



2003 ASSEMBLY BILL 499

September 8, 2003 - Introduced by Representatives SCHOOFF, SHILLING, McCORMICK, SUDER, RICHARDS, BERCEAU, BALOW, HUBER, J. LEHMAN and PLOUFF, cosponsored by Senators ROBSON, PLALE, SCHULTZ, RISSER, LASSA and HANSEN. Referred to Committee on Tourism.

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

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1 business and downtown areas, the construction of major highway projects
2 involving a bypass, granting rule-making authority, and making an
3 appropriation.

Analysis by the Legislative Reference Bureau

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

HISTORIC BUILDINGS

State Historic Building Code

Current law authorizes the Department of Commerce (department) to regulate the preservation and restoration of qualified historic buildings. A qualified historic building is a building that is listed on the national or state register of historic places, or a certified local register of historic property, or that is located in a district that is listed on the national or state register of historic places and is of historical significance to the district. Current law permits the department, in consultation with the Historic Building Code Council, to promulgate a historic building code that provides specific standards for the preservation or restoration of qualified historic buildings, while still providing for the health, safety, and welfare of occupants of and visitors to historic buildings. In addition, to permit the preservation or restoration of qualified historic buildings, the department may grant a variance from any rule promulgated under the chapters of the statutes relating to the regulation of industry, buildings, and safety or the regulation of plumbing, fire protection systems, and swimming pools.

With certain exceptions, the owner of a qualified historic building may elect to be subject to the State Historic Building Code. With limited exceptions, an owner who makes this election is exempt from any provision of any other building code, including a local building code, that concerns a matter that is dealt with in the State Historic Building Code. Although current law does not contain an administrative procedure designed specifically to determine whether an owner is entitled to this exemption, current law does contain a procedure that an owner may follow to resolve any conflicts between a local order and any order of the department that relates to the safety of places of employment or certain buildings that are open to the public (public buildings).

This bill specifies that the State Historic Building Code must be liberally interpreted to facilitate the preservation and restoration of qualified historic buildings. The bill also creates a specific administrative procedure for determining the extent to which a provision in a local building code applies to a qualified historic building. The bill permits the owner of a qualified historic building who has elected to be governed by the State Historic Building Code to request that the department review any decision of a local governmental unit that requires the owner to comply

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

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

Historic preservation in local governmental units

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

Historic rehabilitation tax credit

Under current law, a person who is eligible to claim a federal income tax credit equal to either 10% of qualified expenses related to rehabilitating a qualified building in this state or 20% of qualified expenses related to rehabilitating historic property in this state may also claim a supplemental state income or franchise tax credit that is equal to 5% of such qualified expenses.

Under the bill, for taxable years beginning in 2004, a person who is not eligible to claim the federal rehabilitation tax credit because the person's qualified expenses do not satisfy the adjusted-basis requirement under federal law may claim the supplemental state rehabilitation credit, if the person's qualified expenses are at least \$10,000 and the rehabilitation is approved, and the expenses are certified, by the state Historical Society. In addition, a person who would otherwise be eligible to claim the federal rehabilitation tax credit, except that the rehabilitated property is not a certified historic structure as defined under the Internal Revenue Code, may claim the supplemental state rehabilitation credit in an amount equal to 20% of qualified expenses, if the rehabilitated property is located in a certified downtown

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or is included in a business area revitalization under the State Main Street Program and the state Historical Society approves the rehabilitation. The state Historical Society may charge and collect a fee for such certifications in an amount equal to 1% of the qualified expenses, but not less than \$150 nor more than \$10,000.

Under current law, a person may claim an income tax credit equal to 25% of the qualified expenses to preserve or rehabilitate historic property that is used as an owner-occupied personal residence. The state Historical Society certifies such expenses.

Under this bill, for taxable years beginning in 2004, a person who would otherwise be eligible to claim the state income tax credit for preserving or rehabilitating historic property, except that the preserved or rehabilitated property is not historic property, may claim the state income tax credit in an amount equal to 30% of qualified expenses, if the preserved or rehabilitated property is located in a certified downtown or is included in a business area revitalization under the State Main Street Program and the state Historical Society approves the preservation or rehabilitation. The state Historical Society may charge and collect a fee of \$150 for certifying such expenses.

Under current law, if a person who claims the income tax credit for qualified expenses to preserve or rehabilitate an owner-occupied personal residence sells the property within five years from the date on which the preservation or rehabilitation is completed, or if the state Historical Society determines that the preservation or rehabilitation does not comply with the standards established by the society, the person who claimed the tax credit must pay to the state all, or a portion, of the amount of the credit that the person received, depending on the date on which the person sold the property or on the date on which the preservation or rehabilitation does not comply with state Historical Society standards.

Under this bill, if a person who claims the supplemental state income or franchise tax credit for qualified expenses related to preserving or rehabilitating historic property in this state sells the property within five years from the date on which the preservation or rehabilitation is completed, or if the state Historical Society determines that the preservation or rehabilitation does not comply with the standards established by the society, the person who claimed the tax credit must pay to the state all, or a portion, of the amount of the credit that the person received, depending on the date on which the person sold the property or the date on which the preservation or rehabilitation does not comply with state Historical Society standards.

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

This bill requires the department to develop and publish guidelines to aid communities in reconstructing central business districts that are destroyed or severely damaged in major disasters. The bill also requires the department to promulgate rules pursuant to which the department will certify downtowns. In addition, under the bill, the Department of Tourism must promote travel to these certified downtowns and to business areas that are or have been the subject of

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

Currently, the Building Commission submits biennial recommendations to the legislature for revisions to the long-range state building program. No state agency or authority may engage any person to undertake construction of a building for the agency costing more than \$100,000 without prior approval of the commission. In addition, the commission has authority to lease land and buildings to be used for state purposes unless that authority is granted by law to another state agency.

This bill provides that the commission shall not authorize construction of any state office building to be located outside of a downtown area certified by the Department of Commerce as required under the bill, unless the cost of locating the building inside such a downtown area is more than 10% greater than the average cost of locating the building in that portion of the geographic area that is served by the functions to be performed in the building on the date of initial occupancy outside of such a downtown area, as determined by the Department of Administration (DOA). The bill also provides that the commission, in preparing its recommendations for the long-range building program, shall not recommend construction of a state office building to be located outside of such a downtown area, unless the commission would be authorized to permit construction of that building in the recommended location. In addition, the bill prohibits the commission from approving the lease of any building for state office facilities to be located outside of such a downtown area unless the cost of locating the facilities inside such a downtown area is more than 10% greater than the average cost of locating the facilities in that portion of the geographic area that is served by the functions to be performed in the facilities on the date of initial occupancy under the lease outside of such a downtown area, as determined by DOA.

This bill imposes additional requirements relating to highway projects that are funded by the Department of Transportation (DOT) and that involve a highway in a business area included in the State Main Street Program or in a downtown certified by the Department of Commerce. First, DOT must consult, during preliminary stages of a proposed highway project, on issues concerning the proposed project and its effect on the business or certified downtown area with the Department of Commerce and, unless none exists, with a local board or downtown planning organization of that municipality. Second, DOT must give priority to retaining any on-street parking with respect to a highway-widening project in a business or certified downtown area.

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

MAJOR HIGHWAY PROJECTS

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

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

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

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 13.48 (7) of the statutes is amended to read:

2 13.48 (7) BIENNIAL RECOMMENDATIONS. The building commission shall prepare
3 and formally adopt recommendations for the long-range state building program on
4 a biennial basis. The building commission shall include in its report any projects
5 proposed by the state fair park board involving a cost of not more than \$250,000,
6 together with the method of financing those projects proposed by the board, without
7 recommendation. Unless a later date is requested by the building commission and
8 approved by the joint committee on finance, the building commission shall, no later
9 than the first Tuesday in April of each odd-numbered year, transmit the report
10 prepared by the department of administration under s. 16.40 (20) and the
11 commission's recommendations for the succeeding fiscal biennium that require

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

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

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

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

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

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

3 **SECTION 4.** 41.11 (1) (bm) of the statutes is created to read:

4 41.11 (1) (bm) Promote travel to business areas that are or have been the
5 subject of revitalization efforts under the State Main Street Program under s.
6 560.081 or that are certified downtowns under s. 560.03 (21m).

7 **SECTION 5.** 44.02 (24) of the statutes is renumbered 44.02 (24) (a).

8 **SECTION 6.** 44.02 (24) (b) of the statutes is created to read:

9 44.02 (24) (b) Charge a fee of \$150 for a certification under par. (a). The
10 historical society shall collect the fee under this paragraph when an applicant
11 applies for certification under par. (a).

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

13 44.02 (24d) (a) Promulgate by rule procedures, standards, and forms necessary
14 to certify, and shall certify, expenditures for preservation or rehabilitation of historic
15 property for the purposes of ss. 71.07 (9m) (a) and (cm), 71.28 (6) (a) and (cm), and
16 71.47 (6) (a) and (cm). Such standards shall be substantially similar to the standards
17 used by the secretary of the interior to certify rehabilitations under 26 USC 47 (c) (2).

18 (b) Charge a fee for a certification under par. (a) equal to 1% of the qualified
19 rehabilitation expenditures for the historic property that is the subject of the
20 certification, except that no fee under this paragraph may be less than \$150 nor more
21 than \$10,000. The historical society shall collect the fee under this paragraph when
22 an applicant applies for certification under par. (a).

23 **SECTION 8.** 59.69 (4m) of the statutes is amended to read:

24 59.69 (4m) HISTORIC PRESERVATION. A county, as an exercise of its zoning and
25 police powers for the purpose of promoting the health, safety and general welfare of

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1 the community and of the state, may regulate by ordinance any place, structure or
2 object with a special character, historic interest, aesthetic interest or other
3 significant value, for the purpose of preserving the place, structure or object and its
4 significant characteristics. The county may create a landmarks commission to
5 designate historic landmarks and establish historic districts. The county may
6 regulate all historic landmarks and all property within each historic district to
7 preserve the historic landmarks and property within the district and the character
8 of the district, and shall interpret the county's regulations liberally to facilitate the
9 preservation and restoration of historic buildings and structures.

10 **SECTION 9.** 60.64 of the statutes is amended to read:

11 **60.64 Historic preservation.** The town board, in the exercise of its zoning
12 and police powers for the purpose of promoting the health, safety and general welfare
13 of the community and of the state, may regulate any place, structure or object with
14 a special character, historic interest, aesthetic interest or other significant value for
15 the purpose of preserving the place, structure or object and its significant
16 characteristics. The town board may create a landmarks commission to designate
17 historic landmarks and establish historic districts. The board may regulate all
18 historic landmarks and all property within each historic district to preserve the
19 historic landmarks and property within the district and the character of the district,
20 and shall interpret the board's regulations liberally to facilitate the preservation and
21 restoration of historic buildings and structures.

22 **SECTION 10.** 62.23 (7) (em) of the statutes is amended to read:

23 62.23 (7) (em) *Historic preservation.* A city, as an exercise of its zoning and
24 police powers for the purpose of promoting the health, safety and general welfare of
25 the community and of the state, may regulate by ordinance, or if a city contains any

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1 property that is listed on the national register of historic places in Wisconsin or the
2 state register of historic places shall, not later than 1995, enact an ordinance to
3 regulate, any place, structure or object with a special character, historic,
4 archaeological or aesthetic interest, or other significant value, for the purpose of
5 preserving the place, structure or object and its significant characteristics. A city
6 may create a landmarks commission to designate historic or archaeological
7 landmarks and establish historic districts. The city may regulate, or if the city
8 contains any property that is listed on the national register of historic places in
9 Wisconsin or the state register of historic places shall regulate, all historic or
10 archaeological landmarks and all property within each historic district to preserve
11 the historic or archaeological landmarks and property within the district and the
12 character of the district, and shall interpret the city's regulations liberally to
13 facilitate the preservation and restoration of historic buildings and structures.

14 **SECTION 11.** 71.07 (5m) (a) 4. of the statutes is amended to read:

15 71.07 (5m) (a) 4. "Net tax liability" means a claimant's income tax liability after
16 he or she completes the computations listed in s. 71.10 (4) (a) to ~~(dr)~~ (dm).

17 **SECTION 12.** 71.07 (9m) (a) of the statutes is renumbered 71.07 (9m) (a) 1. and
18 amended to read:

19 71.07 (9m) (a) 1. Any Except as provided in subd. 2., any person may claim as
20 a credit against the taxes otherwise due imposed under this chapter s. 71.02, up to
21 the amount of those taxes, an amount equal to 5% of the costs of qualified
22 rehabilitation expenditures, as defined in section 47 (c) (2) of the internal revenue
23 code Internal Revenue Code, for certified historic structures on property located in
24 this state, if the physical work of construction or destruction in preparation for

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

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

4 71.07 **(9m)** (a) 2. A person who would otherwise be eligible to claim the
5 rehabilitation credit under section 47 of the Internal Revenue Code, except that the
6 rehabilitated property is not a certified historic structure, as defined in section 47 (c)
7 (3) of the Internal Revenue Code, may claim as a credit against taxes imposed under
8 s. 71.02, up to the amount of those taxes, an amount equal to 20% of the costs of
9 qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal
10 Revenue Code, for rehabilitated property in this state, if the rehabilitated property
11 is located in a certified downtown under s. 560.03 (21m) or is included in a business
12 area revitalization under s. 560.081; if the rehabilitation is approved by the state
13 historical society before the physical work of construction, or destruction in
14 preparation for construction, begins; and if the physical work of construction, or
15 destruction in preparation for construction, begins after December 31, 2003.

16 **SECTION 14.** 71.07 (9m) (c) of the statutes is amended to read:

17 71.07 **(9m)** (c) ~~No~~ Except as provided in par. (cm), no person may claim the a
18 credit under this subsection unless the claimant includes with the claimant's return
19 evidence that the rehabilitation was ~~approved~~ recommended by the state historic
20 preservation officer for approval by the secretary of the interior under 36 CFR 67.6
21 before the physical work of construction, or destruction in preparation for
22 construction, began; and the claimant claims the credit for the same taxable year in
23 which the claimant would have claimed the credit for federal purposes.

24 **SECTION 15.** 71.07 (9m) (cm) of the statutes is created to read:

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1 71.07 **(9m)** (cm) A person whose qualified rehabilitation expenditures do not
2 satisfy the adjusted basis requirement under section 47 (c) (1) of the Internal
3 Revenue Code, but who otherwise would be eligible to claim the rehabilitation credit
4 under section 47 of the Internal Revenue Code, may claim the credit under par. (a)
5 1., if the person's qualified rehabilitation expenditures, as defined in section 47 (c)
6 (2) of the Internal Revenue Code, are at least \$10,000; if the rehabilitation is
7 approved by the state historical society before the physical work of construction, or
8 destruction in preparation for construction, begins; if the person includes evidence
9 of such approval with the person's return; and if the person claims the credit for the
10 same taxable year in which the person would have claimed the credit for federal
11 purposes.

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

13 71.07 **(9m)** (g) A person who has incurred qualified rehabilitation
14 expenditures, as defined in section 47 (c) (2) of the Internal Revenue Code, for
15 certified historic structures located in this state, as described in par. (a), but who is
16 not a resident of this state and who is not required to file a return under this chapter,
17 may enter into an agreement with another person, with the department's approval
18 and in the manner prescribed by the department, so that the other person may claim
19 the credit under this subsection, if the other person is subject to the taxes imposed
20 under s. 71.02.

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

22 71.07 **(9m)** (h) A person who receives a credit under this subsection shall add
23 to the person's liability for taxes imposed under s. 71.02 one of the following
24 percentages of the amount of the credits received under this subsection for
25 rehabilitating or preserving the property if, within 5 years after the date on which

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

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

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

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

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

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

16 **SECTION 18.** 71.07 (9r) (a) of the statutes is renumbered 71.07 (9r) (a) 1. and
17 amended to read:

18 71.07 (9r) (a) 1. ~~For Except as provided in subd. 2., for taxable years beginning~~
19 ~~on or after August 1, 1988, any natural person may claim as a credit against the taxes~~
20 ~~otherwise due imposed under s. 71.02, up to the amount of those taxes, an amount~~
21 ~~equal to 25% of the costs of preservation or rehabilitation of historic property located~~
22 ~~in this state, including architectural fees and costs incurred in preparing nomination~~
23 ~~forms for listing in the national register of historic places in Wisconsin or the state~~
24 ~~register of historic places, if the nomination is made within 5 years prior to~~
25 ~~submission of a preservation or rehabilitation plan under par. (b) 3. b., and if the~~

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1 physical work of construction or destruction in preparation for construction begins
2 after December 31, 1988, except that the credit may not exceed \$10,000, or \$5,000
3 for married persons filing separately, for any preservation or rehabilitation project.

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

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

17 **SECTION 20.** 71.07 (9r) (b) 3. a. of the statutes is amended to read:

18 71.07 (**9r**) (b) 3. a. The Except as provided in subd. 3. am., the property is listed
19 on the national register of historic places in Wisconsin or the state register of historic
20 places, or is determined by the state historical society to be eligible for listing on the
21 national register of historic places in Wisconsin or the state register of historic places,
22 or is located in a historic district which is listed in the national register of historic
23 places in Wisconsin or the state register of historic places and is certified by the state
24 historic preservation officer as being of historic significance to the district, or is an

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1 outbuilding of an otherwise eligible property certified by the state historic
2 preservation officer as contributing to the historic significance of the property.

3 **SECTION 21.** 71.07 (9r) (b) 3. am. of the statutes is created to read:

4 71.07 **(9r)** (b) 3. am. If the property does not satisfy the requirements under
5 subd. 3. a., the property is located in a certified downtown under s. 560.03 (21m) or
6 is included in a business area revitalization under s. 560.081.

7 **SECTION 22.** 71.10 (4) (dr) of the statutes is renumbered 71.10 (4) (fm).

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

10 71.28 **(6)** (a) 1. ~~Any~~ Except as provided in subd. 2., any person may claim as a
11 credit against the taxes otherwise due imposed under this chapter s. 71.23, up to the
12 amount of those taxes, an amount equal to 5% of the costs of qualified rehabilitation
13 expenditures, as defined in section 47 (c) (2) of the internal revenue code Internal
14 Revenue Code, for certified historic structures on property located in this state, if the
15 physical work of construction or destruction in preparation for construction begins
16 after December 31, 1988, and the rehabilitated property is placed in service after
17 June 30, 1989.

18 **SECTION 24.** 71.28 (6) (a) 2. of the statutes is created to read:

19 71.28 **(6)** (a) 2. A person who would otherwise be eligible to claim the
20 rehabilitation credit under section 47 of the Internal Revenue Code, except that the
21 rehabilitated property is not a certified historic structure, as defined in section 47 (c)
22 (3) of the Internal Revenue Code, may claim as a credit against taxes imposed under
23 s. 71.23, up to the amount of those taxes, an amount equal to 20% of the costs of
24 qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal
25 Revenue Code, for rehabilitated property in this state, if the rehabilitated property

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1 is located in a certified downtown under s. 560.03 (21m) or is included in a business
2 area revitalization under s. 560.081; if the rehabilitation is approved by the state
3 historical society before the physical work of construction, or destruction in
4 preparation for construction, begins; and if the physical work of construction, or
5 destruction in preparation for construction, begins after December 31, 2003.

6 **SECTION 25.** 71.28 (6) (c) of the statutes is amended to read:

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

14 **SECTION 26.** 71.28 (6) (cm) of the statutes is created to read:

15 71.28 (6) (cm) A person whose qualified rehabilitation expenditures do not
16 satisfy the adjusted basis requirement under section 47 (c) (1) of the Internal
17 Revenue Code, but who otherwise would be eligible to claim the rehabilitation credit
18 under section 47 of the Internal Revenue Code, may claim the credit under par. (a)
19 1., if the person's qualified rehabilitation expenditures, as defined in section 47 (c)
20 (2) of the Internal Revenue Code, are at least \$10,000; if the rehabilitation is
21 approved by the state historical society before the physical work of construction, or
22 destruction in preparation for construction, begins; if the person includes evidence
23 of such approval with the person's return; and if the person claims the credit for the
24 same taxable year in which the person would have claimed the credit for federal
25 purposes.

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1 **SECTION 27.** 71.28 (6) (g) of the statutes is created to read:

2 71.28 (6) (g) A person who has incurred qualified rehabilitation expenditures,
3 as defined in section 47 (c) (2) of the Internal Revenue Code, for certified historic
4 structures located in this state, as described in par. (a), but who is not a resident of
5 this state and who is not required to file a return under this chapter, may enter into
6 an agreement with another person, with the department's approval and in the
7 manner prescribed by the department, so that the other person may claim the credit
8 under this subsection, if the other person is subject to the taxes imposed under s.
9 71.23.

10 **SECTION 28.** 71.28 (6) (h) of the statutes is created to read:

11 71.28 (6) (h) A person who receives a credit under this subsection shall add to
12 the person's liability for taxes imposed under s. 71.23 one of the following
13 percentages of the amount of the credits received under this subsection for
14 rehabilitating or preserving the property if, within 5 years after the date on which
15 the preservation or rehabilitation work that was the basis of the credit is completed,
16 the person either sells or conveys the property by deed or land contract or the state
17 historical society certifies to the department of revenue that the historic property has
18 been altered to the extent that it does not comply with the standards promulgated
19 under s. 44.02 (24d):

20 1. If the sale, conveyance, or noncompliance occurs during the first year after
21 the date on which the preservation or rehabilitation is completed, 100%.

22 2. If the sale, conveyance, or noncompliance occurs during the 2nd year after
23 the date on which the preservation or rehabilitation is completed, 80%.

24 3. If the sale, conveyance, or noncompliance occurs during the 3rd year after
25 the date on which the preservation or rehabilitation is completed, 60%.

ASSEMBLY BILL 499**SECTION 28**

1 4. If the sale, conveyance, or noncompliance occurs during the 4th year after
2 the date on which the preservation or rehabilitation is completed, 40%.

3 5. If the sale, conveyance, or noncompliance occurs during the 5th year after
4 the date on which the preservation or rehabilitation is completed, 20%.

5 **SECTION 29.** 71.47 (6) (a) of the statutes is renumbered 71.47 (6) (a) 1. and
6 amended to read:

7 71.47 (6) (a) 1. ~~Any~~ Except as provided in subd. 2., any person may claim as a
8 credit against ~~the taxes otherwise due imposed under this chapter s. 71.43,~~ up to the
9 amount of those taxes, an amount equal to 5% of the costs of qualified rehabilitation
10 expenditures, as defined in section 47 (c) (2) of the ~~internal revenue code~~ Internal
11 Revenue Code, for certified historic structures on property located in this state, if the
12 physical work of construction or destruction in preparation for construction begins
13 after December 31, 1988, and the rehabilitated property is placed in service after
14 June 30, 1989.

15 **SECTION 30.** 71.47 (6) (a) 2. of the statutes is created to read:

16 71.47 (6) (a) 2. A person who would otherwise be eligible to claim the
17 rehabilitation credit under section 47 of the Internal Revenue Code, except that the
18 rehabilitated property is not a certified historic structure, as defined in section 47 (c)
19 (3) of the Internal Revenue Code, may claim as a credit against taxes imposed under
20 s. 71.43, up to the amount of those taxes, an amount equal to 20% of the costs of
21 qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal
22 Revenue Code, for rehabilitated property in this state, if the rehabilitated property
23 is located in a certified downtown under s. 560.03 (21m) or is included in a business
24 area revitalization under s. 560.081; if the rehabilitation is approved by the state
25 historical society before the physical work of construction, or destruction in

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1 preparation for construction, begins; and if the physical work of construction, or
2 destruction in preparation for construction, begins after December 31, 2003.

3 **SECTION 31.** 71.47 (6) (c) of the statutes is amended to read:

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

11 **SECTION 32.** 71.47 (6) (cm) of the statutes is created to read:

12 71.47 (6) (cm) A person whose qualified rehabilitation expenditures do not
13 satisfy the adjusted basis requirement under section 47 (c) (1) of the Internal
14 Revenue Code, but who otherwise would be eligible to claim the rehabilitation credit
15 under section 47 of the Internal Revenue Code, may claim the credit under par. (a)
16 1., if the person's qualified rehabilitation expenditures, as defined in section 47 (c)
17 (2) of the Internal Revenue Code, are at least \$10,000; if the rehabilitation is
18 approved by the state historical society before the physical work of construction, or
19 destruction in preparation for construction, begins; if the person includes evidence
20 of such approval with the person's return; and if the person claims the credit for the
21 same taxable year in which the person would have claimed the credit for federal
22 purposes.

23 **SECTION 33.** 71.47 (6) (g) of the statutes is created to read:

24 71.47 (6) (g) A person who has incurred qualified rehabilitation expenditures,
25 as defined in section 47 (c) (2) of the Internal Revenue Code, for certified historic

ASSEMBLY BILL 499**SECTION 33**

1 structures located in this state, as described in par. (a), but who is not a resident of
2 this state and who is not required to file a return under this chapter, may enter into
3 an agreement with another person, with the department's approval and in the
4 manner prescribed by the department, so that the other person may claim the credit
5 under this subsection, if the other person is subject to the taxes imposed under s.
6 71.43.

7 **SECTION 34.** 71.47 (6) (h) of the statutes is created to read:

8 71.47 (6) (h) A person who receives a credit under this subsection shall add to
9 the person's liability for taxes imposed under s. 71.43 one of the following
10 percentages of the amount of the credits received under this subsection for
11 rehabilitating or preserving the property if, within 5 years after the date on which
12 the preservation or rehabilitation work that was the basis of the credit is completed,
13 the person either sells or conveys the property by deed or land contract or the state
14 historical society certifies to the department of revenue that the historic property has
15 been altered to the extent that it does not comply with the standards promulgated
16 under s. 44.02 (24d):

17 1. If the sale, conveyance, or noncompliance occurs during the first year after
18 the date on which the preservation or rehabilitation is completed, 100%.

19 2. If the sale, conveyance, or noncompliance occurs during the 2nd year after
20 the date on which the preservation or rehabilitation is completed, 80%.

21 3. If the sale, conveyance, or noncompliance occurs during the 3rd year after
22 the date on which the preservation or rehabilitation is completed, 60%.

23 4. If the sale, conveyance, or noncompliance occurs during the 4th year after
24 the date on which the preservation or rehabilitation is completed, 40%.

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1 5. If the sale, conveyance, or noncompliance occurs during the 5th year after
2 the date on which the preservation or rehabilitation is completed, 20%.

3 **SECTION 35.** 84.013 (3g) of the statutes is created to read:

4 84.013 **(3g)** Before commencing construction of a major highway project that
5 is listed under sub. (3) or approved under sub. (6) and that involves construction of
6 a bypass, the department shall notify the governing body of the city, village, or town
7 in which a majority of the land affected by the proposed bypass is located that the
8 department is authorized to construct such bypass. If, within 90 days after the date
9 of the department's notification, the governing body of the city, village, or town
10 adopts a resolution stating that construction of an active bypass is in the best public
11 interest of the city, village, or town and, within 7 days after adoption of the resolution,
12 sends a copy of the resolution to the department, the department shall design and
13 construct the major highway project as an active bypass. For purposes of this
14 subsection, an "active bypass" is a bypass of an existing highway that is designed and
15 constructed so that access to the bypass requires motorists to exit the existing
16 highway in order to travel upon the bypass. This subsection shall apply to the use
17 of any federal funds only to the extent that such use does not result in the loss of any
18 federal funds. This subsection does not apply to any major highway project that is
19 subject to a contract for its construction and that is in effect on the effective date of
20 this subsection [revisor inserts date].

21 **SECTION 36.** 86.36 of the statutes is created to read:

22 **86.36 Matching funds for local highway projects.** Notwithstanding any
23 other provision of law relating to the funding of local highway projects by the
24 department, if the department provides matching funds to a city, village, town, or
25 county on or after the effective date of this section [revisor inserts date], for a local

ASSEMBLY BILL 499**SECTION 36**

1 highway project involving the construction of one or more lanes of highway, the
2 department shall fund the construction of any lane of highway affected by the project
3 without regard to its designation as a travel lane or a parking lane. This section
4 applies only to local highway projects that involve a highway in a business area that
5 is the subject of revitalization efforts under the State Main Street Program under s.
6 560.081 (2) (e) or in a certified downtown under s. 560.03 (21m). This section shall
7 apply to the use of any federal funds only to the extent that such use does not result
8 in the loss of any federal funds.

9 **SECTION 37.** 86.37 of the statutes is created to read:

10 **86.37 Highway projects involving business and downtown areas. (1)**

11 In this section:

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

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

14 **(2)** In the preliminary stages of considering and planning any highway project
15 to be funded by the department that involves a highway in which a business area that
16 is the subject of revitalization efforts under the State Main Street Program under s.
17 560.081 (2) (e) or a certified downtown under s. 560.03 (21m) is located, the
18 department shall consult on issues concerning the proposed highway project and its
19 effects on the business or certified downtown area with the department of commerce
20 and, unless no such board or organization exists, with the business improvement
21 district board appointed under s. 66.1109 (3) (a), the main street board associated
22 with the State Main Street Program under s. 560.081 (2) (e), or the nonprofit
23 downtown planning organization of that municipality. This subsection does not
24 apply to any highway project for which preliminary engineering was begun before
25 the effective date of this subsection [revisor inserts date].

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

11 **SECTION 38.** 101.121 (3) (c) of the statutes is created to read:

12 101.121 **(3)** (c) The Historic Building Code shall be liberally interpreted to
13 facilitate the preservation and restoration of qualified historic buildings.

14 **SECTION 39.** 101.121 (4) (a) of the statutes is renumbered 101.121 (4) (a) 1.

15 **SECTION 40.** 101.121 (4) (a) 2. of the statutes is created to read:

16 101.121 **(4)** (a) 2. Upon the request of the owner of a qualified historic building
17 who elects under subd. 1. to be subject to the Historic Building Code, the department
18 shall review any decision of a city, village, town, or county that requires the owner
19 to comply with a provision of a county or municipal building code, or of any other local
20 ordinance or regulation, to determine if the provision concerns a matter dealt with
21 in the Historic Building Code. The procedures in s. 101.02 (7) apply to any review
22 conducted by the department under this subdivision.

23 **SECTION 41.** 101.121 (4) (b) of the statutes is amended to read:

24 101.121 **(4)** (b) Paragraph (a) 1. does not apply to any owner of a nursing home,
25 as defined in s. 50.01 (3), a hospital, as defined in s. 50.33 (2) (a) and (c), or an

ASSEMBLY BILL 499**SECTION 41**

1 approved public or private treatment facility for alcoholics, as defined in s. 51.45 (2)
2 (b) and (c).

3 **SECTION 42.** 101.121 (5) of the statutes is created to read:

4 101.121 (5) ADVISORY OPINION OF STATE HISTORICAL SOCIETY. (a) The owner of a
5 qualified historic building may submit to the state historical society a request for an
6 advisory opinion with respect to any decision of the department, or of a city, village,
7 town, or county that is an agent of the department, if the decision pertains to any of
8 the following:

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

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

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

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

17 1. Whether the decision is consistent with this section and the rules
18 promulgated under this section.

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

22 (c) The state historical society may negotiate with the department or the city,
23 village, town, or county and the owner of the qualified historic building to seek
24 agreement on an alternative decision that will allow the greatest possible degree of
25 restoration and preservation of the qualified historic building, while continuing to

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1 meet the standards for the health, safety, and welfare of occupants of and visitors to
2 the qualified historic building.

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

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

7 **SECTION 43.** 101.121 (6) of the statutes is created to read:

8 101.121 (6) INFORMATIONAL PAMPHLET. (a) In cooperation with the state
9 historical society, the department shall develop an informational pamphlet designed
10 to increase awareness and use of the Historic Building Code. The department, in
11 cooperation with the State Historical Society, shall update the pamphlet as statutes
12 and rules relating to the Historic Building Code are amended. The pamphlet shall
13 include all of the following information:

14 1. A description of the Historic Building Code.

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

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

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

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

ASSEMBLY BILL 499**SECTION 43**

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

4 **SECTION 44.** 101.19 (1) (intro.) of the statutes is amended to read:

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

8 **SECTION 45.** 101.975 (4) of the statutes is created to read:

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

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

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

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

23 **SECTION 46.** 254.61 (1) (f) 2. of the statutes is amended to read:

24 254.61 (1) (f) 2. A structural addition, including a renovation, made to a
25 structure that was originally constructed at least 50 years before an initial or

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1 renewal application for a permit under s. 254.64 (1) (b) is made and for which no use
2 other than as a bed and breakfast establishment is proposed. The structural addition
3 under this subdivision shall comply with the rules promulgated under s. 101.63 (1)
4 and (1m).

5 **SECTION 47.** 560.03 (21m) of the statutes is created to read:

6 560.03 **(21m)** (a) Promulgate rules for the certification of downtowns by the
7 department. The rules promulgated under this subsection shall require the
8 department to consider at least all of the following factors with regard to an area
9 being a certified downtown:

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

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

20 **SECTION 48.** 560.083 of the statutes is created to read:

21 **560.083 Central business district reconstruction guidelines.** The
22 department shall develop and publish guidelines to aid communities in
23 reconstructing central business districts that are destroyed or severely damaged in
24 major disasters. The guidelines shall include information on relevant financial and
25 other assistance available to communities from the state government.

ASSEMBLY BILL 499**SECTION 49**

1 **SECTION 49.** 823.21 of the statutes is amended to read:

2 **823.21 Dilapidated buildings declared nuisances.** Any building which,
3 under s. 66.0413 (1) (b) 1., has been declared so ~~old~~, dilapidated or out of repair as
4 to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or has
5 been determined to be unreasonable to repair under s. 66.0413 (1) (b) 1. is a public
6 nuisance and may be proceeded against under this chapter.

7 **SECTION 50. Nonstatutory provisions; legislature.**

8 (1) REALLOCATION OF AUTHORIZED POSITIONS. The secretary of commerce shall
9 reallocate 4.0 FTE GPR positions, funded from the appropriation under section
10 20.143 (1) (a) of the statutes, for the purpose of providing increased staff for the
11 administration of section 560.081 of the statutes.

12 **SECTION 51. Appropriation changes; historical society.**

13 (1) SURVEY OF RURAL HISTORIC BUILDINGS. In the schedule under section 20.005
14 (3) of the statutes for the appropriation to the state historical society under section
15 20.245 (1) (a) of the statutes, as affected by the acts of 2003, the dollar amount is
16 increased by \$75,000 for fiscal year 2003–04 and the dollar amount is increased by
17 \$75,000 for fiscal year 2004–05 for the purpose of entering into a contract for a survey
18 under section 44.34 (1) of the statutes to identify and document historic properties
19 in rural areas of the state.

20 **SECTION 52. Initial applicability.**

21 (1) HISTORIC REHABILITATION TAX CREDITS. The renumbering of sections 44.02
22 (24) and 71.10 (4) (dr) of the statutes; the renumbering and amendment of sections
23 71.07 (9m) (a), 71.07 (9r) (a), 71.28 (6) (a), and 71.47 (6) (a) of the statutes; the
24 amendment of sections 71.07 (5m) (a) 4., 71.07 (9m) (c), 71.07 (9r) (b) 3. a., 71.28 (6)
25 (c), and 71.47 (6) (c) of the statutes; and the creation of sections 44.02 (24) (b), 44.02

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1 (24d), 71.07 (9m) (a) 2., 71.07 (9m) (cm), 71.07 (9m) (g), 71.07 (9m) (h), 71.07 (9r) (a)
2 2., 71.07 (9r) (b) 3. am., 71.28 (6) (a) 2., 71.28 (6) (cm), 71.28 (6) (g), 71.28 (6) (h), 71.47
3 (6) (a) 2., 71.47 (6) (cm), 71.47 (6) (g), and 71.47 (6) (h) of the statutes first apply to
4 taxable years beginning on January 1, 2004.

5

(END)