



ROB SUMMERFIELD

STATE REPRESENTATIVE • 67th ASSEMBLY DISTRICT
MAJORITY CAUCUS CHAIR

January 9, 2024

Representative Brooks, Chair
Members of the Assembly Committee on Housing and Real Estate

Testimony on 2023 Assembly Bill 197, 198, and 199

Chairman Brooks and Committee Members,

Thank you for providing me with the opportunity to testify at today's public hearing on Assembly Bill 197, 198, and 199. I appreciate your time and consideration of this legislation.

Last year, I served as the vice chair of the Study Committee on the Commercial Building Permitting Process. Our committee had a good mix of industry experts, local government representatives, and legislators. All members brought valuable perspectives to the table.

From our very first meeting, it became clear that addressing lag times in the plan review process for commercial buildings was going to be our primary focus. Over the course of four meetings, the committee took up the challenge of trying to make the plan review process more predictable and efficient for all involved, without sacrificing public safety.

Briefly, AB 197 makes a change to the scheduling process for commercial building plans that are reviewed by the state. The change will allow builders to keep preparing building plans while they wait for a plan review appointment. AB 198 will increase the amount of commercial plan review that can be handled at the local level, by increasing building size thresholds for local review. It also requires DSPS to submit a plan that addresses how the department will encourage more local governments to handle plan review and inspections. Finally, AB 199 makes a change to the statutes to recognize a current practice at DSPS of allowing a builder to proceed with certain preliminary steps for construction before plans have been reviewed, at the builder's own risk.

I am pleased to report that the committee reached a consensus on all three of the bills that are being heard today. The bills make modest changes to improve the plan review process at the state level, while also encouraging more review at the local level.

Thank you for your consideration of these bills and hearing my comments today. I would also like to thank Senator Stroebel and all of the study committee members for their time and commitment to this process.

I would be happy to answer any questions you may have. Legislative Council staff for the committee is also here to help with any questions. Thank you.



DUEY STROEBEL

STATE SENATOR • 20TH DISTRICT

Testimony on AB 197, AB 198 and AB 199

January 9, 2024

Thank you Chairman Brooks and committee members for holding a public hearing on Assembly Bills 197, 198 and 199, which comprise the recommendations of the 2022 Legislative Council Study Committee on the Commercial Building Permitting Process. I had the privilege of being nominated to serve as the chair of the study committee, which was tasked with evaluating the various aspects of Wisconsin's regulatory framework for commercial building construction and recommending legislative reforms to improve it.

To provide a bit of historical context, Wisconsin was one of the first states to adopt a commercial building code in 1915, with the goal of preventing safety hazards through the establishment of building design standards. Building plan review and inspection serve as the mechanism through which building code requirements have been enforced. Enforcement was largely centralized at the state level up until the turn of the century, at which point the state significantly expanded the option for this authority to be delegated to municipalities. Since then, a growing number of cities and villages have assumed the responsibility of performing plan review and inspection duties. All building projects located in jurisdictions that have not been delegated authority by DSPS continue to be subject to state plan review and inspection.

Over the course of the past few years, a number of building industry stakeholders (architects and engineers, builders, project owners, plumbers, etc.) had come forward with concerns over delays and inconsistencies with the commercial building plan review process at the state level and expressed an interest in finding ways to help streamline the process. This served as the focal point of the study committee's deliberations over the course of four meetings.

Much of the study committee's discussion focused on DSPS's transition from a calendar-based system for submitting building plans and scheduling plan reviews to a "first in, first out" queue system known as eSLA near the start of 2020. DSPS cited a handful of problems with the calendar system, such as submitters scheduling multiple review dates for the same set of plans, frequent cancellations on or just prior to the review date, and uneven workloads between plan review staff as a result of submitters being able to request a particular reviewer.

Nevertheless, a number of industry professionals valued the added certainty that a pre-determined review date provided as they worked to put together a complete set of plans. Under the eSLA system, a complete set of plans must be submitted at the front end with no guarantee as to when they will be reviewed. Through the presentations and testimony delivered to the study committee, we learned that many of the issues that have arisen in recent years can be attributed in part to an incongruence between the state's regulatory approach and common industry practices and project delivery methods.

This discrepancy has proven to be more problematic as it pertains to plumbing plans, often resulting in projects falling well behind schedule. Generally, architectural plans are completed or nearing completion

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when a plumber receives the contract for a design-build project. Underground plumbing is one of the first components that needs to go into a building after footings and foundations are completed, yet it often takes 6-8 weeks for plumbing plans to be completed and an additional 6-8 weeks for the plans to be reviewed and approved by DSPS. Attached to my testimony are two graphics that illustrate the differences between the typical plan review timeline under the calendar system versus to the eSLA system.

AB 197 aims to alleviate some of these inefficiencies and better accommodate industry practices in the state plan review process by doing the following:

- Re-establishes the option to schedule a plan review appointment as an alternative to the “first in, first out” queue-based scheduling approach. Imposes a requirement for upfront fee payment, a deadline for submission of complete plans and fee forfeitures for cancellations.
- Creates the option for a plan submitter to identify substantially similar plans that were previously approved.
- Increases the threshold for plumbing plans exempt from state plan review from 16 to 20 fixtures, with the exception of plans containing certain “one-off” fixture types.

Industry stakeholders generally spoke favorably of their experiences with the plan review process at the local level, which often results in an expedited turnaround time (1-2 weeks on average) and more direct access to building officials. Public members of the committee and several individuals who testified before the committee highlighted the benefits of being able to sit down with building officials and work through questions and issues prior to submitting a final set of plans. More often than not, this results in a more efficient process and fewer headaches for all of the involved parties.

AB 198 aims to further incentivize plan review at the local level by doing the following:

- Modifies the thresholds for plan reviews that can be conducted by delegated municipalities to provide more latitude to local building officials.
 - Eliminates the threshold for review of building alterations.
 - Increases the threshold for review of new buildings from 50,000 to 100,000 cubic feet.
 - Authorizes review of building additions that result in a total building volume under 100,000 cubic feet.
- Repeals the requirement for delegated municipalities to forward a portion of their plan review fees to DSPS.
- Requires DSPS to submit a plan to the Legislature for increasing the number of local governments that conduct plan review and inspections.

Finally, **AB 199** aims to expand opportunities for building owners to expedite certain construction activities by doing the following:

- Codifies in statute the authority for permission to start construction prior to full plan review (DSPS rules currently authorize the “early start” of footings and foundations).
- Expands permission to start authority to include underground and exterior plumbing (DSPS informed the committee that this authority had been granted as a matter of practice).
- Specifies that permission to start does not relieve a licensed architect or professional engineer from responsibility regarding the building plans.

At its final meeting and through a subsequent mail ballot, the study committee voted unanimously to approve the recommendations found in Assembly Bills 197, 198 and 199. The vote was taken with the understanding that the legislation would be subject to further vetting through the full legislative process with the potential

for amendments. Thank you for your consideration, and I would be happy to answer any questions at this time.

ESLA Plumbing Review Timeline

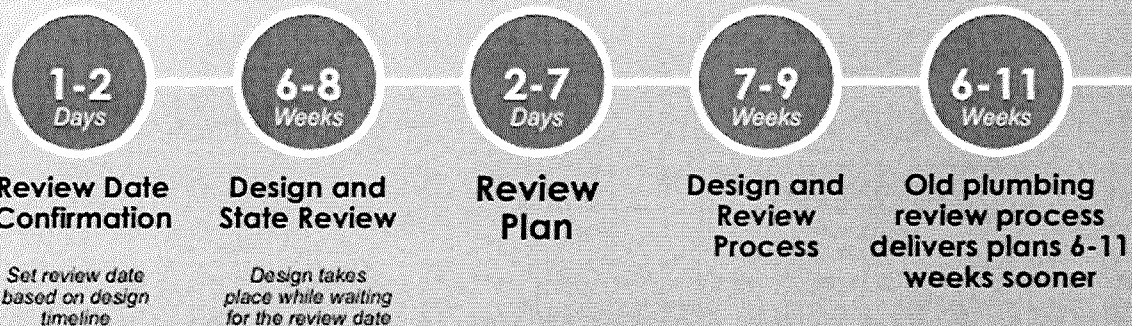
Timeline starts when Architectural plans are 80% complete and contract received from the GC



01

Old Plumbing Review Timeline

Timeline starts when Architectural plans are 80% complete and contract received from the GC



02



January 9, 2024

TO: Assembly Committee on Housing and Real Estate

FROM: Mike Tierney, Legislative Liaison for the Wisconsin Department of Safety and Professional Services

RE: Assembly Bills 197, 198, and 199

Chairperson Brooks and Committee members,

Thank you for holding this hearing today on legislation that was proposed by the Legislative Council Study Committee on the commercial building permitting process. I have attached testimony and other documentation that was submitted to the Study Committee by the Department in 2022.

When I started with the Department in March of 2019, one of the first things I saw was how the process was broken and had been broken for quite some time. I looked at contacts my predecessor received and saw wholly unacceptable plan review times had become the norm under the prior administration. Along with former Secretary Crim and now, Secretary-designee Hereth, we met in former Senate President Roger Roth's conference room with construction industry stakeholders who, as it happens, are among the primary proponents of the bills being heard today. The Secretary asked the stakeholders what the timeline should be for the scheduling of a review of a complete commercial building code submittal. Their answer was six weeks or 30 business days.

Given that target by industry stakeholders, the Department re-wrote the book on plan review and made it happen.

We only accept electronic plan submittals and, when the complete plan is submitted, our system generates a first-in, first-out date 30 business days into the future. As you can see, we beat the self-imposed deadline routinely. If a plan reviewer does not have a review completed in our timeline, even if it takes 30.1 days, the plan reviewer will need to provide information to the Division of Industry Services Administrator explaining what occurred. Here is what the plan review dashboard on the Department website looks like today:

Division of Industry Services Plan Review

Current Plan Submittal Volume

See the below plan review submission data to help estimate the timeline for your DSSPS plan review. Data is updated monthly.

No. of Plan Reviews Submitted				
	Commercial Building	Plumbing	POWTS	Elevators
January	587	209	173	62
February	647	259	155	65
March	816	258	249	65
April	705	250	323	60
May	696	247	401	45
June	774	255	422	66
July	631	210	362	76
August	729	294	430	56
September	684	251	348	59
October	724	255	316	57
November	596	173	184	44

Estimated Review Response Time				
	Commercial Building	Plumbing	POWTS	Elevators
No. of Business Days	21	23	15	14

Self-scheduling, as proposed in AB 197, was one of the root causes of plan delays under the old system.

The most common legislative contacts related to plan review timelines at present occur when a building owner contacts a legislator because a submitter for their project claimed there was a plan review delay with the department. In these cases, the facts regularly show the submitter failed to submit a plan for review or submitted a plan for review well after the date the owner anticipated. Occasionally, there are submitters who do not respond to an information request made by the reviewer. If you are a property owner undertaking a project, there is no uncertainty with plan review timelines – provided the people you hire do their jobs.

When a plan is submitted, we have staff triage the plan to see if it is complete and ready for review. At the present time, this process results in 30 to 35% of the plans submitted for commercial buildings requiring additional information to move forward. When the plans are then reviewed in-depth by a plan reviewer, approximately 50% require more information. AB 198 appears to make the presumption projects less than 100,000 cubic feet are somehow easier to review or less apt to have issues. However, it is the experience of our plan reviewers that, regardless of project size, the need for additional information on projects is consistent with a higher percentage of requests for additional information being made for buildings under 100,000 cubic feet.

Building plan reviewers and inspectors who work for the Department are supported when they apply their professional expertise in the application of state law. If a submitter petitions for a variance and the submitter can demonstrate an equivalency as required by law, then we of course work to grant the variance when possible. However, when a variance is not an option, we adhere to the law. Nevertheless, there are submitters who reach out to office holders to obtain approval not allowed under law. Under this proposal, a plan reviewer or inspector who works for municipality that is not delegated is likely going to find themselves in an untenable position in short order – having to choose between safeguarding the public safety or issuing approvals that go against state law and their professional judgement.

As for AB 198, the Department supports municipalities in their efforts to become delegated agents for plan review and inspection responsibilities. Delegation can be an effective and efficient way to share the workload when a municipality has the staff capacity and expertise to execute plan review and inspection responsibilities on behalf of the state.

However, the Department already allows individuals the option of obtaining permission to start plumbing as an option on form SBD-6154. This legislation references the issue of providing permission to start and references the responsibility of project professionals if there is failure to have work done in accordance with code or a failure to have work inspected prior to being covered. Each of these mistakes is costly. While the law calls for responsibility, the reality is that if this bill became law along with the other two bills, we would invariably see pressure brought to bear to make approvals contrary to state law.

The Department is turning around plan reviews in historically low times and will continue to seek to identify and implement strategies to improve service overall, including faster decisions. However, exempting this class of buildings from review and inspection is inadvisable as it creates new real and significant public health and safety risks.

Thank you.



July 19, 2022

TO: Legislative Council Study Committee on the Commercial Building Permitting Process

FR: Michael Tierney, Legislative Liaison Department of Safety and Professional Services

Dear Study Committee members,

My name is Mike Tierney. I am the Legislative Liaison for the department. I am joined here today by Division of Industry Services Administrator Branden Piper.

I would like to start out with a general overview and then have DA Piper provide more details regarding the plan review process, plan volume, and timelines.

When Vince Lombardi took the helm of the Green Bay Packers in 1959, he inherited a team that posted losing records for more than a decade and, in the 1958 season, posted the worst record in team history. Yet, the team with the worst record had all-pro talent – Starr, Hornung, Ringo, Nitschke, Dillon, Ford, McGee and others.

When Secretary Crim was appointed, there was all-pro talent in the Division of Industry Services, but we inherited a plan review system that was broken and had been broken for some time. She walked in the door to find that 15-week turnarounds for plan review had been occurring under the prior administration.

Submitters were blocking out multiple plan review dates without knowing for certain when, or even if, they would have actual plans ready for review. Because of this, other submitters looked at the department website for the next available plan review date and were misled into believing the next available date for a plan review could be 12 weeks or more away. Submitters, for smaller firms especially, would believe the calendar and schedule reviews further out than necessary. Submitters would also call individual plan reviewers to schedule plans. This resulted in further delays for other customers who had been waiting for a review date to open.

In 2019, I attended a meeting regarding plan review timelines with Senator LeMahieu and Mr. Klessig who serves on this committee. In that meeting Mr. Klessig spoke about the need to have more plan reviewers on staff. Unfortunately, it became clear that staff approvals, in the volume necessary to make the old system work, would not be approved.

During a subsequent meeting held in Senator Roth's office in 2019 with Department staff and industry leaders, Secretary Crim asked those industry leaders what, to them, were acceptable timelines for plan review completion. The answer was 4 to 6 weeks.

We very much appreciated that during that meeting Senator Roth acknowledged that commercial plan review issues had existed for a long time. After that meeting the Department stopped attempting to

defend and fix a system that was inherently flawed – it was time to institute a new plan that would consistently meet or exceed customer expectations.

Secretary Crim ordered a comprehensive review of plan review procedures in 2019 and again asked industry stakeholders for their ideal timeframe for plan reviews to be completed. The response was consistently 4 to 6 weeks. She attended multiple meetings with industry representatives and our Division of Industry Services staff and approved substantive changes that were made effective at the start of calendar year 2020.

We got rid of the scheduling calendar, we now triage plans, and plan reviewers no longer self-schedule or are picked by submitters. Today, our customers routinely and consistently receive a level of service that, as recently as 2019, they had to pay extra to receive.

As a result of the changes put into place by Secretary Crim at the beginning of 2020, review of complete plans took 3 to just over 5 weeks over the course of 2020. Notably, requiring electronic submission of plans was a vital component in keeping the construction industry going during the pandemic and resulted in substantial cost savings for submitters during a stressful time. We now have a dashboard that shows the number of days required for a complete plan to be review once submitted.

Since implementing these changes, we have heard from some stakeholders who want to go back to a process where they could pick their own reviewer. We have heard the argument that they have developed relationships with reviewers in the past and would like for that to continue.

We need to be clear that plan reviewers are regulators and should have professional, not personal, relations with persons who submit plans for review. It should not matter who is reviewing a plan. If a reviewer is going beyond code requirements, then we need to know about it and take corrective measures. Likewise, if a reviewer were to be lax, we need to take corrective measures as well.

Ethically, we must recognize that plan reviewers are members of a regulatory agency. The relationships that they have with customers must be professional and detached. Pick your reviewer is simply not a best practice.

It is true the Department does receive contacts from legislative offices regarding plan review issues, but those issues now rarely involve the plan review timelines provided by the Department. Instead, contacts now focus on providing emergency reviews, submittal of incomplete plans, variance and equivalency issues, and frustrated building/property owners seeking confirmation on when plans were truly submitted by firms they hired for their project. For commercial building plans, this is where the assigned DIS number is critical.

Just as an area code tells you where a phone number is located, or was issued, and the first three digits of a social security number tell you in which state a person was born, the DIS number gives you vital information immediately. The first two digits are the month the plan was submitted, and the second two digits are the year. I would stress for anyone that is being told by a submitter that there are “DSPS delays” that they first insist on being provided the DIS number by the submitter.

I have appeared before three legislative committees where testimony was offered regarding plan review delays and subsequently debunked. One gentleman said a plan was delayed for the better part of a year largely due to a plumbing plan approval. There was not a plumbing plan approval involved with his

project. As it turned out when submission was made and approved within timelines, the building use changed, and a revision was submitted and approved within timelines. In another hearing, a plumbing company said their plan reviews were taking longer than ever, but upon review that was not borne out by the facts. In another hearing, testimony was provided saying plans should be done in 6 to 8 weeks but were more often taking 10 to 12 – contrary to all available data.

Prior to this hearing, we were asked to provide information on submissions made by the Keller Company. In the last year, the company submitted 21 plans. Sixteen of those have been completed with 15 being within 30 days. Of the sixteen, 6 required additional information and of those, 4 went beyond 30 days. On average the plans submitted for the Keller Company over the last year averaged 24.60 business days.

When addressing substantive changes to codes and plans that must be subject to review, the Department feels such changes are best addressed by the respective code councils that are affiliated with the Department. Most recently, the code council met to go through the most recent version of the International Building Code for commercial structures to determine which portions to adopt by reference and which portions to modify with Wisconsin specific standards. Unlike some other states which essentially automatically adopt new codes shortly after they are released, Wisconsin has had a process in place that gives stakeholders a voice and substantial influence on the process.

It is also vital to remember, for the safety of residents who work-in and otherwise spend time in commercial buildings, that the designers and architects who design the structures and create the plans are human and make mistakes. These mistakes are made much more often than most people realize and are ideally caught when there is a fresh set of eyes at the Department looking at the plans submitted for review rather than when construction is underway, and inspections discover flaws that must be corrected at a high cost.

Our Division of Industry Services does track the respective types of plans that are submitted with errors and omissions. Roughly 30 to 35% of plans will require additional information. Of the plans that pass the triage process and go to a reviewer, there are significant numbers of plans that are found to be flawed. For elevators, roughly 40% of the plans submitted are faulty and require intervention by plan reviewers, for commercial buildings the figure is 50%, and for plumbing the figure is 60%.

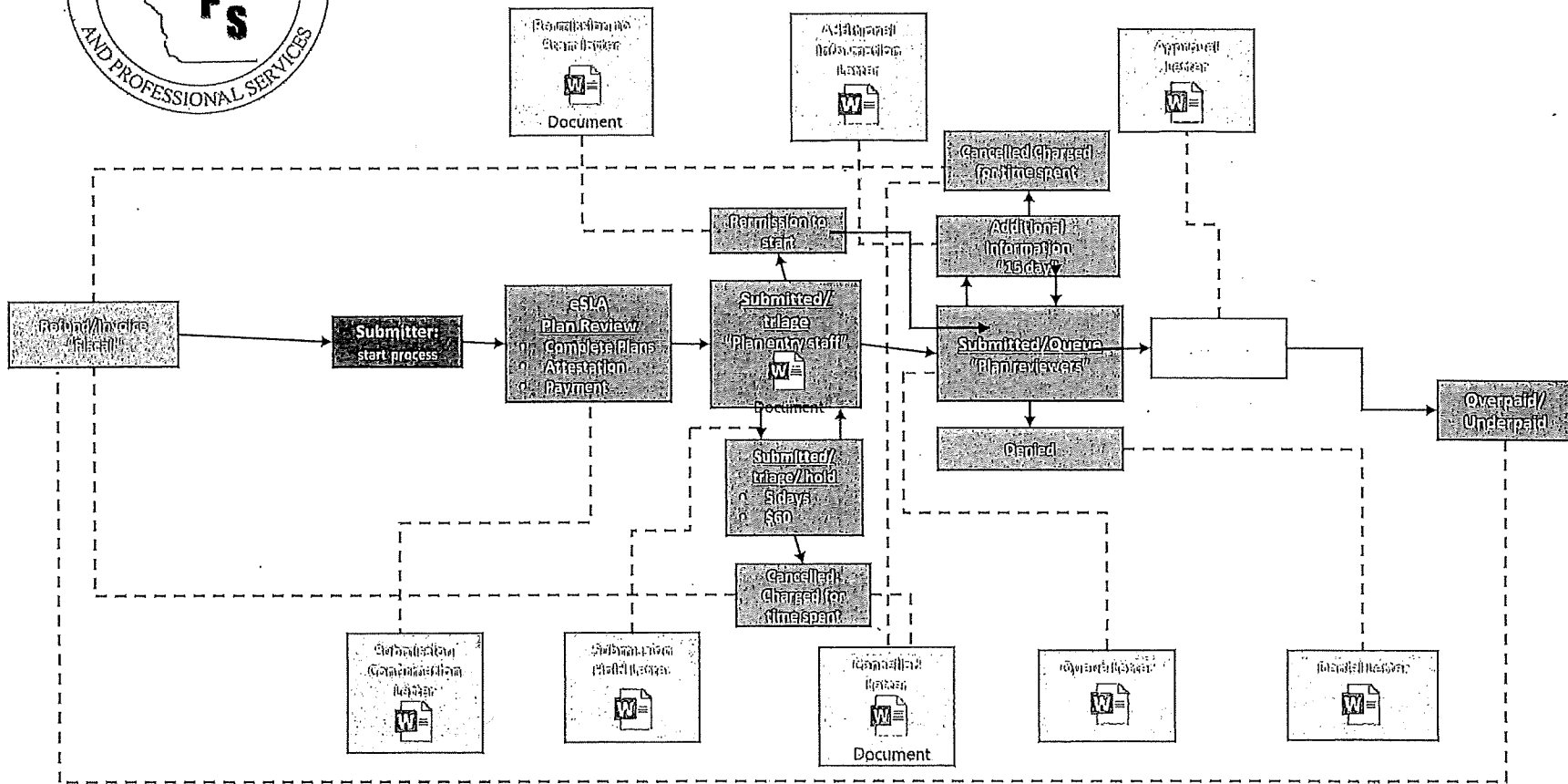
In conclusion, today we have a system in place that allows submitters to have confidence. If you have plans to break ground and build a commercial structure in our state, all you need to do is focus on getting your plans done and submitted. You no longer need to look at a dysfunctional calendar on the Department website and stress over how you may fit into the queue. You simply focus on getting your plans submitted to the Department.

Lombardi often spoke of the pursuit of perfection. He knew perfection was not attainable, but he knew if you pursued perfection then you could achieve excellence. Our Department and Division of Industry Services pursues perfection every day. By any reasonable standard when you look at plan submittals made since we revamped our system, a standard of excellence is being achieved.

Thank you. I will now turn things over to DA Piper.



Plan Review Process Flow





Search DSPS

Division of Industry Services Plan Review

Current Plan Submittal Volume

See the below plan review submission data to help estimate the timeline for your DSPS plan review. Data is updated monthly.

No. of Plan Reviews Submitted				
	Commercial Building	Plumbing	POWTS	Elevators
January	605	188	218	81
February	686	227	192	70
March	834	323	279	59
April	707	285	292	48
May	742	268	427	64
June	741	276	425	65

Estimated Review Response Time				
	Commercial Building	Plumbing	POWTS	Elevators
No. of Business Days	29	29	7	20

<https://dps.wi.gov/Pages/Programs/PlanReview/Default.aspx>

Commercial Buildings												
Month	Total Plans 2011	Total Plans 2012	Total Plans 2013	Total Plans 2014	Total Plans 2015	Total Plans 2016	Total Plans 2017	Total Plans 2018	Total Plans 2019	Total Plans 2020	Total Plans 2021	Total Plans 2022
January	452	504	520	503	541	691	703	641	663	623	775	605
February	372	465	428	514	532	567	662	512	483	542	861	686
March	522	533	541	496	691	708	728	742	598	598	783	834
April	541	523	606	706	785	728	759	825	720	689	615	707
May	496	830	698	702	735	724	872	796	652	620	651	742
June	658	689	612	663	723	748	915	702	555	654	628	0
July	658	689	690	821	839	731	763	649	584	766	589	0
August	637	581	681	697	705	821	811	766	663	623	575	0
September	621	572	624	707	730	735	637	566	626	371	656	0
October	571	721	737	751	754	780	754	691	750	666	604	0
November	512	582	578	648	584	685	728	663	622	831	567	0
December	401	440	398	426	499	471	513	550	418	845	547	0
year end total	6441	7129	7113	7634	8118	8389	8845	8103	7408	7828	7851	3574
Plumbing												
Month	Total Plans 2011	Total Plans 2012	Total Plans 2013	Total Plans 2014	Total Plans 2015	Total Plans 2016	Total Plans 2017	Total Plans 2018	Total Plans 2019	Total Plans 2020	Total Plans 2021	Total Plans 2022
January	152	169	138	158	180	212	276	292	238	346	187	188
February	120	162	141	147	163	224	221	278	229	275	198	227
March	160	168	152	181	212	243	256	325	243	334	286	323
April	165	167	188	249	253	271	231	345	326	336	307	285
May	184	245	261	275	275	284	266	308	283	293	320	268
June	258	257	226	264	317	273	269	306	192	270	259	0
July	183	233	230	292	284	260	232	322	184	241	239	0
August	217	202	184	200	314	364	300	348	166	244	282	0
September	185	174	180	268	261	270	268	293	161	259	296	0
October	206	228	299	274	284	360	320	281	254	238	198	0
November	176	186	174	156	279	345	292	241	163	154	156	0
December	127	126	133	116	177	195	209	208	184	199	183	0
year end total	2133	2317	2306	2580	2999	3301	3140	3547	2623	3189	2911	1291



September 23, 2022

TO: Legislative Council Study Committee on the Commercial Building Permitting Process

FROM: Mike Tierney, Legislative Liaison, Department of Safety and Professional Services

Committee members,

Please find responses to questions raised during your last meeting below from Division Administrator Branden Piper and department staff.

1. Discussion about Delegated Municipalities

a. How many

Commercial Buildings - 328 in varying capacities

<https://dsps.wi.gov/Documents/Programs/CommercialBuildings/CBDelegatedMuni.pdf>

Currently 10 municipalities are reviewing all building sizes because of 1st or 2nd class status. 39 municipalities are reviewing all building sizes due to Wis. Stat. § 101.12(3g).

Plumbing-42 in varying capacities

<https://dsps.wi.gov/Documents/Programs/Plumbing/AgentMunicipalities.pdf>

19 of the 42 delegation municipalities have the capability to review the following items in addition to the plan review types listed in Table 382.20-2:

- ***Stormwater and clearwater infiltration plumbing systems servicing a public building or facility.***
- ***Treatment systems, other than POWTS, designed to treat water for compliance with Table 382.70-1.***

Fire Suppression/Fire Alarm-59, almost all of which conduct PR for all sized buildings

<https://dsps.wi.gov/Documents/Programs/FireSuppressAlarm/FSFADelegatedMuni.pdf>

b. What is the process for delegating

<https://dsps.wi.gov/pages/SearchResults.aspx?q=delegated%20municipality%20application>

c. Is there capacity to add more delegated agents

The department values its partnerships with delegated agents and has promoted delegated agent status. However, increased delegation shifts some of the workload but not all, as some delegated municipalities do not have staff with required qualifications to handle full delegation of all types of inspection and plan review. Once a municipality is delegated there is still necessary interaction between delegated municipalities and the department on a variety of issues. Increased delegation would also increase the need for audits, which can be labor intensive.

d. Audits

i. Do we conduct them?

Traditionally yes, though they have been very minimal over the past three years (2020, 2021 due to COVID and all three years due to plan review volume). While our goal is 10% per year, that is not attainable with current staffing.

ii. Statutory requirements for auditing?

No, there is no language in §101 or §145 that refers to delegated municipality audit requirements.

e. Collaboration with delegated agents- how often do first class cities request DSPS input?

This happens infrequently, typically once to twice a year. One instance involved a concert at American Family Park where our assistance was requested to consult on folding seat placement as it pertained to egress requirements. We are generally asked to step in when delegated municipalities lose staff and relinquish delegation, and we remain involved until they hire and train new staff. This absorption of work does not come with additional staff and our six-week timeframe goal remains constant despite sometimes significant fluctuations in work volume due to delegation changes. As an example, the department had to pick up city of Milwaukee's plumbing plans for six months in 2020-2021.

2. How the plan review process changed to the current system?

We heard from some constituents and legislators that our plan review timeframes should be different than what we were executing. For example, a December 2019 meeting with Senator Roth established a 6-to-8-week industry requirement for plan review turnaround. This requirement was repeated in Rep. Rodriguez's written testimony to support the advancement of 2021 Assembly Bill 152 (referenced on page 18 of the Staff brief). As a result of these publicly stated expectations, the department evaluated our submission/review process and implemented changes to gain the efficiency needed to comply with the new requirement. This effort was further pushed by COVID-19 and a department mandate to replace our very aged software platform.

3. Staffing

a. Staffing trends?

This has been difficult to pull together as position descriptions change and the department was reorganized in 2011. In 2000, the department had 25 commercial building plan reviewers and 17 commercial building inspectors. Currently the department has 18 commercial building plan reviewers and 10 inspectors.

b. Do fees cover costs?

Revenue vs. Expense for the Commercial Buildings and Plumbing programs, 5-year history
2018
2019
2020
2021
2022
Five Year
Average
Commercial Buildings
Revenue
(\$6,945,621.35)

(\$6,480,263.08)
(\$6,001,949.33)
(\$6,076,143.50)
(\$6,768,373.86)
(\$32,272,351.12)
(\$6,454,470.22)
Expense
\$2,105,132.82
\$1,879,881.71
\$2,204,523.38
\$2,487,291.15
\$2,774,774.98
\$11,451,604.04
\$2,290,320.81
Revenue Balance **
(\$4,838,470.53)
(\$4,598,362.37)
(\$3,795,405.95)
(\$3,586,831.35)
(\$3,991,576.88)
(\$20,810,647.08)
(\$4,162,129.42)
Expense as a % of revenue
30.3%
29.0%
36.7%
40.9%
41.0%
35.5%
Plumbing (excludes sewage (POWTS))
Revenue
(2,514,187.70)
\$
(2,351,672.53)
\$
(2,474,054.95)
\$
(2,372,092.20)
\$
(2,496,583.61)
\$
(\$12,208,590.99)
(\$2,441,718.20)
Wisconsin Fund Transfer *
300,000.00
\$
302,000.00
\$
646,000.00
\$
303,341.12
\$
-
\$
Expense
\$977,132.61
\$1,091,786.66
\$1,278,496.97
\$1,146,294.76
1,236,156.12
\$
\$5,729,867.12
\$1,145,973.42
Revenue Balance **
(1,237,055.09)
\$

(957,885.87)
\$
(549,557.98)
\$
(922,456.32)
\$
(1,260,427.49)
\$
Expense as a % of revenue
38.9%
46.4%
51.7%
48.3%
49.5%
46.9%
Revenues are displayed as negative amounts in the accounting system.
This captures only expenses that are coded directly to the program areas; not anything incurred as program-wide costs (project code 16500GENPRO2ADM)
e.g., rent, IT equipment, eSLA, and other indirect/overhead is not displayed here.
* Wisconsin Fund Transfer
Between 2018 and 2021 the amount transferred to the Wisconsin Fund was allocated proportionally between Plumbing plan review and sewage plan review (POWTS)
In 2022 this was changed and all transfers to the Wisconsin Fund were not designated by their source. A transfer is simply made from 221 to 236 using a specific transfer project code.
Annually we transfer from 221 to 236 for the Wisconsin Fund
** This balance is not a running balance

Yes, fees amply cover costs. As you can see from the graphic above, the commercial building and plumbing program areas spent an average of 36 and 47 percent of their collected revenue, respectively, over the last five years. The department has not been authorized to use this fee surplus to hire more staff. Because of the availability of fee revenue and the interest in adjusting the services offered in the Division of Industry Services, the department has requested in our recent budget proposal the staff necessary to implement desired services, such as accelerated review of small projects (4 FTEs), four-week plan review decisions (14 FTEs), advance scheduling of plan review dates (7 FTEs), and more expedient scheduling of inspections (5FTEs).

c. Contracted inspections explanation

Contracted inspectors are required when the department staffing is insufficient to conduct inspections. In these cases, a bid process is initiated through DOA and procurement. Third-party contractors are solicited to bid for geographic regions. The Elevator, Boiler, Electrical, and UDC program areas have all had to employ contracted inspectors to meet industry demand.

d. Delegated inspections explanation

Any municipality may apply for delegated status in any program area assuming it can demonstrate proof of credentialed inspectors on staff (or contracted).

e. Why have DSPTS do the work vs. outside contractors?

It is easier to maintain consistency with DSPTS staff than it is with outside contractors. This is important because all inspections should be conducted with a consistent application of code. State procurement processes can also be slow and do not lend themselves to bringing on third-party agents quickly. Often the need for additional support emerges unexpectedly, such as the city of Milwaukee plumbing example above.

f. How much more staff would it take to get to four-week plan approval?

Given more recent interest in reducing plan review turnaround times to four weeks from six, the department evaluated systems and staff to determine what staffing additions would be necessary and then we included that level of staff increase in our recent budget submission. What we determined was that an additional 14 plan review positions would be required to reduce plan-review turnaround from six weeks to four weeks. These positions would be distributed among commercial building reviewers, plumbing reviewers, and fire suppression/fire alarm. We included these positions in our recent budget proposal.

g. What causes lack of staff?

We are experiencing a historic moment in the labor market with extraordinarily high participation and low unemployment. It is difficult for many employers to attract and retain skilled workers. Beyond that, the department has faced consistent challenges in recruiting and retaining talent. Department compensation packages are often not competitive in the marketplace. Applicants can simply get more money, better work conditions, and better benefits elsewhere. In fact, we often lose employees and candidates to some of our delegated municipalities. Also, after the department reorganization in 2011, some positions were left vacant and eventually lapsed. Some highly tenured employees left in response to Act 10. We lost institutional knowledge and that impacted working conditions.

h. Current staffing vacancies?

Currently we are recruiting for one electrical inspector and one section chief.

i. Are all positions working from the office? What % of staff working in office? How will that look in the future?

Due to the need to conduct on-site inspections at locations throughout the state, the Division of Industry Services has historically had a hybrid workforce and division supervisors have experience overseeing remote teams. While field staff typically maintain home offices and travel to sites for inspections, other division staff reports to an office two days a week at a minimum.

Looking ahead, we will continue to consider all options that enable the department to attract and retain the most qualified candidates who will be able to meet expectations and keep plan review turnaround time at six weeks. In fact, the changes we have implemented in the past two years have cut plan review times in half. We reached this level of service during the pandemic when we were implementing new systems, and we have maintained it since. For example, plumbing plan review turnaround times were frequently 16 weeks or higher for much of 2018 when only field staff worked remotely. Now plumbing review times are steadily at 6 weeks while we maintain a hybrid staffing model. Other divisions have also been able to maintain productivity with hybrid or remote work. For example, our call center staff members, who are housed in the Division of Professional Credential Processing but support all agency operations, are equally productive in either environment.

Finding staff who can maintain this level of efficiency is a top priority for the department, and workplace flexibilities enable us to attract a broader pool of qualified candidates. For example, we had had several failed searches for an attorney for the Division of Professional Credential Processing until we broadened our recruitment statewide with remote options. Since hiring that attorney, we have been able to maintain a six-week turnaround for legal review decisions. Prior, that timeframe was closer to twelve weeks.

4. DIS program overview

- a. What else does DIS do?

We oversee plan review and or inspection for commercial buildings, including fire alarm and sprinkler systems, boilers, elevators, mine safety, public sector safety, amusement rides, ski lifts, plumbing and electrical installation, POWTS, 2% Fire dues, and UDC (residential) construction. It is a broad range of program areas and responsibility.

5. Inspections

- a. Should we do more or less than we do now?

The number of inspections currently performed has allowed us to ensure compliance without having to force major rework of noncompliant installations. The frequency of inspections is key to this. If inspection intervals are extended, noncompliance will result in costlier rework and more significant project setbacks.

- b. Concern that inspectors aren't getting to sites and builders shouldn't have to hold up a project (not sure if this was in reference to DSPS or locals)

We have not heard concerns about timelines for inspection requirements. Anyone with concerns about inspector availability on particular projects is welcome to contact our office.

<https://docs.legis.wisconsin.gov/document/administrativecode/SPS%20361.41>

6. Plan Reviewers

- a. What is the process for dealing with complaints about reviewers (part of not being able to choose reviewer)

If someone disagrees with a plan reviewer's interpretation of code, they can notify the Division Administrator or someone within the secretary's office. The interpretation will be evaluated. If an internal decision cannot be reached, the disputed matter can be sent to International Code Council for review and feedback.

7. How is the six-week plan review date calculated

Our plan-review turnaround time is six weeks or less from the date we receive a complete plan.

- a. How long to get a review date, is that included in the 6 weeks?

It takes 72 hours to get a review day, and that time is included in the 6 weeks.

- b. Could smaller projects have a shorter turnaround time?

As noted in our budget request, adding four permanent FTEs devoted to this would allow the department to provide one-week plan review for small and simple plans (limited by the hours available for these additional reviewers).

- c. How often is the 6-week timeline missed when there is a complete plan submitted?

The department is successfully meeting the six-week requirement. Less than 2% of complete submissions take more than 30 business days.

- d. How long does a typical plan review actually take?

Plan reviews can vary a great deal, from 1 hour to 50 hours. The average is around 3-3.5 hours

8. Website

- a. What information about plan review requirements is available for reference?

<https://dsps.wi.gov/pages/Programs/PlanReview/Default.aspx>

- b. Is the checklist on the website the same as in eSLA and by our staff

Yes

<https://dsps.wi.gov/Pages/Programs/CommercialBuildings/Default.aspx>

- o Component Submittal
- Additional Documentation - Combine all documentation into one file. Include:
 - Required for All Plan Reviews
 - o Submittal Checklist
 - o Structural Calculations, stamped and sealed
 - o Building Envelope Calculation (i.e. COMcheck or equal), stamped and sealed
 - o Heat Loss Calculations, stamped and sealed
 - o Hydraulic Calculations, stamped and sealed
 - o Worksheets (as applicable)
 - Required per Applicable Scope of Work
 - o Voltage Drop, Battery Calculations
 - o Specifications (optional)
 - o Material Cut Sheets (optional)

5. Start your plan review application on the eSLA portal.

<https://dsps.wi.gov/Documents/Programs/Plumbing/ChecklistPlumbingPlans.pdf>

9. Explain permissions to start letter

- a. Footings and foundation

- i. Can they pour?

Yes

- b. Could the permission to start be expanded to build the shell?

That is a possibility, but it would be prudent to anticipate the full range of potential outcomes of such an expansion. We would welcome a more robust discussion about what the expansion would entail and what protections would be in place to ensure that owners will not find themselves facing extensive and expensive remediation and rework. Certainly, shifting the burden to the owner would be necessary, but there could be significant costs and delays associated with tearing down and rebuilding noncompliant work. We believe it would be prudent to have clarity around potential risks and liabilities before exploring permission-to-start expansion.

10. The old system of choosing a date in the future saved up to a month of project time for small interior buildouts.

We are aware that some customers want to reinstate portions of the previous plan review system while maintaining the efficiencies of the current system. To maintain turnaround times and restore some of the tailored options, such as scheduling a plan review date in advance of submission, we would need to develop another process and add staff to implement and run it. As noted in our budget request, seven additional FTE positions would be needed to allow the department to provide scheduled plan review on a limited basis.

11. Has DSPPS considered expedited review fees OR perhaps allowing choosing a date before the plan is ready to submit and lose the fee if the plan isn't ready by that date?

This is primarily an issue of fairness. Expedited fees favor large submitters with bigger budgets and margins, and they enable these submitters to step to the front of the line by paying an additional fee. This puts them ahead of submitters who followed our established process. Ultimately, it is unfair to treat submitters disparately. While there are some ways to build some flexibility into the system—such as allowing submitters to schedule a review date in the future—that additional process would necessitate additional staff to implement and operate.

12. How do plan revisions impact the plan review timelines?

The extent to which revisions impact plan review timelines depends on the size and scope of the revision. Small revisions are generally absorbed into the timeline. A major revision could require an extended turnaround time, as those could be tantamount to a resubmission.



October 18, 2022

TO: Legislative Council Study Committee on the Commercial Building Permitting Process
FROM: Mike Tierney, Legislative Liaison, Department of Safety and Professional Services

Committee members,

Thank you for the opportunity to provide comment on the four draft proposals being considered by the committee. Please find below comments on each of the proposals for your consideration.

LRB 6532/ P2

Hybrid submission option Preliminary review

- Software development and training will likely cost more than \$1 million and will consume significant amounts of employee time that would otherwise be dedicated to plan review and administration. This will affect productivity and plan review timelines.
- Submitting plans a few days before review requires a complete application. From our experience, submissions tend to have a 40%+ fail rate on completeness. Submitted plans that are incomplete will have their appointments cancelled and fees forfeited.
- General code questions are already answered via a tech email box. These are email boxes for each program area where individuals send questions and historically receive a response within three business days for no charge. Example e-mail tech boxes include, but are not limited to:
 - DSOSSBPIbgTech@wisconsin.gov,
 - dspssbbuildingtech@wisconsin.gov, or
 - dspssbfireprotech@wisconsin.gov
- Preliminary plan review already exists in commercial buildings, and a fee is established for it in eSLA.
- Submitters receive a warning in the eSLA customer portal that they are submitting a plan review application to the Department for a project in which the municipality has been delegated to review. It is only after the submitter has received this alert that they can continue with their submission to the local municipality or DSPS.

LRB 6533/P1

Expedited review and plumbing deregulation

- Identical plans are virtually non-existent. Experience has shown that sites are unique and these unique site factors, such as utility connections and soil makeup, dramatically affect plans even when the buildings outwardly appear to be similar.
- The Department has a policy in place that allows multiple similar buildings on the same site to be submitted.
- A committee member brought up instances where it was perceived the Department took 10 weeks to complete plumbing plan reviews. The Department has completed plan reviews on error free submittals within 30 business or less since January 2022. The committee has not provided the Department with any non-completed examples of plan submissions taking up to 10 weeks, although we would investigate any of those instances if we had specific project information.
- Department experience has shown there is no relationship or correlation between the number of plumbing fixtures to the complexity or difficulty of installation. Based on publicly made comment, most committee members appear to agree that any adjustment to the current plumbing plan review fixture threshold would not increase efficiency. Reducing plumbing plan reviews based on an increased fixture threshold requirement would lead to a rise in local plumbing inspections. This could and likely would lead to an increase in the number of non-compliance violations found due to unreviewed plans. This could delay construction schedules and increase costs.

LRB 6534/P1

Increasing range for delegated municipalities, reduction of rendered fees and requirements on how those fees are spent

- The Department is supportive of allowing municipalities to do more within their capabilities. However, the Department cautions that increased delegation capabilities to municipalities regarding plan review could expose municipalities to different concerns, such as conflicts of interest with contracted inspectors or local business pressure to prioritize timelines and budgets over safety and code compliance.
- Delegated agent fees are meant to insure a consistent standard through complaint investigations, code cycle updates, and audits. The fees are not associated with Department training activities. Also, the information the LRB reported to the committee may misrepresent the delegated agent fees collected by the Department. The fees Department receives are only a fraction of the revenue due from delegated municipalities. Also, the Department does not have the personnel to audit and collect them. Any reduction in this area would not impact operations noticeably.
- It was stated in a prior committee meeting that delegated municipalities did not exist prior to 2000, which is why more department personnel (former Department of Commerce) were needed

previously. That is not correct. Most municipalities in Wisconsin with a population of over 8,000 have been delegated during the past 30 years.

- Delegation does not reduce the need to ensure the Division of Industry Services has staff in place to meet customer needs related to plan reviews. For example, the City of Green Bay had one of their plumbing reviewers recently leave. They are understaffed and DSPS staff are presently assisting customers who would normally have been served by Green Bay. One customer noted that the present timeline for his review would have been approximately 3 to 4 months and if he needed to start early, then a plan submittal should be made to the DSPS.

6535/P1

Permission to start

- Aside from the words “building shell,” all of this is already in place.

A definition of building shell needs to be defined if it will be allowed.

- Underground plumbing in Wis. Stat. § 101.12(7)(a) of LRB-6535 should be referenced in Wis. Stat. § 145. The Department currently offers permission to start for plumbing installations. See https://dsps.my.salesforce.com/sfc/p/#t0000000LAz5/a/8y000002Ct0n/aMClO5babl0ysuhGm0P3mRktlza4RB5xZjV_qYlj6N0 for more information.
- Permissions to start present challenges because significant investment occurs before errors are located. In some instances, structures can be well underway before a significant structural error is found. The result of finding a significant error on a project can be devastating both to the owner, the contractor, and all others involved. This can lead to needless litigation and substantial delays to projects.



December 12, 2022

Senator Stroebel, Chair
Representative Summerfield, Vice-Chair
Study Committee on the Commercial Building Permitting Process
State of Wisconsin, Joint Legislative Council
One East Main Street, Suite 401
Madison, WI 53703-3380

Dear Senator Stroebel and Representative Summerfield:

Thank you for your correspondence dated November 16, 2022, discussing recommendations that the Legislative Council Study Committee on the Commercial Building Permitting Process may not address directly in proposed legislation. Thank you also for your interest sharing the committee's ideas for internal process adjustments that could lead to improved customer service.

I am pleased to share that similar ideas are in various stages of implementation and discussion. For example, we agree that increased and improved communication can help improve the quality of initial submissions and minimize the initial error rate. More customer tools, such as a list of common errors, and a periodic newsletter could definitely add value, assuming we have the staff capacity to create and maintain these tools and communication channels.

We also recognize that many of our customers desire consultation to a varying degree of specificity and at varying points in project development. We also see how there would be value in establishing continuity from consultation to review. We are discussing ways we could offer this kind of increased staff access to customers, and we will explore the modifications to eSLA (and the related cost) that would be required to build this service and functionality into our systems.

Your question about project tracking numbers reflects the importance of project status to the entire industry. I am pleased to share that our existing process includes tracking numbers on all documents related to plan submittals. This number is often referred to as the DIS number. The lone exception to this practice is the payment confirmation email, which is generated by US bank and not the department.

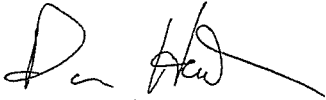
The tracking/DIS number is not generated randomly. The first two digits of the number reflect the month of the submittal, and the second two digits reflect the year. Because the tracking numbers convey important information about the date of submission, we strongly encourage building and construction site owners to obtain project tracking numbers from plan submitters. Often these numbers can minimize confusion regarding timelines, submission dates, and wait times.

Finally, I am happy to report that we currently have a fee-free payment option. Submitters can pay via ACH for no additional fee. I am also open to evaluating future options for integrating credit card use charges into our overall fees when we next propose a fee revision rule.

*Stroebel/Summerfield
Study Committee on the Commercial Building
Permitting Process
December 12, 2022
Page 2*

Again, thank you for your interest in the department and for these recommendations. We share your interest in providing the best service possible with the resources available to us, and we welcome the opportunity to access additional resources to drive further improvement.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Hereth", with a long horizontal stroke extending to the right.

Dan Hereth
Secretary-designee