 560.03 (21m) and 560.083 of the statutes, as created by
21 this act.

22 (2) **HISTORICAL SOCIETY.** The authorized FTE positions for the historical society
23 are increased by 1.0 PR position, to be funded from the appropriation under section
24 20.245 (1) (ks) of the statutes, for the purpose of providing increased staff for the
25 administration section 44.02 (24d) (a) of the statutes, as created by this act.

BILL**1 SECTION 44. Fiscal changes.**

2 (1) SURVEY OF RURAL HISTORIC BUILDINGS. In the schedule under section 20.005
3 (3) of the statutes for the appropriation to the state historical society under section
4 20.245 (1) (a) of the statutes, as affected by the acts of 2007, the dollar amount is
5 increased by \$75,000 for fiscal year 2007-08 and the dollar amount is increased by
6 \$75,000 for fiscal year 2008-09 for the purpose of entering into a contract for a survey
7 under section 44.34 (1) of the statutes to identify and document historic properties
8 in rural areas of the state.

9 SECTION 45. Initial applicability.

10 (1) HISTORIC REHABILITATION TAX CREDITS. The treatment of sections 44.02 (24d),
11 71.07 (9m) (c), (g), and (h), 71.28 (6) (c), (g), and (h), 71.47 (6) (c), (g), and (h) of the
12 statutes, the renumbering of section 44.02 (24) of the statutes; the renumbering and
13 amendment of sections 71.07 (9m) (a), 71.07 (9r) (a), 71.28 (6) (a), and 71.47 (6) (a)
14 of the statutes; and the creation of sections 44.02 (24) (b), 71.07 (9m) (a) 2. and (9r)
15 (a) 2., 71.28 (6) (a) 2., and 71.47 (6) (a) 2. of the statutes first apply to taxable years
16 beginning on January 1, 2008.

17 (END)

17

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26-16

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1222/4ins
ARG:.....

INSERT ANAL:

(no P) , during the concept definition phase of the project, recognize the high visual and aesthetic significance of, and impact related to, these types of highway projects in evaluating the aesthetic and visual impact of the project. ✓

INSERT 20-16:

(b) "Highway project" means any highway project to be funded by the department that involves a highway in which a business area that is the subject of revitalization efforts under the State Main Street Program under s. 560.081 (2) (e) or a certified downtown under s. 560.03 (21m) is located. ✓

INSERT 21-5:

(no P) During the concept definition phase of any highway project, in evaluating the aesthetic and visual impact of the highway project, the department shall recognize the high visual and aesthetic significance of, and impact related to, these types of highway projects.

INSERT 26-16:

(2) ~~CONCEPT~~ CONCEPT DEFINITION PHASE OF HIGHWAY PROJECTS. The treatment of section 86.37 (3) of the statutes first applies to highway projects for which the concept definition phase begins on the effective date of this subsection.