

**ASSEMBLY AMENDMENT 10,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 133**

June 29, 1999 – Offered by Representative TURNER.

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 659, line 19: after that line insert:

3 **“SECTION 1213s.** 49.141 (1) (g) of the statutes is amended to read:

4 49.141 (1) (g) “Minimum wage” means the state minimum hourly wage under
5 ~~ch. 104 s. 104.035 (2)~~ or the federal minimum hourly wage under 29 USC 206 (a) (1),
6 whichever is applicable.”.

7 **2.** Page 1080, line 24: after that line insert:

8 **“SECTION 2005hc.** 104.01 (intro.) of the statutes is amended to read:

9 **104.01 Definitions.** (intro.) ~~The following terms as used in ss. 104.01 to~~
10 ~~104.12 shall be construed as follows~~ In this chapter:

11 **SECTION 2005hd.** 104.01 (5) of the statutes is amended to read:

1 104.01 (5) ~~The term “living wage” shall mean~~ “Living wage” means
2 compensation for labor paid, whether by time, piecework or otherwise, sufficient to
3 enable the employe receiving it to maintain himself or herself under conditions
4 consistent with his or her welfare.

5 **SECTION 2005he.** 104.01 (5m) of the statutes is created to read:

6 104.01 (5m) “Opportunity employe” means a person under 20 years of age who
7 has been employed for a cumulative total of 30 calendar days or less within the
8 preceding 3-year period.

9 **SECTION 2005hg.** 104.01 (5p) of the statutes is created to read:

10 104.01 (5p) “Poverty line” means the poverty guidelines for the continental
11 United States, as revised annually by the federal department of health and human
12 services under 42 USC 9902 (2).

13 **SECTION 2005hh.** 104.01 (7m) of the statutes is created to read:

14 104.01 (7m) “Tipped employe” means an employe who in the course of
15 employment customarily and regularly receives money or other gratuities from
16 persons other than the employe’s employer.

17 **SECTION 2005hL.** 104.01 (8) of the statutes is amended to read:

18 104.01 (8) ~~The term “wage” and the term “wages” shall each mean~~ “Wage”
19 means any compensation for labor measured by time, piece or otherwise.

20 **SECTION 2005hj.** 104.02 of the statutes is amended to read:

21 **104.02 Living wage prescribed Living wage required.** Every wage paid
22 or agreed to be paid by any employer to any employe, except as otherwise provided
23 in s. 104.07, shall be not less than a ~~living wage~~ living wage.

24 **SECTION 2005hk.** 104.03 of the statutes is amended to read:

1 **104.03 Unlawful wages.** Any employer paying, offering to pay, or agreeing
2 to pay any employe a wage lower or less in value than a ~~living-wage~~ living wage is
3 guilty of a violation of ~~ss. 104.01 to 104.12~~ this chapter.

4 **SECTION 2005hm.** 104.035 of the statutes is created to read:

5 **104.035 Minimum wage. (1)** DEPARTMENT TO PROMULGATE RULES. The
6 department shall promulgate rules providing minimum hourly wages for the
7 employes specified in subs. (2) to (5). The department shall calculate those minimum
8 hourly wages according to the methods specified in subs. (2) to (5). Annually, within
9 30 days after the federal department of health and human services publishes its
10 annual revision of the poverty line, the department, using the procedure under s.
11 227.24 and the methods specified in subs. (2) to (5), shall promulgate rules revising
12 the minimum hourly wages provided under subs. (2) to (5). Notwithstanding s.
13 227.24 (1) (a) and (2) (b), the department is not required to provide evidence of the
14 necessity of preserving the public peace, health, safety or welfare in promulgating
15 rules revising the minimum wages provided under subs. (2) to (5). A revised
16 minimum wage provided under subs. (2) to (5) shall first apply to wages earned
17 beginning on the first day of the first month beginning after the date on which that
18 minimum wage is revised.

19 **(2)** EMPLOYES GENERALLY. Subject to the minimum wages provided under subs.
20 (3) to (6), the department shall calculate the minimum hourly wage for employes
21 generally by dividing the poverty line for a family of 3 persons by 2,080 and rounding
22 the quotient to the nearest multiple of 5 cents.

23 **(3)** OPPORTUNITY EMPLOYES. Notwithstanding the minimum wage provided
24 under sub. (2), but subject to the minimum wages provided under subs. (4) to (7), the
25 department shall calculate the minimum wage for opportunity employes by

1 multiplying the result obtained under sub. (2) by 92.9% and rounding the product to
2 the nearest multiple of 5 cents.

3 **(4) TIPPED EMPLOYES.** (a) Notwithstanding the minimum wages provided under
4 subs. (2) and (3), but subject to the minimum wages provided under subs. (5) to (7),
5 the department shall calculate the minimum wage for tipped employes as follows:

6 1. For persons who are not opportunity employes, by multiplying the result
7 obtained under sub. (2) by 54.8% and rounding the product to the nearest multiple
8 of 5 cents.

9 2. For persons who are opportunity employes, by multiplying the result
10 obtained under sub. (2) by 51.7% and rounding the product to the nearest multiple
11 of 5 cents.

12 (b) An employer may pay the minimum wages specified in par. (a) only if the
13 employer establishes by the employer's payroll records that, when adding the tips
14 received by an employe to the wages under par. (a) paid to that employe, the employe
15 receives not less than the minimum wage specified in sub. (2) or (3), whichever is
16 applicable.

17 **(5) AGRICULTURAL EMPLOYES.** Notwithstanding the minimum wages provided
18 under subs. (2) to (4), but subject to the minimum wages provided under subs. (6) and
19 (7), the department shall calculate the minimum wage for persons 18 years of age or
20 over who are agricultural employes by multiplying the result obtained under sub. (2)
21 by 95.3% and rounding the product to the nearest multiple of 5 cents and shall
22 calculate the minimum wage for persons under 18 years of age who are agricultural
23 employes by multiplying the result obtained under sub. (2) by 87.0% and rounding
24 the product to the nearest multiple of 5 cents.

1 **(6) MINIMUM WAGE ESTABLISHED BY DEPARTMENT.** The department shall
2 promulgate rules providing the minimum wage for all of the following:

3 (a) A counselor employed at a seasonal recreational or educational camp,
4 including a day camp, for campers under 18 years of age.

5 (b) A person engaged in casual employment in and around an employer's home
6 on an irregular or intermittent basis for not more than 15 hours per week.

7 (c) A person who resides with and who provides companionship, care, not
8 including practical or professional nursing, as defined in s. 441.11 (3) and (4), and not
9 more than 15 hours per week of general household work for an employer who, due
10 to advanced age or physical or mental disability, cannot care for his or her own needs.

11 (d) A caddy on a golf course.

12 (e) An employe or worker with a disability covered under a license under s.
13 104.07.

14 (f) A student learner.

15 (g) A student employed by an independent college or university.

16 **(7) DEPARTMENT MAY REVISE.** The department may promulgate rules to increase
17 a minimum wage provided under subs. (2) to (5).

18 **SECTION 2005hn.** 104.04 of the statutes is amended to read:

19 **104.04 Classifications; department's authority.** The department shall
20 investigate, ascertain, determine and fix such reasonable classifications, and shall
21 impose general or special orders, determining the ~~living-wage~~ living wage, and shall
22 carry out the purposes of ~~ss. 104.01 to 104.12~~ this chapter. Such investigations,
23 classifications and orders shall be made as provided under s. 103.005, and the
24 penalties specified in s. 103.005 (12) shall apply to and be imposed for any violation
25 of ~~ss. 104.01 to 104.12~~. ~~In determining the living wage, the department may~~

1 ~~consider the effect that an increase in the living wage might have on the economy~~
2 ~~of the state, including the effect of a living wage increase on job creation, retention~~
3 ~~and expansion, on the availability of entry-level jobs and on regional economic~~
4 ~~conditions within the state~~ this chapter. The department may not establish a
5 different minimum wage for men and women. Said orders shall be subject to review
6 in the manner provided in ch. 227.

7 **SECTION 2005ho.** 104.045 of the statutes is renumbered 104.045 (intro.) and
8 amended to read:

9 **104.045 Tipped employes Tips, meals and lodging, and hours worked.**
10 (intro.) The department shall ~~by rule determine what amount of promulgate rules~~
11 governing all of the following:

12 **(1) The counting of tips** or similar gratuities may be counted toward fulfillment
13 of the employer's obligation under this chapter.

14 **SECTION 2005hoo.** 104.045 (2) and (3) of the statutes are created to read:

15 104.045 **(2)** The deduction of meals or lodging provided by an employer to an
16 employe from the employer's obligations under this chapter.

17 **(3)** The determination of hours worked by an employe during which the
18 employe is entitled to a living wage under this chapter.

19 **SECTION 2005hp.** 104.05 of the statutes is amended to read:

20 **104.05 Complaints; investigation.** The department shall, within 20 days
21 after the filing of a verified complaint of any person ~~setting forth~~ alleging that the
22 wages paid to any employe ~~in any occupation~~ are not sufficient to enable the employe
23 to maintain himself or herself under conditions consistent with his or her welfare,
24 investigate and determine whether there is reasonable cause to believe that the wage
25 paid to any the employe is not a ~~living wage~~ living wage.

1 **SECTION 2005hq.** 104.06 of the statutes is amended to read:

2 **104.06 Wage council; determination.** If, upon investigation, the
3 department finds that there is reasonable cause to believe that the wages paid to any
4 employe are not a ~~living wage~~, it living wage, the department shall appoint a wage
5 council, selected so as fairly to represent employers, employes and the public, to
6 assist in its investigations and determinations. The ~~living wage~~ department may
7 use the results of an investigation under this section to establish a living wage. A
8 living wage so determined upon shall be the ~~living wage~~ living wage for all employes
9 within the same class as established by the ~~classification of the department~~ under
10 s. 104.04.

11 **SECTION 2005hr.** 104.07 (1) of the statutes is amended to read:

12 104.07 (1) The department shall make promulgate rules and, except as
13 provided under subs. (5) and (6), grant licenses, to any employer who employs any
14 employe who is unable to earn the ~~living wage theretofore determined upon,~~
15 permitting such person to a living wage so that the employe may work for a wage
16 which shall be that is commensurate with the employe's ability and each. Each
17 license so granted shall establish a wage for the licensee employes of the licensee who
18 are unable to earn a living wage.

19 **SECTION 2005hs.** 104.07 (2) of the statutes is amended to read:

20 104.07 (2) The department shall make promulgate rules and, except as
21 provided under subs. (5) and (6), grant licenses to sheltered workshops to permit the
22 employment of workers with disabilities who are unable to earn the ~~living wage at~~
23 a living wage so that those workers may work for a wage that is commensurate with
24 their ability and productivity. A license granted to a sheltered workshop under this
25 section may be issued for the entire workshop or a department of the workshop.

1 **SECTION 2005ht.** 104.08 (1) of the statutes is renumbered 104.08 (2) and
2 amended to read:

3 104.08 (2) ~~All persons~~ Any person working in an ~~occupation~~ trade industry
4 for which a ~~living-wage~~ living wage has been established for minors, and who ~~shall~~
5 have ~~has~~ no trade, shall, ~~if employed in an occupation which is a trade industry,~~ be
6 indentured under ~~the provisions of s. 106.01.~~

7 **SECTION 2005hu.** 104.08 (1) (b) of the statutes is created to read:

8 104.08 (1) (b) “Trade industry” means an industry involving physical labor and
9 characterized by mechanical skill and training such as render a period of instruction
10 reasonably necessary.

11 **SECTION 2005hv.** 104.08 (2) of the statutes is renumbered 104.08 (1) (intro.)
12 and amended to read:

13 104.08 (1) (intro.) ~~A “trade” or a “trade industry” within the meaning of ss.~~
14 ~~104.01 to 104.12 shall be a trade or~~ In this section:

15 (a) “Trade” means an industry occupation involving physical labor and
16 characterized by mechanical skill and training such as render a period of instruction
17 reasonably necessary.

18 (3) (a) The department shall investigate, determine and declare what
19 occupations and industries are included within ~~the phrase~~ a “trade” or a “trade
20 industry”.

21 **SECTION 2005hw.** 104.08 (3) of the statutes is renumbered 104.08 (3) (b).

22 **SECTION 2005hx.** 104.10 of the statutes is amended to read:

23 **104.10 Penalty for intimidating witness.** Any employer who discharges or
24 threatens to discharge, or who in any way discriminates, or threatens to
25 discriminate, against any employe because the employe has testified or is about to

1 testify, or because the employer believes that the employe may testify, in any
2 investigation or proceeding relative to the enforcement of ~~ss. 104.01 to 104.12~~, is
3 ~~guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of~~
4 ~~\$25~~ this chapter may be fined \$500 for each offense.

5 **SECTION 2005hy.** 104.11 of the statutes is amended to read:

6 **104.11 Definition of violation.** Each day during which any an employer
7 ~~shall employ~~ employs a person for whom a ~~living-wage~~ living wage has been ~~fixed~~
8 ~~established~~ at a wage less than the ~~living-wage fixed~~ established living wage shall
9 constitute a separate and distinct violation of ~~ss. 104.01 to 104.12~~ this chapter.

10 **SECTION 2005hz.** 104.12 of the statutes is amended to read:

11 **104.12 Complaints.** Any person may register with the department a
12 complaint that the wages paid to employes for whom a ~~living-wage~~ living wage has
13 been established are less than that rate, and the department shall investigate the
14 matter and take all proceedings necessary to enforce the payment of a wage not less
15 than ~~the living-wage~~ a living wage. Section 111.322 (2m) applies to discharge and
16 other discriminatory acts arising in connection with any proceeding under this
17 section.”.

18 **3.** Page 1208, line 4: after that line insert:

19 **“SECTION 2398bd.** 234.94 (5) of the statutes is amended to read:

20 234.94 (5) “Primary employment” means work which pays at least the
21 minimum wage as established under ~~ch. 104 s. 104.035 (2)~~ or under federal law,
22 whichever is greater, offers adequate fringe benefits, including health insurance,
23 and is not seasonal or part time.

24 **SECTION 2398bg.** 234.94 (8) of the statutes is amended to read:

1 234.94 **(8)** “Target group” means a population group for which the
2 unemployment level is at least 25% higher than the statewide unemployment level,
3 or a population group for which the average wage received is less than 1.2 times the
4 minimum wage as established under ~~ch. 104 s. 104.035 (2)~~ or under federal law,
5 whichever is greater. No population group is required to be located within a
6 contiguous geographic area to be considered a target group.”.

7 **4.** Page 1423, line 17: after that line insert:

8 “**SECTION 3081m.** 800.09 (1) (b) of the statutes is amended to read:

9 **800.09 (1) (b)** If the defendant agrees to perform community service work in
10 lieu of making restitution or paying the forfeiture, assessments and costs, or both,
11 the court may order that the defendant perform community service work for a public
12 agency or a nonprofit charitable organization that is designated by the court.
13 Community service work may be in lieu of restitution only if also agreed to by the
14 public agency or nonprofit charitable organization and by the person to whom
15 restitution is owed. The court may utilize any available resources, including any
16 community service work program, in ordering the defendant to perform community
17 service work. The number of hours of community service work required may not
18 exceed the number determined by dividing the amount owed on the forfeiture by the
19 minimum wage established under ~~ch. 104 for adults in nonagriculture, nontipped~~
20 ~~employment s. 104.035 (2)~~. The court shall ensure that the defendant is provided a
21 written statement of the terms of the community service order and that the
22 community service order is monitored.”.

23 **5.** Page 1424, line 9: after that line insert:

24 “**SECTION 3083m.** 800.095 (4) (b) 3. of the statutes is amended to read:

1 800.095 **(4)** (b) 3. That the defendant perform community service work for a
2 public agency or a nonprofit charitable organization designated by the court, except
3 that the court may not order the defendant to perform community service work
4 unless the defendant agrees to perform community service work and, if the
5 community service work is in lieu of restitution, unless the person to whom the
6 restitution is owed agrees. The court may utilize any available resources, including
7 any community service work program, in ordering the defendant to perform
8 community service work. The number of hours of community service work required
9 may not exceed the number determined by dividing the amount owed on the
10 forfeiture or restitution, or both, by the minimum wage established under ~~ch. 104 for~~
11 ~~adults in nonagriculture, nontipped employment s. 104.035 (2)~~. The court shall
12 ensure that the defendant is provided a written statement of the terms of the
13 community service order and that the community service order is monitored.”.

14 **6.** Page 1431, line 11: after that line insert:

15 “**SECTION 3113t.** 895.035 (2m) (c) of the statutes is amended to read:

16 895.035 **(2m)** (c) The court assigned to exercise jurisdiction under chs. 48 and
17 938 may order that the juvenile perform community service work for a public agency
18 or nonprofit charitable organization that is designated by the court in lieu of making
19 restitution or paying the forfeiture or surcharge. If the parent agrees to perform
20 community service work in lieu of making restitution or paying the forfeiture or
21 surcharge, the court may order that the parent perform community service work for
22 a public agency or a nonprofit charitable organization that is designated by the court.
23 Community service work may be in lieu of restitution only if also agreed to by the
24 public agency or nonprofit charitable organization and by the person to whom

1 restitution is owed. The court may utilize any available resources, including any
2 community service work program, in ordering the juvenile or parent to perform
3 community service work. The number of hours of community service work required
4 may not exceed the number determined by dividing the amount owed on the
5 restitution, forfeiture or surcharge by the minimum wage established under ~~ch. 104~~
6 ~~for adults in nonagriculture, nontipped employment~~ s. 104.035 (2). The court shall
7 ensure that the juvenile or parent is provided with a written statement of the terms
8 of the community service order and that the community service order is monitored.”.

9 (END)