

# Memo

To: Historic Preservation Committee

Fr: Trevor Fuller, Planning and Zoning Administrator

Re: ACTION RE: 2019 SENATE BILL 314

Date: 19 July 2019

Attached is 2019 Senate Bill 314. The bill was drafted by Senator Kapenga and is being circulated. The bill limits the ability of certain 2nd class cities to designate or regulate historic landmarks. After reading the language of the bill closer, the bill is written specifically for the City of Waukesha. The fear is that this bill will set precedence and become a reoccurring item, since the state legislature has been unsuccessful in recent years to pass state-wide legislation limiting a municipality from designating or regulating historic landmarks in their jurisdiction.

**The committee is asked to review the proposed legislation and determine if any action should be taken.**



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-3216/1  
MES:cdc

## 2019 SENATE BILL 314

July 3, 2019 - Introduced by Senators KAPENGA, DARLING, FITZGERALD, KOOYENGA, NASS and CRAIG, cosponsored by Representatives NEYLON, BRANDTJEN, BROOKS, DITTRICH, DUCHOW, GUNDRUM, HORLACHER, HUTTON, KNODL, KUGLITSCH, MAGNAFICI, MURPHY, RAMTHUN, SANFELIPPO and SKOWRONSKI. Referred to Committee on Insurance, Financial Services, Government Oversight and Courts.

1     **AN ACT** *to amend* 62.23 (7) (em) 1.; and *to create* 62.23 (7) (em) 2e. of the  
2             statutes; **relating to:** limiting certain 2nd class cities' ability to designate or  
3             regulate historic landmarks.

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### ***Analysis by the Legislative Reference Bureau***

Generally under current law, a city, village, town, or county (political subdivision) may designate and regulate historic properties to preserve their significant characteristics. Cities may also exercise such authority with regard to archaeological landmarks and, in some cases, a city is required to exercise such regulatory authority.

Under this bill, with regard to properties owned by a certain county, a 2nd class city may not designate or regulate such historic, or archaeological, properties or districts. The bill only applies to a 2nd class city that is located in a county with a population greater than 380,000, which is also adjacent to a county with a population greater than 800,000. If such a city has in effect on the effective date of the bill an ordinance or regulation that regulates such county-owned historic, or archaeological, properties or districts, the ordinance does not apply and may not be enforced.

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

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

**SENATE BILL 314****SECTION 1**

1           **SECTION 1.** 62.23 (7) (em) 1. of the statutes is amended to read:

2           62.23 (7) (em) 1. Subject to subds. 2., 2e. and 2m., a city, as an exercise of its  
3 zoning and police powers for the purpose of promoting the health, safety and general  
4 welfare of the community and of the state, may regulate by ordinance, or if a city  
5 contains any property that is listed on the national register of historic places in  
6 Wisconsin or the state register of historic places shall, not later than 1995, enact an  
7 ordinance to regulate, any place, structure or object with a special character, historic,  
8 archaeological or aesthetic interest, or other significant value, for the purpose of  
9 preserving the place, structure or object and its significant characteristics. Subject  
10 to subds. 2., 2e., 2m., and 3., a city may create a landmarks commission to designate  
11 historic or archaeological landmarks and establish historic districts. Subject to  
12 subds. 2., 2e., and 2m., the city may regulate, or if the city contains any property that  
13 is listed on the national register of historic places in Wisconsin or the state register  
14 of historic places shall regulate, all historic or archaeological landmarks and all  
15 property within each historic district to preserve the historic or archaeological  
16 landmarks and property within the district and the character of the district.

17           **SECTION 2.** 62.23 (7) (em) 2e. of the statutes is created to read:

18           62.23 (7) (em) 2e. a. Subject to this subd. 2e. b., a 2nd class city may not act  
19 under this paragraph to designate or regulate a historic landmark, including any  
20 property that is listed on the national register of historic places in Wisconsin or the  
21 state register of historic places, or designate or regulate a historic district, if the  
22 affected property or area is owned by the county in which the city is located.

23           b. This subd. 2e. a. applies only to a 2nd class city that is located in a county  
24 with a population of more than 380,000, which is adjacent to a county with a  
25 population of more than 800,000. If such a city has in effect on or after the effective

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1 date of this subdivision ... [LRB inserts date], an ordinance or regulation that  
2 regulates any county-owned property that is listed on the national register of  
3 historic places in Wisconsin or the state register of historic places, or any  
4 county-owned place, structure or object with a special character, historic,  
5 archaeological or aesthetic interest, or other significant value, for the purpose of  
6 preserving the place, structure or object and its significant characteristics, the  
7 ordinance or regulation does not apply and may not be enforced.

8 **SECTION 3. Initial applicability.**

9 (1) This act first applies to a designation that is made or regulation that is  
10 adopted on the effective date of this subsection.

11 (END)