CHAPTER 44

HISTORICAL SOCIETIES AND HISTORICAL PRESERVATION

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SUBCHAPTER I

STATE HISTORICAL SOCIETY AND LOCAL HISTORICAL SOCIETIES

44.01 Historical society; corporate structure. (1) The historical society shall constitute a body politic and corporate by the name of "The State Historical Society of Wisconsin," and shall possess all the powers necessary to accomplish the objects and perform the duties prescribed by law. The historical society shall be an official agency and the trustee of the state.

(2) The historical society may adopt, and change, a seal, a constitution and bylaws, promulgate rules, and elect such officers as the constitution or bylaws prescribe. The eligibility requirements for membership in the historical society shall be determined by the constitution and bylaws. There shall continue to be a board of curators for governing the historical society with powers substantially the same as at present.

(4) The historical society's acceptance of any benefits granted it by law shall be conclusively deemed its complete acquiescence in all laws enacted concerning the organization and operation of the society.

History: 1971 c. 125; 1979 c. 110; 1983 a. 27; 1989 a. 359.

The historical society is a state agency. The board of curators falls within the coverage of ss. 893.82 and 895.46. 74 Atty. Gen. 54.

44.015 Powers. The historical society may:

(1) Acquire any interest in real or personal property by gift, bequest or otherwise in any amount and, subject to prior action under s. 13.48 (14) (am) or 16.848 (1), may operate, manage, sell, or rent real estate acquired by gift, bequest, foreclosure or other means, upon such terms and conditions as the board of curators deems for its interests but may not sell, mortgage, transfer or dispose of in any manner or remove from its buildings, except for temporary purposes, any article therein without authority of law.

(2) Sell, exchange or otherwise dispose of duplicate books, periodicals or museum objects, or books, periodicals and museum objects outside its field of collection.

(3) Accept collections of private manuscripts, printed materials, tapes, films, optical discs, materials stored in electronic format, and artifacts, and it may enforce any reasonable restrictions on accessibility to the public, use, or duplication of said collections that are agreed upon by the donor and the historical society.

(4) Take proper steps to promote the study of history by lectures, and diffuse and publish information relating to the description and history of the state.

(5) By rule, establish fees to recover costs under s. 44.02 (24).

(5m) Except as otherwise provided by law, establish fees for services or products or for admission to venues.

(7) Contract with the Wisconsin Historical Foundation, Inc., or any other nonstock, nonprofit corporation under ch. 181 for the purposes of administering the historical society's membership program, soliciting and accepting contributions, gifts, grants, and bequests for the historical society, marketing the historical society's goods and services, providing support for the operation, management, and development of the historical society's programs, and performing other functions approved by the board of curators.

(10) Promulgate rules necessary to implement this chapter.

History: 1977 c. 29; 1987 a. 395, 399; 1991 a. 39; 1995 a. 27; 1999 a. 9; 2001 a. 109; 2003 a. 91; 2013 a. 20; 2015 a. 196.

Cross−reference: See also HS, Wis. adm. code.

44.02 Historical society; duties. The historical society shall:

(1) Serve as trustee of the state in the preservation and care of all records, both printed and written, and all articles and other materials of historic interest and significance placed in its custody, and interest itself constructively as the agent of the state in the preservation and care of all similar materials wherever they may be.

(2) Collect by gift, exchange or purchase books, periodicals, pamphlets, records, tracts, manuscripts, maps, charts and other papers, artifacts, relics, paintings, photographs and other materials illustrative of the history of this state in particular and of the West generally.

(3) Conduct research in the history of Wisconsin in particular and of the West generally.

(4) Inculcate through publications, museum extension services and other media a wider and fuller knowledge and appreciation of the history of Wisconsin and its significance.

(5) Keep its main library and museum rooms open at all reasonable hours on business days for the reception of the residents of this state who may wish to visit the library or museum. Except as provided under subs. (5g) and (5m), the historical society may collect a fee from residents and shall collect a fee from nonresidents for admission to historic sites or buildings acquired, leased

or operated by the historical society, including areas within state parks or on other state−owned lands which incorporate historic buildings, restorations, museums or remains and which are operated by the historical society by agreement with the department of natural resources or other departments, or for lectures, pageants or similar special events, or for admission to defray the costs of special exhibits in its several buildings of documents, objects or other materials not part of the historical society's regular collections but brought in on loan from other sources for such special exhibitions or for use of the main library. The historical society shall take action on a continuing basis to raise funds from private sources for the operation of its main library. The historical society may procure and sell or otherwise dispose of postcards, souvenirs and other appropriate merchandise to help defray the costs of operating its several plants and projects.

(5g) (a) Not charge a fee for use of the main library by any member of the historical society, any member of the faculty or academic staff of the University of Wisconsin System, any student enrolled in the University of Wisconsin System or any other person exempted by rule of the historical society. The historical society may not charge a fee for use of the main library by any other person unless the historical society submits a fee schedule to the joint committee on finance that includes the specific fee to be charged to different categories of persons and an identification of any persons exempted by rule of the historical society. The fee schedule of the historical society shall be implemented if the committee approves the report, or does not schedule a meeting for the purpose of reviewing the report within 14 working days after receipt of the report.

(b) Charge a fee for research services provided by the historical society to any nonresident who is not specifically exempted under par. (a).

(5m) Not charge a fee for admission to the museum until construction of the museum is completed. Fees collected from admissions shall be used to support public programming.

(5s) Except as provided in s. 16.84 (2), have responsibility for security at the museum.

(6) Thoroughly catalog the entire collections of the society for the more convenient reference of all persons who have occasion to consult the collections. The society may loan to libraries, educational institutions and other organizations or to private individuals in good standing items from the collections of the society.

(8) Bind, except when microfilmed or transferred to optical discs or electronic format, the unbound books, documents, manuscripts, pamphlets, and especially newspaper files in its possession.

(9) Take an active interest in the preservation and use of the noncurrent public records of historical importance of counties, cities, villages, towns, school districts and other local governmental units and courts.

(10) Conduct a research center in American history for the benefit of the students and faculty of the University of Wisconsin System as well as for members of the general public and to facilitate the further understanding by the general public of the significance of the American experiment.

(11) Work with the auxiliaries, affiliates and chapters established under s. 44.03 in the encouragement, stimulation and development of worthwhile historical projects and undertakings at the county and local level.

(12) Be the custodian of the official series of the portraits of the governors of Wisconsin under s. 41.53 (1) (g) and maintain the portraits in proper condition. The society may permit any or all of the portraits to be exhibited in such state buildings for such periods of time as it deems feasible.

(13) To faithfully expend and apply all money received to the fulfillment of its duties and purposes as directed by law.

(14) To hold all its present and future property for the state.

(15) To promote a wider appreciation of the American heritage with particular emphasis on the collection, advancement and dissemination of knowledge of the history of Wisconsin and of the West.

(16) To collect, embody, arrange and preserve in authentic form, a library of books, pamphlets, maps, charts, manuscripts, papers, paintings, statuary, and other materials illustrative of the history of the state.

(17) To preserve the memory of its early pioneers, and to obtain and preserve narratives of their exploits, perils, and adventures.

(18) To exhibit faithfully the antiquities, and the past and present condition, and resources of Wisconsin.

(20) Have authority to operate, maintain, acquire and develop outdoor historic sites related to the outdoor recreation program under s. 23.30.

(21) Serve as the principal historic preservation agency of the state and in that capacity carry out a program of preservation of historic properties as specified under subch. II of ch. 44.

(22) Acquire, maintain and operate historic properties representative of this state's rural and urban heritage.

(23) Identify any archaeological site, including contiguous land necessary to protect the site, in this state that is listed in the national register of historic places in Wisconsin or the state register of historic places and that is not cataloged under s. 157.70 (2) (a). Any information collected under this subsection the disclosure of which would be likely to result in the disturbance of an archaeological site is not subject to s. 19.35 (1).

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

(25) In cooperation with and upon request of the board on the U.S.S. Wisconsin, maintain a permanent exhibit at a suitable location in this state relating to the history of the 2 battleships named "Wisconsin".

(26) With the department of administration, promulgate rules identifying historically significant materials and obtain historically significant surplus materials under s. 16.72 (5) (c).

(27) Administer the historical markers program under s. 44.15.

(28) Annually distribute the amount appropriated under s. 20.245 (1) (b) as a grant to the Wisconsin Black Historical Society and Museum to fund the operations of that society and museum.

History: 1971 c. 125; 1977 c. 26, 29; 1979 c. 34; 1981 c. 20; 1983 a. 27; 1985 a. 29; 1987 a. 27, 395, 399; 1989 a. 31; 1989 a. 56 s. 259; 1989 a. 359; 1991 a. 39, 226, 269; 1993 a. 437, 471; 1995 a. 3, 27; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2007 a. 20; 2009 a. 28; 2011 a. 32; 2015 a. 196.

Cross−reference: See also ch. HS 3, Wis. adm. code.

44.03 Affiliated societies. (1) County or local historical societies without capital stock may be incorporated as affiliates of the historical society, to gather and preserve the books, documents and artifacts relating to the history of their region or locality. No fees shall be charged by any register of deeds for recording nor by the department of financial institutions for filing the articles of organization or its amendments, or for a certificate of incorporation of any such society, but the department of financial institutions shall not accept articles of incorporation under this section unless they are approved by the board of curators of the historical society.

(2) Statewide, county or other patriotic or historical organizations, or chapters in this state may be incorporated as affiliates of the historical society under sub. (1) if their purposes and programs are similar to and consonant with those of the historical society and its affiliates, or if already incorporated, the organizations or chapters may apply to the board of curators for affiliation with the

historical society. Upon incorporation under this section or acceptance of affiliation by the board of curators the applying organization shall as an affiliate accept the provisions and shall be entitled to all the benefits of this section. Any affiliated society shall be a member and entitled to one vote in any general meeting of the historical society. The board of curators may terminate the affiliation as an affiliate of the historical society under this section of any such organization by formal resolution, a copy of which shall be deposited with the department of financial institutions.

(3) Every affiliated society shall make a report of its work annually to the historical society that contains the information specified in s. 181.1622 (1) (a) to (e), which, in its entirety or in part, may be included in the publications of the historical society, and upon application of any affiliated society the historical society may accept, in behalf of the state, custody of or title to the property, records and collections of the affiliated society or may assist in the disposal thereof. If any affiliated society becomes, in the opinion of the board of curators of the historical society, inactive or defunct, title to such property, records and collections not otherwise provided for in the grants of donors or in the articles of incorporation of the inactive and defunct society, shall vest in the historical society which shall take appropriate action in the public interest for the protection or disposal of such property, records and collections. Preference in disposition shall be given to historical or related organizations in the area or to whatever county or local governmental unit that has aided such affiliate financially.

(4) The historical society, for the purpose of establishing uniformity in organization and methods of work, may prepare and furnish uniform articles of organization and bylaws to any affiliated society, but the affiliate may adopt additional bylaws.

(5) The historical society may provide for annual or other meetings of officers or representatives of affiliated societies at times and places to be fixed by its director, or by such officers or representatives, and the proceedings of such meetings, or portions its director selects, may be included in its published reports. Each affiliated society shall receive a copy of each of the publications of the state society on the same terms as those granted to life members of the state society.

(6) Custody of public records of county, village, town, school district or other governmental units may be accepted by any affiliated society which has been designated a regional depository under s. 44.10, but title to these records shall remain with the historical society. In the event of the dissolution or incapacity of any affiliated society, it shall be obligatory on the last group of officers and members to notify the director of the historical society that the affiliated society can no longer retain custody of these records and to deliver them to a depository designated by the historical society.

History: 1991 a. 39; 1993 a. 213; 1995 a. 27; 1997 a. 79.

44.04 School services. (1) The historical society, as part of its program as an educational institution, shall offer to the schools and teachers in this state all of the following:

(a) Materials as the society shall prepare or make available to facilitate instruction in the history and civil government of Wisconsin, including curricula, lesson plans, classroom projects, facsimiles of historical materials and other instructional materials for the teaching of state and local history.

(b) Seminars for teachers, including continuing education programs, in−service training and programs at teacher conventions.

(2) To accomplish its duties under sub. (1), the historical society shall do all of the following:

(a) Prepare, publish, issue, loan or circulate such magazines, books, aids, guides and other publications, such visual aids, special exhibits, and other teaching materials and aids as it, in consultation with the department of public instruction, deems advisable.

(b) Provide information to schools and teachers regarding the materials and services available from the historical society to assist in the teaching of history.

(c) Promote cooperation between schools and historical organizations.

(3) It may make such charges as its board of curators shall establish as just and proper to defray in part the costs of this program.

History: 1983 a. 412; 1991 a. 161; 1995 a. 27 s. 9145 (1); 1997 a. 27.

44.05 American history research center. (1) The historical society, in order to promote the wider understanding of the significance of the American heritage, shall encourage research in American history in general, and in the history of Wisconsin and the west particularly, through its American history research center and the other divisions of this agency, and interpret to the public the nature of the said heritage, and the role of state and local history in elucidating and facilitating the understanding of the American democracy, social, political, cultural and economic.

(2) The society, in pursuit of these goals, may be the beneficiary of bequests in any form, may undertake research projects, make grants−in−aid to students of particular topics germane to the purposes of the center, publicize the American story or parts thereof through publications of various types, exhibits, photographic or microphotographic reproductions, radio, pageantry and such other media as may best lend themselves to its work.

44.06 Depository of public documents. (1) In this section, "state document" has the meaning given in s. 35.81 (3).

(2) The director of the historical society shall file with the department of administration, and may revise, lists of state, county, municipal, federal, or other agencies to which state documents shall be distributed in accordance with interstate or international comity, with or without exchange, as provided in s. 35.86, in order to maintain or enlarge the reference collections of the society and the state. The department of administration shall obtain the state documents so specified from the agencies publishing them, at the expense of the agencies, and shall ship the state documents to the addressees provided by the director. The department of administration shall prepay carriage charges and shall collect the charges from the agencies publishing the state documents being shipped.

(3) The historical society shall keep available to other state agencies and to citizens of Wisconsin and other states its public document collections under such proper and reasonable regulations as may be deemed advisable.

(4) The historical society may loan public documents, except those of rare nature, to other state agencies for official use or on interlibrary loan to other reference libraries under such rules and regulations and for such period as may appear desirable.

(5) The historical society shall prepare a periodic checklist of state documents and shall publish the list in such form and with such notes as to show the scope and purpose of such documents as the society considers advisable.

History: 1991 a. 285.

44.07 Museum extension service. (1) The historical society, in conjunction with its museum program and in order to make its collections and the teaching values of museum materials available on a statewide basis and to stimulate more effective local museum techniques, may operate a museum extension service with or without the cooperation of other museums or its auxiliary societies.

(2) The said society may for such purpose lend to other museums, public libraries, art galleries, colleges, schools or other responsible institutions or organizations, under such rules and safeguards and for such period as it deems desirable, such items and objects from its collections as are not irreplaceable.

(3) The society may participate in cooperative or joint exhibits with other museums or auxiliary societies in this program, and may out of the appropriation in s. 20.245 (1) extend financial assistance not to exceed $1,000 in the aggregate in any year to other museums or auxiliaries where and only where such aid is

found necessary to enable such other museums or auxiliaries to participate in this program.

(4) Transportation charges and other minor costs of such extension exhibits may be charged the exhibitor.

History: 1993 a. 213.

44.09 District attorney, county, local and court records. (1) Except as provided in sub. (2), the proper officer of any county, city, village, town, school district or other local governmental unit or a district attorney may offer, and the historical society may accept for preservation, title to such noncurrent records as in the historical society's judgment are of permanent historical value and that are no longer needed for administrative purposes by the local governmental unit or district attorney. The proper officer of any court may offer, and the historical society may accept for preservation, on order of the judge of the court, title to such records as have been photographed or microphotographed in accordance with SCR chapter 72, or that have been retained for the period of time provided in SCR chapter 72, and that are deemed by the historical society to be of permanent historical value.

(2) Subsection (1) does not apply to patient health care records, as defined in s. 146.81 (4), that are in the custody or control of a local health department, as defined in s. 250.01 (4).

History: Sup. Ct. Order, 136 Wis. 2d xi (1987); 1991 a. 39, 185, 226, 315; 1993 a. 27; 1997 a. 252.

44.10 Regional depositories for records. (1) The historical society, through its board of curators, in its corporate capacity and as trustee of the state may enter into agreements with the University of Wisconsin System or such other public or quasi−public institutions, agencies or corporations as the board of curators of the society shall designate to serve as the regional records depository for a given area. Said agreements shall specify the area to be served by the depository, and the methods of accessioning, cataloging, care, housing, preservation and servicing of these and such other material as may be placed by the historical society or in the name of the historical society in such regional depositories under such agreements, it being the intent of this section to provide an orderly, uniform statewide system for the retention and preservation of important court, county and local public records on a manageable basis and under proper professional care in the region of origin. Only where such arrangements cannot be accomplished may the said society transfer such records to the state archives. Said society shall compile and maintain for reference purposes as soon as may be convenient a union list of the records of county, city, village, town, school district, or other local governmental unit, or court, title to which is transferred to it under s. 44.09 (1).

(2) The board of curators may establish county records depositories within the regions served by the regional depositories established in sub. (1). The board may enter into agreements with these county depositories similar to those provided above for regional depositories, and records may be loaned temporarily from regional depository to a county depository, title in all cases remaining in the state society. The union list of records of county, city, village, town, school district or other local governmental units, or court, provided in sub. (1) shall indicate such transfers or loans of records between depositories so as to show at all times the present location of each group of records.

History: 1977 c. 26; 1991 a. 226; 1993 a. 213.

44.11 Central depository library. (1) In this section, "board" means the board of curators of the historical society.

(2) The board may participate in the formation and maintenance of a nonprofit−sharing corporation sponsored by participating colleges, universities, and libraries for the purpose of providing and operating a central library depository at a location in a midwestern state for the storage of little used books and other library and research materials of participating institutions, and which corporation may also perform any other functions for the benefit of participating institutions, including correlating library catalogs of the participating institutions, coordinating and planning the purchasing by each institution of costly or infrequently used books and research materials in order to avoid unnecessary duplication, and facilitating the loaning of library books and other library and research materials between participating institutions. The board shall possess all powers necessary or convenient to accomplish the foregoing, including the authority to designate representatives or members of such corporation in accordance with its articles and bylaws.

(3) The board may make use of and pay for the use of the facilities and services of such nonprofit−sharing corporation, but the board shall retain title to all books and materials deposited with such corporation for storage or loaned to other participating institutions and the authority of the board to expend funds for the purchase of land, the construction of buildings and additions to buildings and the purchase of equipment for the purpose of providing such facilities shall be limited to funds appropriated under s. 20.245.

History: 1971 c. 100 s. 23; 1973 c. 335 s. 13; 2015 a. 55.

44.12 Educational facilities at Nelson Dewey state park. (1) The state farm and craft museum, located at Nelson Dewey state park, may be developed by cooperation of the department of natural resources, the society, and such other agencies as may be interested therein in accordance with such arrangements as the department of natural resources and society agree upon.

(2) The purpose of this museum as an educational facility shall be to portray graphically the farm and craft practices of bygone days, so that the difficulties of pioneer farming, the great changes in the productivity of farm labor and the rise in rural income and standards of living over the years may be made vivid to this and future generations.

(3) In operating this museum, the society may charge a resident an admission fee and shall charge a nonresident an admission fee to defray in part the costs of operation in accordance with s. 44.02 (5), and may loan objects or materials from this central collection for special occasions and for such special exhibits as it may desire to develop at its main building, at other historic sites within the state, with other historical societies or with other state agencies.

History: 1981 c. 93; 1983 a. 27; 1997 a. 27.

44.13 Educational facilities at Old Wade House state park. (1) The state carriage museum, to be known as the Wesley W. Jung Carriage Museum, located at Old Wade House state park, shall be developed by the society.

(2) The purpose of this museum as an educational facility is to portray graphically the hand and horse−drawn vehicle development in bygone days, so that the great and dramatic changes in land transportation may be made vivid to this and future generations. Selected examples of these vehicles illustrating the ingenuity, inventiveness and artistic skills of the pioneer craftsperson may be preserved and exhibited in a dignified, appropriate and effective manner.

(3) In operating this museum, the society may charge a resident an admission fee and shall charge a nonresident an admission fee to defray in part the costs of operation in accordance with s. 44.02 (5).

History: 1993 a. 184; 1995 a. 27; 1997 a. 27.

44.14 Central depository loan collection, federal documents. (1) It is the purpose of this section to establish a more economical system of handling federal documents in this state in such a way as to effect savings of staff and space to the participating libraries, both state and local; to make such documents more available to more of the people, colleges and libraries of the state, in accordance with the purposes of the federal depository act of 1895 and the needs of the citizens of the state; and to make possible substantial economies in the publication costs of such documents at the federal level as well. To this end the state documents depository established by s. 44.06 may acquire and establish a

central state depository and loan collection of federal documents for the benefit of the University of Wisconsin System, the state law library, the depository libraries and such other college and public libraries in this state as may desire to share in the benefits of this loan collection.

(2) The University of Wisconsin System and the public and other participating libraries, federal regulations permitting, may transfer outright or may loan indefinitely to this central depository any or all federal documents now in their possession which in their opinion are so little used for ready reference purposes as to make their retention unnecessary if copies are available on loan from the central depository loan collection.

(3) Documents so transferred may be used by the society to furnish participating libraries with items needed for their permanent reference collections, for the central loan collection, or for exchange, trade or sale in order to make more complete and useful the central loan collection established by this section.

(4) The board of curators may promulgate such rules governing the loan of books from the central depository loan collection and may make such charges to cover shipping costs as may be deemed necessary and advisable.

History: 1977 c. 26; 1985 s. 332 s. 251 (3).

44.15 Historical markers program. (2) CREATION. It is declared to be in the public interest to stimulate interest in and knowledge of the state by marking sites of special historical, architectural, cultural, archaeological, ethnic, geological or legendary significance, and maintaining and developing such sites approximately so as to preserve their individual characteristics. The historical markers program is created to call attention to the state's historical, cultural and natural heritage through a system of markers and plaques and to supplement, wherever possible, information contained in the state register of historic places. It is the purpose of the program to significantly increase the number of historical, cultural and natural heritage sites that are marked in this state.

(3) MARKERS AND PLAQUES. (a) The historical society shall do all of the following:

1. Plan, develop and publicize a uniform system of marking for state and local sites of historical, architectural, cultural, archaeological, ethnic, geological and legendary significance. The marking system shall constitute large markers of standard design, in one or more sizes, with narrative text describing the associated site.

2. Plan, develop and publicize a system of plaques for the districts, sites, buildings, structures and objects listed on the state register of historic places and a system of plaques for marking state and local sites of special historical, architectural, cultural, archaeological, ethnic, geological or legendary significance. The system of plaques shall constitute small plaques of various types, each with a standard design, intended to identify the district, site, building, structure or object, and generally without narrative text. Any narrative text included on a plaque shall be standardized for a specific type of plaque. The historical society shall consider and respond to reasonable requests to establish new types of plaques.

3. Establish criteria for the selection of appropriate sites for markers and plaques under this subsection. The historical society shall accept applications for approval of the placement of markers and plaques, and for any narrative text for markers. The historical society shall approve those applications that meet the criteria established by the historical society.

4. Prepare the text for a book listing the locations and text of all markers in this state.

(b) The markers and plaques approved by the historical society under this subsection may not be used to mark sites other than those approved by the historical society and shall be used subject to any conditions established by the historical society. No marker or plaque may include the name of the current owner of the property. Without the approval of the historical society, no person may erect or use a marker or plaque that is identical to or misleadingly resembles the markers and plaques approved under this subsection. The historical society may require the removal of any marker or plaque that does not meet the requirements of this subsection.

(4) STATE–FUNDED MARKERS. The historical society may identify and authorize construction of individual markers or plaques, or any series of markers or plaques, to be funded from the appropriation under s. 20.245 (1) (a). No matching funds are required for a marker or plaque that is constructed under this subsection. Funds under this subsection may be used for the purchase of plaques to be installed on historical properties and for the construction of markers or plaques in other states or countries.

(5) MAINTENANCE. Any approval issued for a marker or plaque by the historical society under this section shall include a requirement that the applicant maintain the marker or plaque, and shall also include authorization permitting the historical society, if necessary, to enter the property and maintain the marker or plaque. The historical society may issue orders to maintain markers and plaques, and may maintain markers or plaques.

(6) STATE–OWNED PROPERTY. Each board, commission, committee, department or officer in state government shall cooperate with the historical society in the placement of markers or plaques on state−owned property, and shall place and maintain such markers or plaques, as supplied by the historical society, at locations identified by the historical society.

(7) DONATIONS; ASSISTANCE. (a) The historical society may accept gifts, appropriations and bequests made to it for the purposes of this section and use them as far as practicable in accordance with the wishes of the donor.

(b) The historical society may accept the aid, support and cooperation of county, city, village or town agencies, or private agencies or persons in executing its projects.

(8) COOPERATION OF STATE AGENCIES. All state departments, independent agencies and institutions are directed to cooperate with the historical society in the performance of its duties under this section. Applicable laws shall be liberally construed in favor of such cooperation.

(9) RULES. The historical society shall promulgate rules to implement and administer the program. The rules shall include all of the following:

(a) Policies and procedures for the uniform systems of markers and plaques under sub. (3) (a) 1. and 2.

(b) Criteria for the selection of appropriate sites for markers and plaques under sub. (3) (a) 3.

History: 1991 a. 269; 1993 a. 471; 1997 a. 27; 2001 a. 16.

Cross−reference: See also ch. HS 4, Wis. adm. code.

44.16 Circus World Museum Foundation. (1) The historical society may enter into a lease agreement with the Circus World Museum Foundation, Inc., for the purpose of operating Circus World Museum, located in Baraboo, Wisconsin. The lease agreement shall not include any provision for the payment of a percentage of gross admissions income at Circus World Museum to the historical society.

(2) Upon request of the board of directors of the Circus World Museum Foundation, Inc., the governor may nominate, and with the advice and consent of the senate appoint, one member of the board of directors to serve at the pleasure of the governor.

History: 1985 a. 29; 1999 a. 9.

44.20 Historic sites. (1) The historical society shall operate and maintain the historic sites known as Stonefield Village, Pendarvis, Villa Louis, Old Wade House, Madeline Island, Old World Wisconsin, H.H. Bennett Studios and, if the First Capitol state park has been transferred to the historical society under 1993 Wisconsin Act 16, section 9142 (1e), First Capitol.

(2) No historic site may be closed without specific authorization to do so from the legislature and the governor.

(3) (a) For each historic site under sub. (1), the historical society may organize and maintain a nonstock, nonprofit corporation under ch. 181 for the purposes of soliciting and accepting contri-

butions, gifts, grants, and bequests for the historic site for which the corporation is organized and maintained, providing goods or services relating to that historic site, and providing support for the operation, management, and development of that historic site. Any corporation organized under this paragraph shall be organized so that contributions to the corporation will be deductible from gross income under section 170 of the Internal Revenue Code, as defined in s. 71.01 (6), and so that the corporation will be exempt from taxation under section 501 of the Internal Revenue code, as defined in s. 71.22 (4), and s. 71.26 (1) (a).

(b) The historical society may enter into a contract with a corporation organized for the purposes of soliciting and accepting contributions, gifts, grants, and bequests for a historic site under sub. (1), providing goods or services relating to that historic site, and providing support for the operation, management, and development of that historic site setting forth the methods by which the historical society and the corporation will cooperate to accomplish those purposes. The contract shall provide that any contribution, gift, grant, or bequest accepted by the corporation that is not retained by the corporation shall be deposited in the history preservation partnership trust fund, credited to the appropriation account under s. 20.245 (1) (r), and, in accordance with the wishes of the donor, used exclusively for the operation, management, and development of the historic site for which the corporation was organized and that any moneys received by the corporation for any goods or services provided by the corporation that are not retained by the corporation shall be deposited in the history preservation partnership trust fund, credited to the appropriation account under s. 20.245 (1) (r), and used exclusively for the operation, management, and development of the historic site for which the corporation was organized.

(c) The historical society may sell memberships in a corporation specified in par. (b). All moneys received from the sale of those memberships shall be deposited in the general fund, credited to the appropriation account under s. 20.245 (1) (h), and transferred to the corporation for which the membership was sold.

(4) (a) Subject to authorization under s. 16.505, the historical society may employ outside the classified service sales and development professionals to engage in activities intended to generate admissions, sales, and other receipts for the historic sites under sub. (1) and to solicit contributions, gifts, grants, and bequests in support of those historic sites. The historical society may provide a compensation plan for those professionals under which those professionals are compensated, in whole or in part, through commissions and bonuses.

(b) Notwithstanding s. 230.08 (2) (cd), if a position in the classified service at the historical society is transferred outside the classified service under par. (a) and if the employee holding that position has achieved permanent status in class before the date of that transfer, that employee shall retain, while serving in the unclassified service at the historical society, those protections afforded employees in the classified service under ss. 230.34 (1) (a) and 230.44 (1) (c) relating to demotion, suspension, discharge, layoff, or reduction in base pay. Such an employee shall also be eligible for transfer under s. 230.29 and shall have reinstatement privileges to the classified service under s. 230.33 (1m). If a position in the classified service at the historical society is transferred outside the classified service under par. (a) and if the employee holding that position has not achieved permanent status in class on the date of that transfer, that employee is eligible to receive the protections, privileges, and rights preserved under this paragraph if the employee successfully completes service equivalent to the probationary period required in the classified service for the position that the employee holds on that date.

(4m) The historical society and the department of tourism may enter into a memorandum of understanding setting forth the responsibilities of the department of tourism relating to promoting and marketing the historic sites under sub. (1) and the methods that the historical society and the department of tourism will use to cooperate in promoting and marketing those historic sites.

(5) The director of the historical society shall include in the biennial report under s. 15.04 (1) (d) information regarding revenues and expenditures for each historic site under sub. (1) and the condition of the historic sites.

History: 1983 a. 27, 192; 1987 a. 27; 1989 a. 31; 1991 a. 39; 1993 a. 16, 437; 1995 a. 3; 1999 a. 9; 2003 a. 91.

44.21 Historical society parking regulations. The board of curators may promulgate rules to govern parking of motor vehicles on property under the control of the historical society. Whoever violates such a rule shall forfeit to the state not more than $25.

History: 1971 c. 170; 1985 a. 332 s. 251 (3).

SUBCHAPTER II

HISTORIC PRESERVATION PROGRAM

44.30 Public policy. The legislature finds that the historic, architectural, archaeological and cultural heritage of the state is among the most important assets of the state and furthermore that the social, economic and physical development of contemporary society threatens to destroy the remaining vestiges of this heritage. It is therefore declared to be the public policy and in the public interest of this state to engage in a comprehensive program of historic preservation to promote the use and conservation of such property representative of both the rural and urban heritage of the state for education, inspiration, pleasure and enrichment of the citizens of this state.

History: 1987 a. 395 s. 24.

44.31 Definitions. In this subchapter:

(1) "Adverse effect" means any of the following:

(a) Physical destruction, damage or alteration of any part of a property which would adversely affect the historic significance of that property.

(b) Isolation of a property from or alteration of the character of the property's setting when that character contributes to the property's qualification as a listed property.

(c) Introduction of visual, audible or atmospheric elements that are out of character with a property or alter its setting.

(d) Neglect of a property resulting in its deterioration or destruction.

(1m) "Director" means the director of the historical society.

(2) "Historic preservation" means the research, protection, restoration and rehabilitation of historic properties.

(3) "Historic property" means any building, structure, object, district, area or site, whether on or beneath the surface of land or water, that is significant in the history, prehistory, architecture, archaeology or culture of this state, its rural and urban communities or the nation.

(4) "Listed property" means property which is listed on the national register of historic places in Wisconsin or the state register of historic places, or both.

(5) "National register of historic places in Wisconsin" means those places in Wisconsin which are listed on the national register of historic places maintained by the U.S. department of the interior.

(6) "Political subdivision" means a city, village, town or county.

(7) "Officer" means the state historic preservation officer.

(8) "Owned or leased" includes:

(a) An ownership interest involving the holding of title.

(b) A leasehold interest.

(c) Ownership of a beneficial interest.

(d) Any beneficial use not involving the holding of title.

(10) "State agency" means any office, department, independent agency, or attached board or commission within the executive branch of state government, or any special purpose authority created by statute.

(11) "State review board" means the historic preservation review board.

(12) "Wisconsin inventory of historic places" or "the inventory" means the listing of places that have been identified by the officer as being of some historic significance.

History: 1987 a. 395 ss. 25 to 27, 35; 1989 a. 31.

44.32 Officer. The director or his or her designee shall serve as the state historic preservation officer.

History: 1987 a. 395 s. 28.

44.33 Duties of the state review board. The state review board shall:

(1) Approve, upon the recommendation of the officer, nominations to the national register of historic places in Wisconsin and the state register of historic places.

(2) Review the state surveys and inventories of historic properties undertaken under s. 44.34.

(3) Review and approve the content of the state preservation plan developed under s. 44.34.

(4) Review and approve the distribution of federal grants−in−aid for preservation.

(5) Recommend the removal of properties from the national register of historic places in Wisconsin or the state register of historic places.

(6) Act in an advisory capacity to the state historical society.

(7) Notify planning departments of affected political subdivisions, local landmarks commissions and local historical societies regarding properties being considered for nomination to the national register of historic places in Wisconsin or the state register of historic places that are within their jurisdictions, and request them to forward comments regarding nominations from affected neighborhood groups, public bodies and interested citizens.

History: 1987 a. 395 s. 29.

44.34 Duties of the state historical society. The state historical society shall:

(1) Conduct an ongoing statewide survey to identify and document historic properties, including all those owned by the state, its instrumentalities and political subdivisions.

(2) Prepare, update and maintain the Wisconsin inventory of historic places.

(3) Maintain, publish and disseminate the national and state registers of historic places in Wisconsin and lists or descriptions of properties in the national and state registers of historic places in Wisconsin which may be of interest to the general public.

(4) Serve as the state's principal agency for administration of historic preservation activities and programs of the federal government and maintain the state's eligibility to participate in the programs.

(5) Prepare the state preservation plan and annually review it.

(6) Undertake a program of technical assistance to localities and private parties in furtherance of local and private historic preservation programs.

(7) Administer and distribute grants−in−aid using federal funds in furtherance of preservation and restoration of historic properties in accordance with federal law and regulations of the federal government.

(8) Cooperate with federal, state, and local government agencies in the planning and conduct of specific undertakings affecting historic properties and preservation objectives, and in overall land use planning.

(9) Cooperate with local landmarks commissions and historical societies in coordinating their activities with the state plan and programs for historic preservation.

(10) Review and comment upon those actions of any state agency or political subdivision which may have an adverse effect upon historic properties and ameliorate the adverse effects, if any, in the manner specified in ss. 44.39 to 44.42.

(11) Certify historic preservation ordinances.

(12) Prepare and distribute to all cities, villages and counties, no later than January 1, 1992, a model historic preservation ordinance.

History: 1987 a. 395 s. 30; 1989 a. 290; 1991 a. 39; 1999 a. 9; 2001 a. 16.

44.36 State register of historic places. (1) STATE REGISTER. The state historical society shall maintain, publish and disseminate the state register of historic places.

(2) CRITERIA OF SIGNIFICANCE. (a) The state register of historic places shall include districts, sites, buildings, structures and objects which are significant in national, state or local history, architecture, archaeology, engineering and culture. The quality of significance is present in districts, sites, buildings, structures and objects that possess integrity of location, design, setting, materials, workmanship, feeling and association and that satisfy any of the following conditions:

1. Association with events that have made a significant contribution to the broad patterns of history.

2. Association with the lives of persons significant in the past.

3. Embodiment of the distinctive characteristics of a type, period or method of construction or that represent the work of a master or that possess high artistic values.

4. Representation of a significant and distinguishable entity whose components may lack individual distinction.

5. Yielding, or likely to yield, information important in prehistory or history.

(b) No cemetery, birthplace or grave of a historical figure, property owned by a religious institution or used for religious purposes, reconstructed historic building, property primarily commemorative in nature or property that has achieved significance within the past 50 years may be considered eligible for the state register of historic places unless it is an integral part of a district that meets the criteria of significance under par. (a) or unless it falls within at least one of the following categories:

1. A religious property deriving primary significance from architectural or artistic distinction or historical importance.

2. A birthplace or grave of a historical figure of outstanding importance if there is no appropriate site or building directly associated with his or her productive life in the vicinity of that birthplace or grave.

3. A cemetery which derives its primary significance from the grave of a person of transcendent importance, age, distinctive design features or association with historic events.

4. A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan and when no other building or structure with the same association has survived.

5. A property primarily commemorative in intent if design, age, tradition or symbolic value has invested it with its own exceptional significance.

6. A property achieving significance within the past 50 years if it is of exceptional importance.

(3) PROCEDURES. The state historical society shall promulgate by rule procedures for nominations to and removals from the state register of historic places. The procedures shall be consistent with and, to the extent possible, shall be coordinated with the procedures for nominations to and removals from the national register of historic places maintained by the U.S. department of the interior. The rules shall include standards for documenting nominations to the state register.

(4) NOMINATIONS. (a) Any person may nominate a district, site, building, structure or object to the state register of historic places.

(b) The state historical society may reject any nomination which is not adequately documented.

(c) A nomination to the state register of historic places does not constitute a nomination to the national register of historic places.

(5) STATE REGISTER OF HISTORIC PLACES. (a) The state historical society shall include in the state register of historic places:

1. Any property listed in the national register of historic places in Wisconsin on January 1, 1989.

2. Any property nominated and approved under this section.

3. Any property nominated under this section if the nomination is accompanied by a request for interim listing and the officer determines, based on evidence submitted with the nomination, that the state review board is reasonably likely to approve the nomination under s. 44.33 (1). An interim listing under this subdivision expires on the first day of the 12th month after it is first included in the state register of historic places and is not renewable.

(b) The list of properties in the state register of historic places is not a rule under s. 227.01 (13). The state historical society shall publish the list of properties on the state register of historic places in the Wisconsin administrative code as an appendix to the rules promulgated under this section.

History: 1987 a. 395.

44.39 State agency cooperation. (1) LEAD AGENCY. The state historical society shall serve as the central unit of state government to coordinate the activities of all state agencies in connection with historic properties, to serve as the repository of information concerning historic properties owned or leased by the state, to collect and disseminate to state agencies information concerning appropriate means for managing and improving historic properties and to take any other action necessary to implement this section and ss. 44.40 and 44.41.

(2) IDENTIFICATION OF AFFECTED STATE AGENCIES. The state historical society shall identify every state agency which has any power or duty under s. 44.40 or 44.41 and shall notify each identified state agency of its powers and duties.

(3) APPOINTMENT OF STATE AGENCY HISTORIC PRESERVATION OFFICER; DUTIES. Every state agency notified under sub. (2) shall appoint one of its employees or officers, who has authority in the agency to affect the management of that agency's resources and to directly influence that agency's decision making, to serve as that agency's historic preservation officer. That state agency historic preservation officer shall coordinate all functions of that state agency related to historic properties and shall serve as the liaison between that state agency and the state historical society.

(4) COOPERATION. All state agencies shall cooperate with each other and with the state historical society to achieve the objectives of ss. 44.39 to 44.41.

(5) WAIVER OF COMPLIANCE. (a) If the department of health services or the department of corrections determines that public safety may be jeopardized by compliance with any requirement of this section or s. 44.40 or 44.41, the department may request a waiver of compliance from the building commission. The building commission may grant the waiver of compliance.

(b) If a waiver of compliance is granted by the building commission under par. (a), the applicable agency shall notify the officer of any proposed action to be taken under the waiver that may affect a historic property. The officer shall be notified at least 30 days before the proposed action is taken and, during the period before the proposed action is taken, the applicable agency shall allow the historical society to document the condition of the historic property.

History: 1987 a. 395; 1989 a. 31; 1995 a. 27 ss. 1993j, 9126 (19); 2007 a. 20 s. 9121 (6) (a).

44.40 State agency decisions; negotiation. (1) Each state agency shall consider whether any proposed action of the state agency will affect any historic property that is a listed property, on the inventory or on the list of locally designated historic places under s. 44.45. If the state agency determines that its proposed action will affect any historic property, it shall notify the officer.

(1m) The historical society and a state agency notified under s. 44.39 (2) jointly shall identify actions of the state agency that may cause or permit an adverse effect on historic property including, but not limited to, any state agency action that involves the exercise of state agency authority in the issuance of a permit, license, authorization, variance or exception or in any grant of financial assistance and any state agency action related to property owned by the state agency or related to its long−range planning and facilities development.

(2) (a) Upon receipt of a notice under sub. (1) the officer shall determine whether the proposed action will have an adverse effect upon a historic property that is any of the following:

1. A listed property.

2. On the inventory.

3. On the list of locally designated historic places under s. 44.45.

(b) The officer shall make the determination under par. (a) within 30 days of receipt of the notice under sub. (1) or notify the state agency that an extension of time, not to exceed 30 days, is necessary to make the determination. If the officer notifies the state agency of an extension, he or she shall include in the notice the reasons for the extension.

(3) If the officer determines under sub. (2) that the proposed action will have an adverse effect on the historic property, the officer may require negotiations with the state agency to reduce such effects. If the negotiations result in an agreement as to the means of reducing such effects, the agreement shall be incorporated into the state agency's proposed action. The officer shall prepare a written report on the effects and the status of all negotiations. The officer shall submit the report to the governor and to the chief clerk of each house of the legislature for distribution to the appropriate standing committees under s. 13.172 (3).

(4) A state agency may deny or impose conditions on a permit, license, authorization, variance, exception or award of financial assistance identified under sub. (1m) in order to reduce any adverse effect on historic property.

(5) This section does not apply to any state agency action which is subject to 16 USC 461 to 470mm.

History: 1989 a. 31.

44.41 Protection and use of state agency property. (1) LONG−RANGE PLANS. Each state agency which owns listed property shall develop a long−range plan for the management, preservation and improvement of that property. The state agency shall develop the long−range plan as part of the long−range public building program under s. 13.48. The long−range plan shall, to the greatest possible extent, result in preservation of that property.

(2) USE OF LISTED PROPERTY. Before purchasing or constructing a building which is not a listed property, each state agency shall consider using a building which is listed property. A state agency shall use such a building to the maximum extent feasible if the building is appropriate for or can be adapted to meet the needs of the state agency, can be acquired and occupied at a cost which is within the budget of the state agency, is at an appropriate location and meets other requirements of the state agency.

(3) PROTECTION OF LISTED PROPERTY. If a state agency transfers or sells any listed property, it shall reserve a conservation easement under s. 700.40, to be transferred to and held by the state historical society, which secures the right of the historical society to preserve and maintain that property. The state historical society shall establish a form for that conservation easement and provide copies of that form to every state agency.

History: 1987 a. 395; 1989 a. 56.

44.42 Negotiations with political subdivisions and school boards. (1) Upon receipt of a notice from a political subdivision under s. 66.1111 (4) or a school board under s. 120.12

(21) concerning a proposed action affecting a historic property, the officer shall determine whether the action would have an adverse effect upon a historic property which is:

(a) A listed property.

(b) On the list of locally designated historic places under s. 44.45.

(2) The officer shall, within 30 days of receipt of the notice under s. 66.1111 (4) or 120.12 (21), reach a determination under sub. (1) or notify the political subdivision or school board in writing that an extension of time, not to exceed 30 additional days, will be required to make adequate determinations and the reasons for requiring the extension. If the officer determines that the proposed action which is the subject of that notice will have an adverse effect on the property which would be subject to that action, the officer may require negotiations with the political subdivision or school board proposing such action in an attempt to reduce such effects. If the negotiations result in an agreement as to the means of reducing such effects, that agreement shall be incorporated into the proposed action of the political subdivision or school board. The officer shall prepare a written report on the effects and the status of all negotiations. The officer shall submit the report to the governor and to the chief clerk of each house of the legislature for distribution to the appropriate standing committees under s. 13.172 (3).

History: 1987 a. 395; 1989 a. 31; 1991 a. 39; 1999 a. 150 s. 672.

44.44 Certification of historic preservation ordinances. (1) The state historical society shall certify a historic preservation ordinance if the ordinance does all of the following:

(a) Contains criteria for the designation, on the register of a political subdivision, of historic structures and historic districts which are substantially similar to the criteria for inclusion in the national register of historic places in Wisconsin.

(b) Provides a procedure for the designation of historic structures or historic districts which includes, at a minimum, a nomination process, public notice of nominations and an opportunity for written and oral public comment on nominations.

(c) Provides for the exercise of control by a political subdivision by ordinance, to achieve the purpose of preserving and rehabilitating historic structures and historic districts.

(d) Creates a historic preservation commission in the political subdivision.

(2) The owner of a building designated as a historic building on the register of historic property of a political subdivision shall provide any information or materials regarding the ordinance which are requested by the state historical society in determining whether to certify the ordinance.

History: 1987 a. 395 s. 32.

44.45 List of locally designated historic places. (1) DEFINITION. In this section, "list" means the list of locally designated historic places under sub. (2).

(2) PUBLICATION OF LIST. The state historical society shall maintain, publish and disseminate a list of locally designated historic places. The list may include any listed property.

(3) CONTENTS OF LIST. If a political subdivision has a historic preservation ordinance which is certified under s. 44.44, that political subdivision may submit to the state historical society information on any historic place which it has designated. If the process for designating that place complies with that ordinance, the state historical society shall include that place on the list.

(4) PROMULGATION OF LIST. (a) The state historical society shall establish the form on which a political subdivision submits information under sub. (3).

(b) The list is not a rule under s. 227.01 (13). The state historical society shall publish the list as an appendix to the rules promulgated under s. 44.36.

(c) The state historical society shall update the list as necessary to add additional locally designated historic places to the list or to delete designations which do not meet the requirements of this section.

History: 1987 a. 395; 2007 a. 97.

44.47 Field archaeology. This state reserves to itself the exclusive right and privilege of field archaeology on state sites, and establishes regulations for field archaeology on sites owned by political subdivisions, in order to protect and preserve archaeological and scientific information, matter and objects. It is a declaration of legislative intent that persons practicing field archaeology on privately owned land are encouraged to pursue their field archaeology in accordance with this section, and that the looting of all archaeological remains be strongly discouraged. Persons having knowledge of the location of archaeological sites are encouraged to communicate such information to the state archaeologist. This section is not intended to burden persons who wish to use state public property for recreational and other lawful purposes or to unnecessarily restrict the use of state public property.

(1) DEFINITIONS. As used in this section:

(a) "Archaeological methods" means scientific procedures used in field archaeology by recognized professional authorities on archaeology.

(b) "Archaeological site" means any land or the bed of any stream or lake where there are objects or other evidence of archaeological interest, aboriginal mounds and earthworks, ancient burial grounds, prehistoric and historical ruins, Indian mounds, historic and prehistoric watercraft and associated objects, aircraft and other archaeological and historical features.

(c) "Data" means field notes, photographs, maps and other records relating to field archaeology.

(d) "Field archaeology" means the study of the traces of human culture by means of surveying, digging, sampling, excavating or removing objects.

(e) "Local site" or "local archaeological site" means an archaeological site owned by a political subdivision.

(f) "Object" means an article, implement or other item of archaeological interest. "Object" does not include human remains, as defined in s. 157.70 (1) (f), or a sunken log, as defined in s. 170.12 (1) (b).

(g) "Scientific institutions" means museums, historical societies, foundations for archaeological study, state agencies and scholarly groups with professional standing and physical facilities for the display, study and preservation of objects of archaeological interest.

(h) "State site" or "state archaeological site" means an archaeological site owned by this state.

(i) "Submerged cultural resource" means an archaeological site or historic property that is located beneath the surface of a lake or stream.

(2) UNLICENSED FIELD ARCHAEOLOGY PROHIBITED. No person other than the state archaeologist and individuals licensed by the director may engage in any field archaeology on any state site or site owned by a political subdivision.

(3) STATE ARCHAEOLOGIST. (a) *Appointment.* The state archaeologist shall be a qualified archaeologist residing in this state and shall be appointed by the director.

(b) *Duties and powers of state archaeologist.* The state archaeologist shall:

1. Sponsor, engage in and direct fundamental research into the archaeology of this state and encourage and coordinate archaeological research and investigation undertaken within the state.

2. Cooperate with other state agencies and political subdivisions which have authority in areas where archaeological sites are located, or which have the responsibility for marking sites or arranging for their being viewed by the public.

3. Encourage the preservation of archaeological sites located on privately owned property.

4. Protect objects of archaeological significance discovered by field archaeology at state sites or discovered during the course

of any public construction or demolition work on state sites, and encourage the protection of such objects discovered during the course of any other construction or demolition work.

5. Cooperate with the historical society, public and private institutions of higher education in this state, and other custodians to preserve objects of archaeological significance, together with the data relating thereto.

6. Encourage the dissemination of archaeological facts through the publication of reports of archaeological research conducted within the state.

7. Approve permits for qualified persons to engage in field archaeology as provided in sub. (4) and to otherwise carry out and enforce this section.

8. Administer the state archaeology program under s. 44.48 (2).

(4) PERMITS. (a) The director, acting as an agent of this state, may issue upon such terms and conditions, including restriction to a specific state site on land, as he or she designates, to a qualified natural person approved by the state archaeologist, a permit to engage in field archaeology on state sites and sites owned by political subdivisions. If a state site or the area described in an application is under the jurisdiction of any other state agency or if the field archaeology to be licensed interferes with a project of any other state agency, the director shall first obtain the approval of that state agency. The director may not issue a permit for field archaeology on a site owned by a political subdivision without the written approval of the political subdivision which owns the site. No state agency or political subdivision may withhold that approval without good cause. The director by rule may establish fees for processing applications, for permits or for renewal of permits.

(b) If a site is located on privately owned land, any person wishing to dig or excavate at such a site is strongly encouraged to secure a permit under this section. The applicant for a permit must submit the written consent of the owner.

(c) The director may waive sub. (3) (b) 7. in an emergency in which objects of archaeological interest are found in the course of construction or demolition work, or in other situations in which time is of the essence to save objects or gather data.

(d) The director, upon the recommendation of the state archaeologist, the state agency administering the state site or the political subdivision which owns the site, may revoke or suspend a permit because of the improper conduct of the permittee, the use of improper or substandard archaeological methods or for other good cause.

(5) OWNERSHIP, CUSTODY AND USE OF OBJECTS AND DATA. Except as provided in sub. (5r) and s. 170.12, the state reserves to itself the title to all objects found and data gathered in field archaeology on state sites. Although a permit may name a custodian other than the historical society, title to the objects and data discovered at state sites is reserved to the historical society as trustee for the state. Physical possession of such objects shall revert to the state if such custodian ceases to exist, or if the director, on the recommendation of the state archaeologist, finds that the custodian is not properly caring for them or keeping them conveniently available for study by students of archaeology.

(5m) SUBMERGED CULTURAL RESOURCES. (a) There is established, to be administered by the historical society and department of natural resources, a program for submerged cultural resources of this state.

(b) The historical society, in consultation with the department of natural resources, shall coordinate the activities of the state relating to the preservation, management and public use of submerged cultural resources. The historical society may enter into agreements with federal and state agencies, political subdivisions and nonprofit organizations regarding the preservation, management and use of submerged cultural resources and the management of bottomland preserves. On or before February 1 of each odd−numbered year, the historical society shall submit a report to the governor and to the chief clerk of each house of the legislature, for distribution to the appropriate standing committees under s. 13.172 (3), on submerged cultural resources activities and implementation of this subsection.

(c) The historical society and department of natural resources may by rule designate areas of the bed of any stream or lake as bottomland preserves, for the purpose of enhancing preservation, management and public use of any submerged cultural resources within the bottomland preserve. A bottomland preserve may encompass more than one object or archaeological site.

(d) Before designation of an area as a bottomland preserve, the historical society shall consider all of the following:

1. If the preserve will provide preservation, management and public use of submerged cultural resources.

2. The extent to which an inventory of submerged cultural resources has been conducted for the area within the proposed bottomland preserve.

3. Whether a plan has been prepared for the management of submerged cultural resources within the proposed bottomland preserve and for the recreational management and development of the proposed bottomland preserve.

4. The existence of an entity that will assume responsibility for the management of the bottomland preserve.

5. The availability of existing or planned facilities necessary for recreational uses of the bottomland preserve, including roads, boat landings, marinas, boat and diving charter services, hotels, medical decompression facilities and rescue agencies.

(e) The historical society and department of natural resources may promulgate rules relating to the access, use, stewardship, management, protection and recreational development of bottomland preserves, and the preservation, conservation, curation and display of submerged cultural resources and objects removed from underwater archaeological sites.

(5r) SUNKEN LOGS. When reviewing an application to raise and remove sunken logs under s. 170.12, all of the following apply:

(a) If the director determines that a permit is necessary to preserve or protect an identified archaeological site, the director may require that a permit under this section be secured.

(b) In all other cases, the director shall waive the requirement for a permit under this section, but may recommend requirements relating to the gathering of data regarding any activity done pursuant to a permit issued under s. 170.12, which requirements shall be communicated to the board of commissioners of public lands and may be incorporated by that board into the s. 170.12 permit.

(6) COOPERATION OF STATE AGENCIES AND POLITICAL SUBDIVISIONS. All state agencies and political subdivisions whose activities may be affected under this section shall cooperate with the historical society and the state archaeologist to carry out this section.

(7) PENALTIES. (a) 1. Whoever violates sub. (2) or any rules promulgated under sub. (5m) (e) shall forfeit not less than $100 nor more than $500.

2. Whoever intentionally defaces, injures, destroys, displaces or removes any archaeological object or data belonging to the state, or intentionally interferes with evidence or work on any state site or site owned by a political subdivision for which a permit has been issued under this section or intentionally violates any other provision of this section or any rules promulgated under sub. (5m) (e) shall be fined not less than $1,000 nor more than $5,000.

3. Whoever removes any archaeological object from a state site or site owned by a political subdivision for commercial gain in violation of this section or any rules promulgated under sub. (5m) (e) shall forfeit an amount not to exceed 2 times the gross value gained or the gross loss caused by the disturbance, whichever is the greater, plus court costs and the costs of investigation and prosecution, reasonably incurred.

(b) The director may refuse to issue or renew or may suspend or revoke the permit of any person who has violated this section or any rules promulgated under sub. (5m) (e). The director may

refuse to name a school or scientific institution as the custodian of objects or data under any permit or agreement, if that school or scientific institution has failed in its duty to care for and preserve objects or data belonging to the state or has failed to make such objects or data conveniently available to the public.

(8) REVIEW BOARD. Appeals from decisions of the director shall be made to a review board composed of 3 persons: a member of the Wisconsin archaeological society, a member of the Wisconsin archaeological survey, and a member of the board of curators of the historical society. Each board member shall be chosen by the organization which the board member represents and shall serve without compensation. The review board shall submit its recommendations on all appeals to the board of curators of the historical society for final decision.

(9) HUMAN BURIAL SITES. If a permit is required for field archaeology activities at a human burial site under s. 157.70, this section applies to any objects not related to the burial except that a permit is not required under this section.

History: 1975 c. 365; 1985 a. 316; 1987 a. 395 ss. 12 to 16, 39; Stats. 1987 s. 44.47; 1991 a. 39, 206, 269, 315, 316; 1997 a. 27.

This section applies to vessels and their contents, located on state sites, if the vessels or contents have archaeological interest, except when federal admiralty law takes precedence or when the vessel or object is properly claimed by the owner as specified in s. 20.909 or ss. 170.07 to 170.10. 59 Atty. Gen. 18.

Wisconsin Shipwrecks: Finders Keepers? Whipple & Whipple. Wis. Law. Sept. 2001.

44.48 Archaeological resources. (1) MAPPING. (a) The state historical society shall prepare maps of the archaeological resources of this state.

(b) Using the best methods practicable with the funds available for that purpose, the state historical society shall prepare:

1. Initial archaeological resources maps based on currently available information.

2. Updated archaeological resources maps based on any additional information that is available, including onsite surveys.

(c) The director may keep any specific information regarding archaeological resources closed to the public if the director determines that disclosure of the information would be likely to result in disturbance of the archaeological resources.

(2) STATE ARCHAEOLOGY PROGRAM. The state historical society shall establish and administer a state archaeology program. The state historical society may designate qualified archaeologists or institutions to undertake on behalf of the historical society specified archaeological surveys, studies, excavations or other activities. The state historical society may designate regions of the state within which the designated archaeologists or institutions may work.

History: 1987 a. 395.