

# State of Wisconsin



2013 Senate Bill 617

Date of enactment: **April 16, 2014**  
Date of publication\*: **April 17, 2014**

## 2013 WISCONSIN ACT 270

**AN ACT** to *renumber* 101.12 (3) (am) 2. and 101.12 (3) (am) 4.; to *renumber and amend* 101.12 (3) (am) 1., 101.12 (3) (am) 3. and 101.12 (3) (am) 5.; to *amend* 101.02 (15) (j) and 101.19 (1g) (am); and to *create* 15.407 (18), 101.02 (7r), 101.023, 101.12 (3) (bq), 101.12 (3m) (d), 101.12 (3r), 101.12 (4) and 101.14 (4r) of the statutes; **relating to:** ordinances, variances, and rules relating to the constructing or altering of, or adding to, public buildings and buildings that are places of employment, the creation of a building code council, and inspections of public buildings and buildings that are places of employment, and granting rule-making authority.

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

**SECTION 1.** 15.407 (18) of the statutes is created to read:

15.407 (18) BUILDING CODE COUNCIL. (a) There is created in the department of safety and professional services a building code council consisting of the following members appointed for 3-year terms:

1. Two members representing the skilled building trades, each of whom is actively engaged in his or her trade.

2. Two members representing local building inspectors, each of whom is authorized to do inspections under s. 101.12 (4) and who is employed by a city, village, or county.

3. Two members representing the fire services, each of whom is actively engaged in fire service work and at least one of whom is a fire chief.

4. Two members representing building contractors, each of whom is actively engaged in on-site construction of public buildings and buildings that are places of employment.

5. Two members representing architects, engineers, and designers, each of whom is actively engaged in the design or evaluation of public buildings and buildings that are places of employment.

(b) An employee of the department shall serve as nonvoting secretary of the council.

(c) The council shall meet at least 2 times annually.

(d) Six members of the council shall constitute a quorum. For the purpose of conducting business a majority vote of the council is required, except that at least 8 members of the council are required to vote affirmatively to recommend changes in the statutes or rules.

**SECTION 2.** 101.02 (7r) of the statutes is created to read:

101.02 (7r) (a) Notwithstanding sub. (7) (a), no city, village, or town may enact or enforce an ordinance that establishes minimum standards for constructing, altering, or adding to public buildings or buildings that are places of employment unless that ordinance strictly conforms to the applicable rules under sub. (15) (j), except as provided in pars. (b) to (d).

(b) Notwithstanding par. (a), a town, village, or city may enforce an ordinance establishing minimum stan-

\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

dards for constructing, altering, or adding to public buildings or buildings that are places of employment that does not strictly conform to the applicable rules under sub. (15) (j) if all of the following apply:

1. The ordinance was enacted before May 1, 2013.
2. The ordinance was published by the town, village, or city in the manner required under s. 60.80, 61.50, or 62.11 (4).
3. The ordinance relates to fire detection, prevention, or suppression components of buildings.
4. The building is not a multifamily dwelling, as defined in s. 101.971 (2).
5. The ordinance is submitted to the department within 60 days after the effective date of this subdivision .... [LRB inserts date].
6. The department determines that the ordinance requires standards that are at least as strict as the rules promulgated by the department.

(c) A town, village, or city may amend an ordinance that is enforceable under par. (b) if all of the following apply:

1. The amendment will not broaden the applicability of the ordinance to any building components that are not subject to the ordinance under par. (b) 3.
2. The amendment will not change the specific subject matter regulated by the ordinance.
3. The town, village, or city submits a copy of the enacted amendment to the department at least 120 days before the effective date of the amendment.
4. The town, village, or city publishes the enacted amendment in the manner required under s. 60.80, 61.50, or 62.11 (4) at least 120 days before the effective date of the amendment.

(d) 1. The department shall maintain a list of the ordinances that are enforceable under par. (b) and of the amendments that are enforceable under par. (c). The list shall be accessible to the public in electronic format, and shall include electronically photographed or scanned copies of the ordinances and amendments.

2. For an amendment submitted to the department under par. (c) 3., the department shall make it accessible as required under subd. 1. within 10 working days after receiving the amendment.

(e) Notwithstanding par. (a), a town, village, or city may enact and enforce an ordinance establishing a property maintenance code that is stricter than rules promulgated by the department under sub. (15) (j).

(f) Notwithstanding par. (a), a city of the 1st or 2nd class may enact and enforce an ordinance that relates to fire suppression that requires existing buildings to be altered to comply with the rules for the construction of buildings that are promulgated by the department under sub. (15) (j).

**SECTION 3.** 101.02 (15) (j) of the statutes is amended to read:

101.02 (15) (j) The department shall ascertain, fix and order such reasonable standards or rules for ~~the construction, repair and maintenance of places of employment and~~ constructing, altering, adding to, repairing, and maintaining public buildings, ~~as shall~~ and places of employment in order to render them safe.

**SECTION 4.** 101.023 of the statutes is created to read:

**101.023 Building code council duties.** The building code council shall review the rules relating to constructing, altering, adding to, repairing, and maintaining public buildings and buildings that are places of employment. The council shall consider and make recommendations to the department pertaining to these rules and any other matters related to constructing, altering, adding to, repairing, and maintaining public buildings and buildings that are places of employment. In preparing rules under this chapter that relate to public buildings and to buildings that are places of employment, the department shall consult with the building code council.

**SECTION 5.** 101.12 (3) (am) 1. of the statutes is renumbered 101.12 (3) (am) and amended to read:

101.12 (3) (am) Accept the examination of essential drawings, calculations and specifications in accordance with sub. (1) performed by a 2nd class city ~~in conformity with the requirements of this paragraph that is certified pursuant to sub. (3m).~~

**SECTION 6.** 101.12 (3) (am) 2. of the statutes is renumbered 101.12 (3m) (a).

**SECTION 7.** 101.12 (3) (am) 3. of the statutes is renumbered 101.12 (3m) (b) and amended to read:

101.12 (3m) (b) A 2nd class city may apply for certification by the department ~~for the purposes of this paragraph under this subsection~~ if that city employs at least one architect or one professional engineer who has been granted a certificate of registration under s. 443.10. The department shall certify a 2nd class city when the department determines and certifies the competency of all examiners employed by the city. The department shall review the competency of the examiners of a city that is certified under this ~~paragraph~~ subsection on a regular basis and may revoke the certification of a city if the examiners do not meet standards specified by the department.

**SECTION 8.** 101.12 (3) (am) 4. of the statutes is renumbered 101.12 (3m) (c).

**SECTION 9.** 101.12 (3) (am) 5. of the statutes is renumbered 101.12 (3m) (e) and amended to read:

101.12 (3m) (e) The department shall by rule set fees, to be collected by the 2nd class city and remitted to the department, to meet the department's costs in enforcing and administering its duties under ~~this paragraph~~ sub. (3) (am) and this subsection.

**SECTION 10.** 101.12 (3) (bq) of the statutes is created to read:

101.12 (3) (bq) Accept the review and determination performed by 2nd class cities that are certified pursuant to sub. (3m) on variances for buildings if the variances are reviewed and decided on in a manner approved by the department.

**SECTION 11.** 101.12 (3m) (d) of the statutes is created to read:

101.12 (3m) (d) The department shall certify 2nd class cities to perform reviews and determinations of variances under sub. (3) (bq) if the 2nd class city has been certified for purposes of sub. (3) (b).

**SECTION 12.** 101.12 (3r) of the statutes is created to read:

101.12 (3r) An owner of a building may request, and the department may grant, a variance from standards contained in a rule relating to constructing, altering, and adding to public buildings and buildings that are places of employment if the department finds that the requested variance will impose an equivalent standard that meets the intent of the rule.

**SECTION 13.** 101.12 (4) of the statutes is created to read:

101.12 (4) (a) Except as provided in par. (b), any inspection performed to determine compliance with the rules promulgated by the department that relate to constructing, altering, or adding to public buildings and buildings that are places of employment may be performed only by a person who is certified under rules promulgated by the department to make such inspections.

(b) The certification requirement under par. (a) does not apply to any of the following:

1. An inspection performed under s. 101.14 (2) (b) or (c) by an inspector who is designated under s. 101.14 (2) (d) to make such inspections.

2. An inspection performed by an inspector who has received certification under s. 101.14 (4r).

**SECTION 14.** 101.14 (4r) of the statutes is created to read:

101.14 (4r) (a) In this subsection, “fire detection, prevention, and suppression devices” has the meaning given in sub. (4) (g) 2.

(b) A person may perform inspections of fire detection, prevention, and suppression devices being installed during the construction or alteration of, or the addition to, public buildings and places of employment only if he or she has received certification as an inspector from the department.

(c) 1. The department shall promulgate rules establishing procedures and requirements for issuing certifications for purposes of par. (b). The department shall include in the rules a requirement that the person hold a

valid certification from the national fire protection association qualifying him or her as a certified fire inspector I or that he or she hold a valid equivalent certification.

2. The department shall determine which certifications issued by other entities will qualify as valid equivalent certifications. Notwithstanding s. 227.10 (1), determinations under this subdivision shall not be promulgated as rules.

(d) The department shall provide assistance to any nationwide or statewide organization that represents fire chiefs and that is engaged in providing training and certification opportunities for persons seeking to receive certification by the department under this subsection.

**SECTION 15.** 101.19 (1g) (am) of the statutes is amended to read:

101.19 (1g) (am) The services specified by s. 101.12 (3) (am) and (bq) and (3m).

**SECTION 16. Nonstatutory provisions.**

(1) COUNCIL; TERMS OF INITIAL MEMBERS. Notwithstanding the length of terms specified in section 15.407 (18) (a) (intro.) of the statutes, as created by this act, the initial members of the building code council under section 15.407 (18) of the statutes, as created by this act, shall be appointed by the governor for the following terms:

(a) One member appointed under section 15.407 (18) (a) 2. of the statutes, as created by this act, one member appointed under section 15.407 (18) (a) 3. of the statutes, as created by this act, one member appointed under section 15.407 (18) (a) 4. of the statutes, as created by this act, and one member appointed under section 15.407 (18) (a) 5. of the statutes, as created by this act, for terms expiring on July 1, 2017.

(b) One member appointed under section 15.407 (18) (a) 1. of the statutes, as created by this act, one member appointed under section 15.407 (18) (a) 2. of the statutes, as created by this act, and one member appointed under section 15.407 (18) (a) 4. of the statutes, as created by this act, for terms expiring on July 1, 2016.

(c) One member appointed under section 15.407 (18) (a) 1. of the statutes, as created by this act, one member appointed under section 15.407 (18) (a) 3. of the statutes, as created by this act, one member appointed under section 15.407 (18) (a) 5. of the statutes, as created by this act, for terms expiring on July 1, 2015.

**SECTION 17. Effective dates.** This act takes effect on the day after publication, except as follows:

(1) The treatment of section 101.14 (4r) (b) takes effect on the first day of the 37th month beginning after publication.