



State of Wisconsin
2017 - 2018 LEGISLATURE

LRBa2528/1
ALL:all

**SENATE AMENDMENT 2,
TO ASSEMBLY BILL 748**

March 20, 2018 - Offered by Senators RINGHAND, SHILLING, RISSER, ERPENBACH, VINEHOUT, JOHNSON, L. TAYLOR, SCHACHTNER, LARSON, HANSEN, WIRCH, BEWLEY and CARPENTER.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 1, line 3: before “preventing” insert “repealing right to work;”.

3 **2.** Page 1, line 6: after “law;” insert “state procurement of products and
4 services from businesses located in this state; setting a goal for local government to
5 purchase a certain percentage of products and services from businesses located in
6 this state;”.

7 **3.** Page 1, line 6: after “law;” insert “the state civil service system; project labor
8 agreements and public contracts;”.

9 **4.** Page 1, line 9: after “state;” insert “a requirement that laborers, workers,
10 mechanics, and truck drivers employed on the site of a project of public works be paid
11 the prevailing wage; the provision by employers to employees of written disclosure
12 statements of the terms of employment; various changes pertaining to wage claims;
13 occupational or professional licensing of employers that owe wages under wage claim

1 judgments; allowing the enactment of local minimum wage ordinances; actions in
2 circuit court alleging discrimination in employment, unfair honesty testing, or
3 unfair genetic testing; the rights of employees to request and receive work schedule
4 changes; predictable work schedules for retail, food service, and cleaning employees;
5 prohibiting an employer from relying on or inquiring about a prospective employee's
6 current or prior compensation and from restricting an employee's right to disclose
7 compensation information; the establishment of a family and medical leave
8 insurance program; family leave to care for a grandparent, grandchild, or sibling and
9 for the active duty of a family member; the employers that are required to permit an
10 employee to take family or medical leave; providing an exemption from emergency
11 rule procedures; providing an exemption from rule-making procedures; granting
12 rule-making authority; making appropriations; providing penalties;"

13 **5.** Page 2, line 1: before that line insert:

14 "SECTION 1e. 16.72 (2) (c) of the statutes is amended to read:

15 16.72 (2) (c) To the extent possible, the department shall write specifications
16 so as to permit the purchase of materials manufactured in the United States, as
17 defined in s. 16.754 (1) (b), or the purchase of local products or services, as defined
18 in s. 66.0145 (1) (b).

19 SECTION 1f. 16.754 (title) of the statutes is amended to read:

20 **16.754 (title) Preference for local products and services and**
21 **American-made materials.**

22 SECTION 1g. 16.754 (1) (a) of the statutes is renumbered 16.754 (1) (ar).

23 SECTION 1h. 16.754 (1) (am) of the statutes is created to read:

1 16.754 (1) (am) “Local product or service” has the meaning given in s. 66.0145
2 (1) (b).

3 **SECTION 1i.** 16.754 (2) (title) of the statutes is amended to read:

4 16.754 (2) (title) ~~PURCHASE PREFERENCE~~ PREFERENCES.

5 **SECTION 1j.** 16.754 (2) of the statutes is renumbered 16.754 (2) (b).

6 **SECTION 1je.** 16.754 (2) (a) of the statutes is created to read:

7 16.754 (2) (a) The department, a designated purchasing agent under s. 16.71
8 (1), and each agency making purchases under s. 16.74 shall attempt to ensure that
9 at least 20 percent of the total amount expended under this subchapter in each fiscal
10 year is for local products or services, and it shall be a further goal that the percentage
11 of the total amount expended in any fiscal year for local products or services will not
12 be lower than the percentage of the total amount expended in the previous fiscal year
13 for local products or services.

14 **SECTION 1jh.** 16.754 (2m) of the statutes is created to read:

15 16.754 (2m) **DATA.** For purposes of measuring compliance with sub. (2) (a), the
16 department shall collect from a person who responds to a proposal or submits a bid
17 for a contract information regarding the person’s principal place of business. The
18 department shall make available to the public on its Internet site the data it collects
19 under this subsection as well as an annual evaluation of how well the department,
20 its designated purchasing agents, and any agency making purchases under s. 16.74
21 are meeting the goal under sub. (2) (a).

22 **SECTION 1jm.** 16.754 (3) (intro.) of the statutes is amended to read:

23 16.754 (3) **EXEMPTIONS.** (intro.) Subsection (2) (b) does not apply if the
24 materials are purchased for the purpose of commercial resale or for the purpose of
25 use in the production of goods for commercial sale. Subsection (2) (b) does not apply

1 to the purchase of stationery and printing materials. Subsection (2) (b) does not
2 apply if the department determines, under s. 16.75 (1) (a) 2., that the foreign nation
3 or subdivision thereof in which the vendor is domiciled does not give preference to
4 vendors domiciled in that nation or subdivision in making governmental purchases.
5 Subsection (2) (b) does not apply if the department or other person having
6 contracting authority in respect to the purchase determines that:”.

7 **6.** Page 2, line 1: before that line insert:

8 “**SECTION 1b.** 20.865 (1) (dm) of the statutes is repealed.

9 **SECTION 1c.** 20.928 (1f) of the statutes is repealed.

10 **SECTION 1d.** 62.13 (4) (d) of the statutes is amended to read:

11 62.13 (4) (d) The examination shall be free for all U.S. citizens over 18 and
12 under 55 years of age, with proper limitations as to health and, subject to ss. 111.321,
13 111.322, and 111.335, arrest and conviction record. The examination, including
14 minimum training and experience requirements, shall be job-related in compliance
15 with appropriate validation standards and shall be subject to the approval of the
16 board and may include tests of manual skill and physical strength. All relevant
17 experience, whether paid or unpaid, shall satisfy experience requirements. The
18 board shall control examinations and may designate and change examiners, who
19 may or may not be otherwise in the official service of the city, and whose
20 compensation shall be fixed by the board and paid by the city. Veterans and their
21 spouses shall be given preference points in accordance with s. ~~63.08 (1) (fm)~~ 230.16
22 (7).

23 **SECTION 1e.** 63.08 (1) (f) 1. of the statutes is amended to read:

1 63.08 (1) (f) 1. The commission may not impose any restriction as to age on any
2 veteran who is applying or eligible for a position under this section. The commission
3 shall give preference points to veterans and their spouses under ~~par. (fm) s. 230.16~~
4 (7), except as provided under subd. 2.

5 **SECTION 1f.** 63.08 (1) (f) 2. of the statutes is amended to read:

6 63.08 (1) (f) 2. Notwithstanding ~~par. (fm) s. 230.16 (7)~~, persons shall be certified
7 from the eligible list under s. 63.05 (1) (b) without adding any preference points to
8 any person's grade.

9 **SECTION 1g.** 63.08 (1) (f) 3. of the statutes is amended to read:

10 63.08 (1) (f) 3. After the certification under subd. 2., any veteran or veteran's
11 spouse whose grade, plus the points to which the veteran or spouse is entitled under
12 ~~par. (fm) s. 230.16 (7)~~, is equal to or higher than the lowest grade on the list made
13 under subd. 2. shall be added to the certification list under s. 63.05 (1) (b). The
14 number of persons added to a certification list under this subdivision may not exceed
15 the number of persons initially certified under subd. 2.

16 **SECTION 1h.** 63.08 (1) (fm) of the statutes is renumbered 230.16 (7), and 230.16
17 (7) (a) (intro.) and (b), as renumbered, are amended to read:

18 230.16 (7) (a) (intro.) A preference shall be given to those veterans and to those
19 spouses of veterans specified in ~~subd. subds. 1. -a. to f. to 6.~~ who gain eligibility on
20 any competitive employment register and who do not currently hold a permanent
21 appointment or have mandatory restoration rights to a permanent appointment to
22 any position. A preference means the following:

23 (b) An applicant who is certified for a position after receiving a preference
24 under ~~subd. 1. d., e., or f. par. (a) 4., 5., or 6.~~ and who is appointed to that position may

1 not obtain a preference under ~~subd. 1. d., e., or f. par. (a) 4., 5., or 6.~~ for any other civil
2 service position for which the applicant subsequently applies.

3 **SECTION 1i.** 63.37 of the statutes is amended to read:

4 **63.37 Board to keep a register of eligibles.** From the returns or reports of
5 the examiners, or from the examinations made by the board, the board shall prepare
6 and keep a register for each grade or class of position in the service of such city, of
7 the persons whose general average standing upon examinations for such grade or
8 class is not less than the minimum fixed by the rules of such board, and who are
9 otherwise eligible, and such persons shall take rank upon the register as candidates
10 in the order of their relative excellence as determined by examination without
11 reference to priority of time of examination. The board shall impose no restrictions
12 as to age in case of veterans, and veterans and their spouses shall be given preference
13 points in accordance with s. ~~63.08 (1) (fm)~~ 230.16 (7).

14 **SECTION 1k.** 63.39 (2m) of the statutes is amended to read:

15 **63.39 (2m)** Notwithstanding s. ~~63.08 (1) (fm)~~ 230.16 (7), the board shall certify
16 persons from the list of eligibles without adding preference points to their grades.
17 After the certification under sub. (1) or (2), the board shall add to the certification list
18 any veteran or veteran's spouse whose grade, plus the points to which the veteran
19 or spouse is entitled under s. ~~63.08 (1) (fm)~~ 230.16 (7), is equal to or higher than the
20 lowest grade on the list of eligibles.”.

21 **7.** Page 2, line 1: before that line insert:

22 “**SECTION 1e.** 16.75 (1p) of the statutes, as created by 2017 Wisconsin Act 3, is
23 repealed.

1 **SECTION 1g.** 16.855 (1p) of the statutes, as created by 2017 Wisconsin Act 3, is
2 repealed.”.

3 **8.** Page 2, line 1: before that line insert:

4 “**SECTION 1e.** 20.445 (1) (w) of the statutes is created to read:

5 20.445 (1) (w) *Family and medical leave insurance trust fund.* From the family
6 and medical leave insurance trust fund, all moneys deposited in that fund under s.
7 103.105 (7) for the payments of family or medical leave insurance benefits under s.
8 103.105 (2) (c) and for the administration of the family or medical leave insurance
9 program under s. 103.105.

10 **SECTION 1m.** 25.17 (1) (er) of the statutes is created to read:

11 25.17 (1) (er) Family and medical leave insurance trust fund (s. 25.52);

12 **SECTION 1s.** 25.52 of the statutes is created to read:

13 **25.52 Family and medical leave insurance trust fund.** There is created
14 a separate nonlapsible trust fund designated as the family and medical leave
15 insurance trust fund, to consist of all moneys deposited in that fund under s. 103.105
16 (7).”.

17 **9.** Page 3, line 23: before that line insert:

18 “**SECTION 1s.** 66.0145 of the statutes is created to read:

19 **66.0145 Purchases of Wisconsin goods and services. (1) DEFINITIONS.** In
20 this section:

21 (a) “Local governmental unit” has the meaning given in s. 66.0135 (1) (c).

22 (b) “Local product or service” means a product or service that is purchased from
23 a person whose principal place of business is located in this state.

1 **(2) PURCHASING GOALS.** (a) It shall be a goal of a local governmental unit that,
2 annually, at least 20 percent of the aggregate value of purchases of products and
3 services by that local governmental unit shall be local products or services, and it
4 shall be a further goal of the local governmental unit that the percentage of the
5 aggregate value of routine purchases of products and services in any year that are
6 local products and services will not be lower than the aggregate value of such routine
7 purchases in the previous year.

8 (b) A local governmental unit shall evaluate its performance in reaching the
9 goals specified in par. (a) and shall annually make this evaluation available to the
10 public, except that these requirements do not apply to any local governmental unit
11 whose governing body enacts an ordinance, adopts a resolution, or takes other official
12 action stating that it chooses not to conduct an evaluation of its performance in
13 reaching the goals.”.

14 **10.** Page 4, line 3: after that line insert:

15 “**SECTION 2m.** 66.0509 (1) of the statutes is amended to read:

16 66.0509 (1) Any city or village may proceed under s. 61.34 (1), 62.11 (5) or
17 66.0101 to establish a civil service system of selection, tenure and status, and the
18 system may be made applicable to all municipal personnel except the chief executive
19 and members of the governing body, members of boards and commissions including
20 election officials, employees subject to s. 62.13, members of the judiciary and
21 supervisors. Any town may establish a civil service system under this subsection.
22 For veterans there shall be no restrictions as to age, and veterans and their spouses
23 shall be given preference points in accordance with s. ~~63.08 (1) (fm)~~ 230.16 (7). The
24 system may also include uniform provisions in respect to attendance, leave

1 regulations, compensation and payrolls for all personnel included in the system. The
2 governing body of any city, village or town establishing a civil service system under
3 this section may exempt from the system the librarians and assistants subject to s.
4 43.09 (1).”.

5 **11.** Page 4, line 3: after that line insert:

6 “**SECTION 2e.** 66.0901 (1) (ae) of the statutes, as created by 2017 Wisconsin Act
7 3, is repealed.

8 **SECTION 2f.** 66.0901 (1) (am) of the statutes, as created by 2017 Wisconsin Act
9 3, is repealed.

10 **SECTION 2g.** 66.0901 (6) of the statutes, as affected by 2017 Wisconsin Act 3,
11 is amended to read:

12 66.0901 (6) SEPARATION OF CONTRACTS; CLASSIFICATION OF CONTRACTORS. In public
13 contracts for the construction, repair, remodeling or improvement of a public
14 building or structure, other than highway structures and facilities, a municipality
15 may bid projects based on a single or multiple division of the work. Public contracts
16 shall be awarded according to the division of work selected for bidding. ~~Except as~~
17 ~~provided in sub. (6m), the~~ The municipality may set out in any public contract
18 reasonable and lawful conditions as to the hours of labor, wages, residence, character
19 and classification of workers to be employed by any contractor, classify contractors
20 as to their financial responsibility, competency and ability to perform work and set
21 up a classified list of contractors. The municipality may reject the bid of any person,
22 if the person has not been classified for the kind or amount of work in the bid.

23 **SECTION 2h.** 66.0901 (6m) of the statutes, as created by 2017 Wisconsin Act 3,
24 is repealed.

1 **SECTION 2i.** 66.0901 (6s) of the statutes, as created by 2017 Wisconsin Act 3,
2 is repealed.”.

3 **12.** Page 4, line 3: after that line insert:

4 **“SECTION 2m.** 71.05 (6) (b) 54. of the statutes is created to read:

5 71.05 **(6)** (b) 54. For taxable years beginning after December 31, 2021, any
6 amount of family or medical leave insurance benefits received by a covered
7 individual, as defined in s. 103.105 (1) (d), in the taxable year to which the
8 subtraction relates.”.

9 **13.** Page 4, line 15: after “103.03,” insert “103.035,”.

10 **14.** Page 5, line 6: before that line insert:

11 **“SECTION 3m.** 103.035 of the statutes is created to read:

12 **103.035 Work schedule flexibility and predictability. (1) DEFINITIONS.**

13 In this section:

14 (a) “Bona fide business reason” means a reason that justifies an employer’s
15 action and that is based on the employer’s determination that taking a different
16 action would have any of the following results:

17 1. Additional costs to the employer, including costs of lost employee
18 productivity, retaining or hiring employees, or transferring employees between work
19 locations.

20 2. A significant detrimental effect on the employer’s ability to meet
21 organizational needs or customer demand.

22 3. A significant inability of the employer, despite the employer’s best efforts,
23 to reorganize work among other employees.

24 4. A significant detrimental effect on the employer’s business performance.

1 5. Insufficient work during the period an employee proposes to work.

2 6. Unfairness to other employees who request changes to work schedules if
3 granting all requests would have a significant detrimental effect on the employer's
4 ability to meet organizational needs.

5 (b) "Child" means an individual who is all of the following:

6 1. A biological, adopted, or foster child; a stepchild; a legal ward; or a child of
7 a person standing in the place of a parent with respect to that child.

8 2. An individual to whom any of the following applies:

9 a. The individual is less than 18 years of age.

10 b. The individual is 18 years of age or older and is incapable of self-care because
11 of a mental or physical disability.

12 (c) "Domestic partner" has the meaning given in s. 40.02 (21c) or 770.01 (1).

13 (d) "Employee" means an employee who is employed by an employer.

14 (e) "Employer" means an employer that employs at least 15 employees.
15 "Employer" includes the state, its political subdivisions, and any office, department,
16 independent agency, authority, institution, association, society, or other body in state
17 or local government created or authorized to be created by the constitution or any
18 law, including the legislature and the courts.

19 (f) "Family member" means any of the following:

20 1. A spouse or domestic partner of an employee.

21 2. A parent, child, sibling, brother-in-law, sister-in-law, grandparent, or
22 grandchild of an employee or of an employee's spouse or domestic partner.

23 3. Any other individual who is related by blood, marriage, or adoption to an
24 employee or to an employee's spouse or domestic partner and whose close association

1 with the employee, spouse, or domestic partner makes the individual the equivalent
2 of a family member of the employee, spouse, or domestic partner.

3 (g) “Grandchild” means the child of a child.

4 (h) “Grandparent” means the parent of a parent.

5 (i) “Nonexempt employee” means an employee who is not employed in a bona
6 fide executive, administrative, or professional capacity, as described in 29 USC 213
7 (a) (1).

8 (j) “Parent” means a biological parent, foster parent, adoptive parent,
9 stepparent, or legal guardian of an employee or of an employee’s spouse or domestic
10 partner.

11 (k) “Part-time employee” means an employee who works on average fewer than
12 30 hours per week for a particular employer.

13 (L) “Service employee” means a nonexempt employee who is employed in an
14 occupation designated by the department under sub. (3) (g) or in any of the
15 occupations classified under the following codes set forth in the Standard
16 Occupational Classification system, 2010 edition, published by the bureau of labor
17 statistics of the U.S. department of labor:

18 1. Major group code 35-0000 — Food preparation and serving related
19 occupations.

20 2. Broad occupation code 37-2010 — Building cleaning workers.

21 3. Detailed occupation code 41-1011 — First-line supervisors of retail sales
22 workers.

23 4. Minor group code 41-2000 — Retail sales workers.

24 (m) “Sibling” means a brother, sister, half brother, half sister, stepbrother,
25 stepsister, foster brother, or foster sister, whether by blood, marriage, or adoption.

1 (n) "Split shift" means a work shift that consists of work time that is not
2 continuous. For purposes of determining whether a work shift is continuous, any of
3 the following breaks in work time are not considered:

4 1. One or more breaks for meals that total one hour or less.

5 2. A break that is requested by the employee.

6 (o) "Work schedule" means the days and times during each successive work
7 period when an employee is required by an employer to perform duties of
8 employment.

9 (p) "Work shift" means the specific times during a day that an employer
10 requires an employee to work.

11 (q) "Written" does not include a communication that is transmitted or received
12 by electronic means.

13 **(2) EMPLOYEE RIGHT TO REQUEST AND RECEIVE WORK SCHEDULE CHANGES.** (a)
14 *Employee right to request work schedule changes.* 1. An employee may request a
15 change in the terms and conditions of employment related to any of the following
16 work schedule issues:

17 a. The number of hours the employee is required to work or be on call for work.

18 b. The days or times when the employee is required to work or be on call for
19 work.

20 c. The location where the employee is required to work.

21 d. The amount of notification the employee receives regarding changes to the
22 employee's work schedule.

23 e. Minimizing fluctuations in the number of hours the employee is scheduled
24 to work on a daily, weekly, or monthly basis.

1 2. An employee who makes a request under subd. 1. shall specify in the request
2 whether it is related to any of the following:

3 a. A serious health condition, as defined under s. 103.10 (1) (g), of the employee.

4 b. The employee's responsibilities as a significant provider of ongoing care,
5 including responsibility for securing ongoing care, of the employee's child, family
6 member with a serious health condition, as defined under s. 103.10 (1) (g), or parent
7 who is 65 years of age or older.

8 c. The employee's responsibilities as a significant provider of education,
9 including responsibility for securing education, of the employee's child.

10 d. The employee's enrollment in an educational or training program or program
11 of study that leads to a recognized postsecondary credential.

12 e. If the employee is a part-time employee, conflicts with the employee's other
13 employment.

14 (b) *Evaluating requests for work schedule changes.* If an employer receives a
15 request from an employee under par. (a), the employer shall either grant the request
16 without modification or negotiate in good faith with the employee to find a
17 compromise that meets the employee's and the employer's work scheduling needs,
18 including by considering any alternative proposals offered by the employee. If the
19 employer denies the request and any alternative proposals offered, the employer
20 shall inform the employee of the reasons for denial, including whether any of the
21 reasons is a bona fide business reason.

22 (c) *Requests related to serious health conditions, caregiving, education, or other*
23 *part-time employment.* Notwithstanding par. (b), if an employer receives a request
24 from an employee under par. (a) that is directly related to any of the issues described

1 under par. (a) 2., the employer shall grant the request unless the employer has a bona
2 fide business reason for denying the request.

3 (d) *Verification of reasons for requested changes.* If an employer receives a
4 request from an employee under par. (a), the employer may require the employee to
5 provide additional information to clarify or explain the reasons for the employee's
6 requested work schedule change if the employer needs that information to properly
7 evaluate the request under par. (b) or (c).

8 **(3) PREDICTABLE WORK SCHEDULES FOR RETAIL, FOOD SERVICE, AND CLEANING**
9 **EMPLOYEES.** (a) *Advance notice of work schedules required.* 1. On or before the first
10 day of work of a new service employee, an employer shall provide the service
11 employee with a written copy of the service employee's work schedule.

12 2. Except as provided in pars. (b) and (c), if an employer changes a work
13 schedule provided to a service employee under subd. 1. or this subdivision, the
14 employer shall provide the service employee with a written copy of the new work
15 schedule no later than 14 days before the new work schedule begins.

16 3. An employer shall post a copy of a work schedule provided under this
17 paragraph in any of the following ways:

18 a. In one or more conspicuous places where notices to employees are
19 customarily posted.

20 b. On an Internet site accessible by all of the employer's employees.

21 4. If an employer changes a work schedule after it is posted under subd. 3., the
22 employer shall revise the posted work schedule to reflect those changes.

23 (b) *Employer-initiated changes to work schedules without advance notice.* 1.
24 An employer may change, without the advance notice required under par. (a) 2., a
25 work schedule provided to a service employee under par. (a) 1. or 2. as provided in

1 this paragraph. Except as provided under subd. 2., if the employer changes a work
2 schedule provided to a service employee under par. (a) 1. or 2. less than 14 days before
3 the new work schedule begins, the employer shall provide the service employee
4 compensation for the change in an amount equal to the service employee's regular
5 rate of pay for one hour of work in addition to any other compensation earned by the
6 service employee.

7 2. An employer is not required to pay compensation to a service employee under
8 subd. 1. for a change to the service employee's work schedule if any of the following
9 applies to the change:

10 a. The service employee consents to the change.

11 b. The employer requires the service employee to work additional time or an
12 additional work shift because another service employee was scheduled to work that
13 time or work shift and is unexpectedly unavailable to do so.

14 (c) *Employee-initiated changes to work schedules.* An employer may allow a
15 service employee to agree to work in place of another service employee if the service
16 employees mutually agree to the change. The employer is not required to provide
17 compensation under par. (b) 1. to a service employee with respect to a work shift trade
18 under this paragraph.

19 (d) *Compensation for reporting time, on-call time, and split shifts.* 1. Except
20 as provided in subd. 4., if a service employee reports to work and the service
21 employee's employer does not allow the service employee to work all time that the
22 service employee is scheduled to work, the employer shall provide the service
23 employee with the following compensation:

24 a. If the service employee is scheduled to work 4 hours or less, an amount equal
25 to the service employee's regular rate of pay for all time the service employee is

1 scheduled to work but does not work in addition to any other compensation earned
2 by the service employee for time the service employee actually works.

3 b. If the service employee is scheduled to work more than 4 hours and works
4 less than 4 hours, an amount equal to the service employee's regular rate of pay for
5 the difference between 4 hours and the amount of time the service employee actually
6 works in addition to any other compensation earned by the service employee for time
7 the service employee actually works.

8 2. Except as provided in subd. 4., if an employer requires a service employee
9 to contact the employer, or wait to be contacted by the employer, less than 24 hours
10 before a work shift to determine whether the employer will require the service
11 employee to report to work for that work shift, the employer shall provide the service
12 employee compensation in an amount equal to the service employee's regular rate of
13 pay for one hour of work in addition to any other compensation earned by the service
14 employee for time the service employee actually works.

15 3. Except as provided in subd. 4, if an employer requires a service employee to
16 work a split shift, the employer shall provide the service employee compensation in
17 an amount equal to the service employee's regular rate of pay for one hour of work
18 in addition to any other compensation earned by the service employee for time the
19 service employee actually works.

20 4. If a service employee is entitled to more than one type of compensation under
21 subds. 1. to 3. with respect to a particular work shift, the employer shall pay the
22 service employee the compensation required under subd. 1., 2., or 3., whichever is
23 greatest.

24 (e) *Manner of payment of additional compensation.* An employer that is
25 required to provide compensation to a service employee under par. (b) 1. or (d) shall

1 pay that compensation on the service employee's regular pay check or other wage
2 payment. The employer shall identify on the pay check, pay envelope, or paper
3 accompanying the wage payment the amount of and reason for all additional
4 compensation paid.

5 (f) *Exception.* An employer is not required to comply with this subsection
6 during a period in which the employer's regular operations are suspended due to an
7 event outside of the employer's control.

8 (g) *Designating additional covered occupations.* The department may
9 promulgate rules to apply the protections afforded under pars. (a) to (f) to additional
10 occupations. The department may designate an occupation under this paragraph if
11 the department determines that at least 10 percent of the individuals employed in
12 the occupation either typically receive notice of changes to their work schedules less
13 than 14 days before the change takes effect or regularly experience fluctuations in
14 the number of hours the individuals are scheduled to work on a daily, weekly, or
15 monthly basis.

16 (4) PROHIBITED ACTS. (a) No employer may interfere with, restrain, or deny the
17 exercise of the right of an employee to request and receive a change in the terms and
18 conditions of employment as provided under sub. (2). No employer may interfere
19 with, restrain, or deny the exercise of the right of a service employee to receive
20 advance notice of work schedules as provided under sub. (3) (a), receive
21 compensation as provided under sub. (3) (b) 1. and (d), or request approval to trade
22 work shifts as provided under sub. (3) (c).

23 (b) No employer may discharge or discriminate against an employee in
24 promotion, in compensation, or in the terms, conditions, or privileges of employment
25 for exercising a right of an employee described under par. (a), opposing a practice

1 prohibited under this section, filing or indicating an intent to file a complaint or
2 otherwise attempting to enforce a right under this section, or testifying, assisting,
3 or participating in any manner in any investigation, action, or proceeding to enforce
4 a right under this section.

5 (5) ENFORCEMENT. (a) *Administrative proceeding.* An employee whose rights
6 are interfered with, restrained, or denied in violation of sub. (4) (a) or who is
7 discharged or discriminated against in violation of sub. (4) (b) may file a complaint
8 with the department, and the department shall process the complaint in the same
9 manner that employment discrimination complaints are processed under s. 111.39.
10 If the department finds that a violation has occurred, the department may order the
11 employer to take action to remedy the violation, including any action authorized
12 under s. 111.39.

13 (b) *Civil action.* 1. The department or an employee whose rights are interfered
14 with, restrained, or denied in violation of sub. (4) (a) or who is discharged or
15 discriminated against in violation of sub. (4) (b) may bring an action in circuit court
16 against an employer on the basis of the violation without regard to exhaustion of any
17 administrative remedy.

18 2. In an action under subd. 1., if the circuit court finds that a violation of sub.
19 (4) (a) or (b) has occurred with respect to an employee, the circuit court shall order
20 the defendant to pay to the employee all of the following:

21 a. Compensatory damages in an amount that the circuit court or jury finds
22 appropriate.

23 b. Unless the employer proves that the employer acted in good faith and had
24 a reasonable basis for believing that the act or omission that constituted the violation
25 was not a violation of this section, an additional amount as liquidated damages equal

1 to 100 percent of the amount of compensatory damages determined under subd. 2.

2 a.

3 c. Notwithstanding s. 814.04 (1), reasonable attorney fees and costs incurred
4 in the action.

5 3. Damages awarded under subd. 2. are in addition to any back pay or other
6 amounts awarded under s. 111.39 or 111.395.

7 **(6) PENALTIES.** In addition to any damages imposed under sub. (5), an employer
8 that willfully violates this section may be required to forfeit not more than \$1,000 for
9 each violation. Each day of continued violation constitutes a separate offense.

10 **(7) NOTICE POSTED.** An employer shall post, in one or more conspicuous places
11 where notices to employees are customarily posted, a notice in a form approved by
12 the department setting forth employees' rights under this section. An employer that
13 violates this subsection shall forfeit not more than \$100 for each violation.”.

14 **15.** Page 5, line 6: before that line insert:

15 **“SECTION 3b.** 103.10 (1) (a) (intro.) of the statutes is renumbered 103.10 (1) (a)
16 and amended to read:

17 103.10 (1) (a) “Child” means a natural, adopted, or foster child, a stepchild, or
18 a legal ward ~~to whom any of the following applies:~~

19 **SECTION 3c.** 103.10 (1) (a) 1. of the statutes is repealed.

20 **SECTION 3d.** 103.10 (1) (a) 2. of the statutes is repealed.

21 **SECTION 3e.** 103.10 (1) (ap) of the statutes is created to read:

22 103.10 (1) (ap) “Covered active duty” means any of the following:

23 1. In the case of a member of a regular component of the U.S. armed forces, duty
24 during the deployment of the member with the U.S. armed forces to a foreign country.

1 2. In the case of a member of a reserve component of the U.S. armed forces, duty
2 during the deployment of the member with the U.S. armed forces to a foreign country
3 under a call or order to active duty under a provision of law specified in 10 USC 101
4 (a) (13) (B).

5 **SECTION 3f.** 103.10 (1) (b) of the statutes is amended to read:

6 103.10 (1) (b) Except as provided in sub. (1m) (b) 2. and s. 452.38, “employee”
7 means an individual employed in this state by an employer, except the employer’s
8 ~~parent, child, spouse, domestic partner, or child parent, grandparent, grandchild, or~~
9 sibling.

10 **SECTION 3g.** 103.10 (1) (c) of the statutes is amended to read:

11 103.10 (1) (c) Except as provided in sub. (1m) (b) 3., “employer” means a person
12 engaging in any activity, enterprise, or business in this state employing at least 50
13 25 individuals on a permanent basis. “Employer” includes the state and any office,
14 department, independent agency, authority, institution, association, society, or other
15 body in state government created or authorized to be created by the constitution or
16 any law, including the legislature and the courts.

17 **SECTION 3h.** 103.10 (1) (dm) of the statutes is created to read:

18 103.10 (1) (dm) “Grandchild” means the child of a child.

19 **SECTION 3i.** 103.10 (1) (dp) of the statutes is created to read:

20 103.10 (1) (dp) “Grandparent” means the parent of a parent.

21 **SECTION 3j.** 103.10 (1) (gm) of the statutes is created to read:

22 103.10 (1) (gm) “Sibling” means a brother, sister, half brother, half sister,
23 stepbrother, or stepsister, whether by blood, marriage, or adoption.

24 **SECTION 3k.** 103.10 (1m) (b) 4. of the statutes is amended to read:

1 103.10 **(1m)** (b) 4. “Family member” means a spouse or domestic partner of an
2 employee; a parent, child, sibling, including a foster sibling, brother-in-law,
3 sister-in-law, grandparent, ~~stepgrandparent~~, or grandchild of an employee or of an
4 employee’s spouse or domestic partner; or any other person who is related by blood,
5 marriage, or adoption to an employee or to an employee’s spouse or domestic partner
6 and whose close association with the employee, spouse, or domestic partner makes
7 the person the equivalent of a family member of the employee, spouse, or domestic
8 partner.

9 **SECTION 3L.** 103.10 (3) (a) 1. of the statutes is amended to read:

10 103.10 **(3)** (a) 1. In a 12-month period no employee may take more than 6 weeks
11 of family leave under par. (b) 1. ~~and, 2., and 4.~~

12 **SECTION 3m.** 103.10 (3) (b) 3. of the statutes is amended to read:

13 103.10 **(3)** (b) 3. To care for the employee’s child, spouse, domestic partner, ~~or~~
14 parent, grandparent, grandchild, or sibling, if the child, spouse, domestic partner, ~~or~~
15 parent, grandparent, grandchild, or sibling has a serious health condition.

16 **SECTION 3n.** 103.10 (3) (b) 4. of the statutes is created to read:

17 103.10 **(3)** (b) 4. Because of any qualifying exigency, as determined by the
18 department by rule, arising out of the fact that the spouse, child, domestic partner,
19 parent, grandparent, grandchild, or sibling of the employee is on covered active duty
20 or has been notified of an impending call or order to covered active duty.

21 **SECTION 3o.** 103.10 (6) (b) (intro.) of the statutes is amended to read:

22 103.10 **(6)** (b) (intro.) If an employee intends to take family leave because of the
23 planned medical treatment or supervision of a child, spouse, domestic partner, ~~or~~
24 parent, grandparent, grandchild, or sibling or intends to take medical leave because

1 of the planned medical treatment or supervision of the employee, the employee shall
2 do all of the following:

3 **SECTION 3p.** 103.10 (6) (b) 1. of the statutes is amended to read:

4 103.10 (6) (b) 1. Make a reasonable effort to schedule the medical treatment
5 or supervision so that it does not unduly disrupt the employer's operations, subject
6 to the approval of the health care provider of the child, spouse, domestic partner,
7 parent, grandparent, grandchild, sibling, or employee.

8 **SECTION 3q.** 103.10 (6) (c) of the statutes is created to read:

9 103.10 (6) (c) If the employee intends to take leave under sub. (3) (b) 4. that is
10 foreseeable because the spouse, child, domestic partner, parent, grandparent,
11 grandchild, or sibling of the employee is on covered active duty or has been notified
12 of an impending call or order to covered active duty, the employee shall provide notice
13 of that intention to the employer in a reasonable and practicable manner.

14 **SECTION 3r.** 103.10 (7) (a) of the statutes is amended to read:

15 103.10 (7) (a) If an employee requests family leave for a reason described in sub.
16 (3) (b) 3. or requests medical leave, the employer may require the employee to provide
17 certification, as described in par. (b), issued by the health care provider or Christian
18 Science practitioner of the child, spouse, domestic partner, parent, grandparent,
19 grandchild, sibling, or employee, whichever is appropriate.

20 **SECTION 3s.** 103.10 (7) (b) (intro.) of the statutes is amended to read:

21 103.10 (7) (b) (intro.) No employer may require certification under par. (a)
22 stating more than the following:

23 **SECTION 3t.** 103.10 (7) (b) 1. of the statutes is amended to read:

24 103.10 (7) (b) 1. That the child, spouse, domestic partner, parent, grandparent,
25 grandchild, sibling, or employee has a serious health condition.

1 **SECTION 3u.** 103.10 (7) (d) of the statutes is created to read:

2 103.10 (7) (d) If an employee requests leave under sub. (3) (b) 4., the employer
3 may require the employee to provide certification that the spouse, child, domestic
4 partner, parent, grandparent, grandchild, or sibling of the employee is on covered
5 active duty or has been notified of an impending call or order to covered active duty
6 issued at such time and in such manner as the department may prescribe by rule,
7 and the employee shall provide a copy of that certification to the employer in a timely
8 manner.

9 **SECTION 3v.** 103.10 (12) (c) of the statutes is amended to read:

10 103.10 (12) (c) If 2 or more health care providers disagree about any of the
11 information required to be certified under sub. (7) (b), the department may appoint
12 another health care provider to examine the child, spouse, domestic partner, parent,
13 grandparent, grandchild, sibling, or employee and render an opinion as soon as
14 possible. The department shall promptly notify the employee and the employer of
15 the appointment. The employer and the employee shall each pay 50 percent of the
16 cost of the examination and opinion.

17 **SECTION 3w.** 103.10 (14) (a) of the statutes is renumbered 103.10 (14).

18 **SECTION 3x.** 103.10 (14) (b) of the statutes is repealed.

19 **SECTION 3y.** 103.105 of the statutes is created to read:

20 **103.105 Family and medical leave insurance program. (1) DEFINITIONS.**

21 In this section:

22 (a) “Application year” means the 12-month period beginning on the first day
23 of the first calendar week for which family or medical leave insurance benefits are
24 claimed by a covered individual.

1 (b) "Average weekly earnings" means the average weekly earnings of a covered
2 individual as calculated under s. 102.11 (1) (a) to (e).

3 (c) "Child" means a natural, adopted, or foster child, a stepchild, or a legal ward.

4 (d) "Covered individual" means an individual who worked for an employer for
5 at least 680 hours in the calendar year prior to the individual's application year or
6 a self-employed individual who elects coverage under sub. (2) (b), regardless of
7 whether the individual is employed or unemployed at the time the individual files
8 an application for family or medical leave insurance benefits.

9 (e) "Domestic partner" has the meaning given in s. 40.02 (21c) or 770.01 (1).

10 (f) "Employee" means an individual employed in this state by an employer,
11 except the employer's child, spouse, domestic partner, parent, grandparent,
12 grandchild, or sibling.

13 (g) "Employer" means a person engaging in any activity, enterprise, or business
14 in this state. "Employer" includes the state and any office, department, independent
15 agency, authority, institution, association, society, or other body in state government
16 created or authorized to be created by the constitution or any law, including the
17 legislature and the courts.

18 (h) "Family leave" means leave from employment, self-employment, or
19 availability for employment for a reason specified in s. 103.10 (3) (b) 1., 2., 3., or 4.

20 (i) "Family or medical leave insurance benefits" means family or medical leave
21 insurance benefits payable under this section from the family and medical leave
22 insurance trust fund.

23 (j) "Grandchild" means the child of a child.

24 (k) "Grandparent" means the parent of a parent.

1 (L) “Medical leave” means leave from employment when a covered individual
2 has a serious health condition that makes the individual unable to perform his or her
3 employment duties, leave from self-employment when a covered individual has a
4 serious health condition that makes the individual unable to perform the duties of
5 his or her self-employment, or leave from availability for employment when a
6 covered individual has a serious health condition that makes the individual unable
7 to perform the duties of any suitable employment.

8 (m) “Parent” means a natural parent, foster parent, adoptive parent,
9 stepparent, or legal guardian of an employee or of an employee’s spouse or domestic
10 partner.

11 (n) “Serious health condition” has the meaning given in s. 103.10 (1) (g).

12 (o) “Sibling” means a brother, sister, half brother, half sister, stepbrother, or
13 stepsister, whether by blood, marriage, or adoption.

14 (p) “Spouse” means an employee’s legal husband or wife.

15 (q) “State annual median wage” means the median hourly wage for all
16 occupations in this state, as determined by the bureau of labor statistics of the U.S.
17 department of labor, multiplied by 2,080.

18 (r) “Waiting period” means the period under sub. (4) (b) 1. for which no family
19 or medical leave insurance benefits are payable.

20 **(2) ELIGIBILITY FOR BENEFITS.** (a) A covered individual who is on family or
21 medical leave is eligible to receive family or medical leave insurance benefits in the
22 amount specified in sub. (3) and for the duration specified in sub. (4). No family or
23 medical leave insurance benefits are payable for any period of family or medical leave
24 for which a covered individual is substituting paid leave of any other type provided

1 by his or her employer or for which a covered individual is receiving unemployment
2 insurance benefits under ch. 108 or worker's compensation benefits under ch. 102.

3 (b) Any sole proprietor, partner of a partnership, member of a limited liability
4 company, or other self-employed individual engaged in a vocation, profession, or
5 business in this state on a substantially full-time basis may elect to be covered under
6 this section by filing a written notice of election with the department in a form and
7 manner prescribed by the department by rule. An initial election under this
8 paragraph becomes effective on the date on which the notice of election is filed, shall
9 be for a period of not less than 3 years, and may be renewed for subsequent one-year
10 periods by the filing of a written notice with the department that the self-employed
11 individual intends to continue his or her coverage under this section. A
12 self-employed individual who elects coverage under this section may withdraw that
13 election no earlier than 3 years after the date of the initial election or at such other
14 times as the department may prescribe by rule by providing notice of that
15 withdrawal to the department not less than 30 days before the expiration date of the
16 election.

17 (c) To receive family or medical leave insurance benefits, a covered individual
18 shall file a claim for those benefits within such time and in such manner as the
19 department may prescribe by rule. On receipt of a claim for family or medical leave
20 insurance benefits, the department may request from the claimant's employer such
21 information as may be necessary for the department to determine the claimant's
22 eligibility for those benefits and the amount and duration of those benefits, and the
23 employer shall provide that information to the department within such time and in
24 such manner as the department may prescribe by rule. If the department determines
25 that a claimant is eligible to receive family or medical leave insurance benefits, the

1 department shall provide those benefits to the claimant as provided in subs. (3) to
2 (5).

3 **(3) AMOUNT OF BENEFITS.** (a) Subject to par. (b), the amount of family or medical
4 leave insurance benefits for a week of leave for which those benefits are payable is
5 as follows:

6 1. For a covered individual who earned less than 30 percent of the state annual
7 median wage in the calendar year before the individual's application year, 95 percent
8 of that individual's average weekly earnings.

9 2. For a covered individual who earned at least 30 percent, but less than 50
10 percent, of the state annual median wage in the calendar year before the individual's
11 application year, 90 percent of that individual's average weekly earnings.

12 3. For a covered individual who earned at least 50 percent, but less than 80
13 percent, of the state annual median wage in the calendar year before the individual's
14 application year, 85 percent of that individual's average weekly earnings.

15 4. For a covered individual who earned at least 80 percent of the state annual
16 median wage in the calendar year before the individual's application year, 66 percent
17 of that individual's average weekly earnings.

18 (b) The amount of family or medical leave insurance benefits for a fractional
19 week of leave for which those benefits are payable is one-seventh of the covered
20 individual's weekly benefit amount under par. (a) multiplied by the number of days
21 of leave taken that week. Family or medical leave insurance benefits are not payable
22 for a period of leave of less than one day in duration.

23 **(4) DURATION OF BENEFITS.** (a) The maximum number of weeks for which family
24 or medical leave insurance benefits are payable in an application year is 12 weeks.
25 A covered individual may take family or medical leave continuously or, at the option

1 of the covered individual, intermittently or on a reduced leave schedule, except that
2 a covered individual may not take family or medical leave intermittently or on a
3 reduced leave schedule for more than 24 consecutive weeks unless the leave is for a
4 reason specified in sub. (1) (L) or s. 103.10 (3) (b) 3. and the covered individual shows
5 that the leave is medically necessary. If a covered individual who is employed intends
6 to take family or medical leave intermittently or on a reduced leave schedule, the
7 covered individual shall make a reasonable effort to schedule that leave so as not to
8 unduly disrupt the operations of his or her employer and shall provide the employer
9 with prior notice of that leave in a reasonable and practicable manner.

10 (b) 1. Except as provided in subd. 2., no family or medical leave insurance
11 benefits are payable for the first 5 calendar days in an application year for which a
12 covered individual is eligible for those benefits. Except as provided in subd. 2., family
13 or medical leave insurance benefits are payable beginning on the 6th calendar day
14 in an application year for which a covered individual is eligible for those benefits.
15 The first payment of family or medical leave insurance benefits shall be made no
16 later than 2 weeks after a covered individual files a claim for those benefits and
17 subsequent payments shall be made no less often than semimonthly.

18 2. If a covered individual uses 10 or more days of family or medical leave
19 insurance benefits in an application year, those benefits shall also be payable with
20 respect to the covered individual's waiting period. An employer may not require a
21 covered individual to use paid or unpaid leave of any other type provided by the
22 employer during the covered individual's waiting period.

23 **(5) COORDINATION OF BENEFITS.** (a) If family or medical leave for which benefits
24 are payable under this section also qualifies as family or medical leave under s.
25 103.10 (3) (b) or (4) (a) or 29 USC 2612 (a) (1), the family or medical leave for which

1 those benefits are payable shall run concurrently with the family or medical leave
2 under s. 103.10 (3) (b) or (4) (a) or 29 USC 2612 (a) (1).

3 (b) No collective bargaining agreement or employer policy may diminish or
4 abridge an employee's rights under this section. Any agreement purporting to waive
5 or modify an employee's rights under this section is void as against public policy and
6 unenforceable.

7 (c) Nothing in this section prohibits an employer from providing employees
8 with rights to family or medical leave insurance benefits that are more generous to
9 the employee than the rights provided under this section.

10 **(6) TAX TREATMENT OF BENEFITS.** (a) *State income tax.* Family or medical leave
11 insurance benefits received under this section are exempt from state income taxation
12 under s. 71.05 (6) (b) 54.

13 (b) *Federal income tax.* With respect to the federal income taxation of family
14 or medical leave insurance benefits, the department shall do all of the following:

15 1. At the time an individual files a claim for those benefits, advise the
16 individual that those benefits are subject to federal income taxation, that
17 requirements exist under federal law pertaining to estimated tax payments, and
18 that the individual may elect to have federal income taxes withheld from the
19 individual's benefit payments and may change that election not more than one time
20 in an application year.

21 2. Permit the individual to elect to have federal income tax deducted and
22 withheld from the individual's benefit payments, permit the individual to change
23 that election not more than one time in an application year, and deduct and withhold
24 that tax in accordance with the individual's election as provided under 26 USC 3402.

1 3. Upon making a deduction under subd. 2., transfer the amount deducted from
2 the family and medical leave insurance trust fund to the federal internal revenue
3 service.

4 4. In deducting and withholding federal income taxes from an individual's
5 benefit payments, follow all procedures specified by the federal internal revenue
6 service pertaining to the deducting and withholding of federal income tax.

7 **(7) FAMILY AND MEDICAL LEAVE INSURANCE TRUST FUND.** Each employee and each
8 self-employed individual who elects coverage under sub. (2) (b) shall contribute to
9 the family and medical leave insurance trust fund a percentage of his or her wages
10 from employment or income from self-employment determined by the department
11 under this subsection. In determining that percentage, the department shall consult
12 with the commissioner of insurance, who shall recommend a percentage that is
13 sufficient to finance the payment of benefits under sub. (2) (c) and the administration
14 of the family and medical leave insurance program under this section. The
15 department shall collect those contributions from employers and self-employed
16 individuals who elect coverage under sub. (2) (b) in the same manner as the
17 department collects contributions to the unemployment reserve fund under ss.
18 108.17 and 108.18. Section 108.10 applies to issues regarding liability of employers
19 for contributions under this subsection. Contributions received under this
20 subsection shall be deposited in the family and medical leave insurance trust fund
21 and credited to the appropriation account under s. 20.445 (1) (w).

22 **(8) DENIAL OF CLAIMS; OVERPAYMENTS.** (a) An individual whose claim for family
23 or medical leave insurance benefits is denied by the department may request a
24 hearing on the denial, and the department shall process the request for a hearing in

1 the same manner that requests for hearings on unemployment insurance claims are
2 processed under s. 108.09.

3 (b) If the department pays family or medical leave insurance benefits
4 erroneously or as a result of willful misrepresentation, the department may seek
5 repayment of those benefits in the same manner that the department recovers
6 erroneous payments of unemployment insurance benefits under ss. 108.095, 108.22
7 (8), and 108.225. The department may waive recovery of an erroneous payment of
8 family or medical leave insurance benefits if the erroneous payment was not the fault
9 of the person who received it and if requiring repayment would be contrary to equity
10 and good conscience. If an individual willfully makes a false statement or
11 representation, or willfully fails to disclose a material fact, to obtain family or
12 medical leave insurance benefits under this section, the individual is disqualified
13 from receiving those benefits for one year after the date of the disqualification.

14 **(9) PROHIBITED ACTS.** (a) No person may interfere with, restrain, or deny the
15 exercise of any right provided under this section.

16 (b) No person may discharge or otherwise discriminate against any person for
17 exercising any right provided under this section, opposing a practice prohibited
18 under this section, filing a complaint or attempting to enforce any right provided
19 under this section, or testifying or assisting in any action or proceeding to enforce any
20 right provided under this section.

21 **(10) ENFORCEMENT.** (a) Any person who believes that his or her rights under
22 this section have been interfered with, restrained, or denied in violation of sub. (9)
23 (a) or that he or she has been discharged or otherwise discriminated against in
24 violation of sub. (9) (b) may, within 30 days after the violation occurs or the person
25 should reasonably have known that the violation occurred, whichever is later, file a

1 complaint with the department alleging the violation, and the department shall
2 process the complaint in the same manner as complaints filed under s. 103.10 (12)
3 (b) are processed. If the department finds that an employer has violated sub. (9) (a)
4 or (b), the department may order the employer to take action to remedy the violation,
5 including providing the requested family or medical leave, reinstating an employee,
6 providing back pay accrued not more than 2 years before the complaint was filed, and
7 paying reasonable actual attorney fees to the complainant. Section 111.322 (2m)
8 applies to a discharge or other discriminatory act arising in connection with any
9 proceeding under this paragraph.

10 (b) After the completion of an administrative proceeding under par. (a),
11 including judicial review, an employee or the department may bring an action in
12 circuit court against an employer to recover damages caused by a violation of sub. (9)
13 (a) or (b). Section 103.10 (13) (b) applies to the commencement of an action under this
14 paragraph.

15 **(11) ADMINISTRATION.** The department shall administer the family and medical
16 leave insurance program under this section. In administering that program, the
17 department shall do all of the following:

18 (a) Establish procedures and forms for the filing of claims for benefits under
19 this section.

20 (b) Promulgate rules to implement this section. Those rules shall maintain
21 consistency with the regulations specified in 29 CFR Part 825 and the rules
22 promulgated by the department to implement s. 103.10 to the extent that those
23 regulations and rules do not conflict with this section.

24 (c) Use information sharing and integration technology to facilitate the
25 exchange of information as necessary for the department to perform its duties under

1 this section. Notwithstanding s. 19.35 (1), individual personal information
2 maintained by the department under this section is confidential and not open to
3 public inspection and copying and may be disclosed only as follows:

4 1. On the request of the individual who is the subject of the information or the
5 individual's authorized representative, to the individual or representative.

6 2. With the written permission of the individual who is the subject of the
7 information or the individual's authorized representative, to a person named in the
8 permission.

9 3. To a public employee for use in the performance of the public employee's
10 official duties.

11 4. Under a court order or an order of a hearing examiner that is obtained upon
12 prior notice to the department and a showing to the court or hearing examiner that
13 the information is relevant to a pending court or administrative action.

14 (d) Conduct a public outreach campaign to inform employers, employees,
15 self-employed individuals, and other covered individuals regarding the family and
16 medical leave insurance program under this section. Information provided under
17 this paragraph shall be provided in English and in any other language customarily
18 spoken by more than 20 percent of the population of this state.

19 (e) By September 1 of each year, submit a report to the governor, the joint
20 committee on finance, and the appropriate standing committees of the legislature
21 under s. 13.172 (3) on the family and medical leave insurance program under this
22 section. The report shall include the projected and actual rates of participation in
23 the program, the premium rates for coverage under the program, the balance in the
24 family and medical leave insurance trust fund under s. 25.52, and a description of
25 the department's outreach efforts under par. (d).

1 **(12) NOTICE POSTED.** Each employer shall post, on its Internet site and in one
2 or more conspicuous places where notices to employees are customarily posted, a
3 notice in a form approved by the department setting forth employees' rights under
4 this section. Any employer that violates this subsection shall forfeit not more than
5 \$100 for each violation.”.

6 **16.** Page 5, line 15: after “employer” insert “, subject to s. 103.105,”.

7 **17.** Page 6, line 8: delete lines 8 to 19 and substitute:

8 **“SECTION 4m.** 103.135 of the statutes is created to read:

9 **103.135 Compensation information of employees and prospective**
10 **employees. (1) UNLAWFUL EMPLOYER CONDUCT RELATED TO PROSPECTIVE EMPLOYEE**
11 **COMPENSATION INFORMATION.** (a) No employer may directly or indirectly do any of the
12 following:

13 1. Rely on or, subject to par. (b), solicit from a prospective employee or a
14 prospective employee's current or former employer information about the
15 prospective employee's current or prior compensation.

16 2. Require that a prospective employee's current or prior compensation meet
17 certain criteria in order for the prospective employee to be considered for
18 employment.

19 3. Refuse to hire or employ or otherwise discriminate against a prospective
20 employee in compensation or in the terms, conditions, or privileges of employment
21 for opposing a practice prohibited under this paragraph, filing or indicating an intent
22 to file a complaint or otherwise attempting to enforce any right under this paragraph,
23 or testifying, assisting, or participating in any manner in any investigation, action,
24 or proceeding to enforce any right under this paragraph.

1 (b) After an employer has offered employment to a prospective employee and
2 the details of compensation have been agreed upon, the employer may obtain the
3 prospective employee's written consent for the employer to solicit information about,
4 or take action to confirm, the prospective employee's current or prior compensation.

5 **(2) DISCLOSURE OF COMPENSATION INFORMATION BY EMPLOYEES.** (a) An employee
6 may disclose the details of the employee's compensation to anyone and, subject to par.
7 (d), may discuss the compensation of other employees and may ask other employees
8 for details regarding their compensation.

9 (b) Except as provided in par. (d), no employer may interfere with, restrain, or
10 deny the exercise of the right of an employee to disclose, discuss, or inquire about
11 compensation as provided in par. (a).

12 (c) An employer may not discharge or discriminate against an employee in
13 promotion, in compensation, or in the terms, conditions, or privileges of employment
14 for disclosing, discussing, or inquiring about compensation as provided in par. (a),
15 opposing a practice prohibited under par. (b), filing or indicating an intent to file a
16 complaint or otherwise attempting to enforce any right under par. (a), or testifying,
17 assisting, or participating in any manner in any investigation, action, or proceeding
18 to enforce any right under par. (a).

19 (d) Subject to s. 19.35, an employer may prohibit a human resources or payroll
20 employee, a supervisor, or any other employee whose job responsibilities require or
21 allow the employee access to other employees' compensation information from
22 disclosing information about any other employee's compensation without that
23 employee's prior written consent.

24 **(3) ENFORCEMENT.** Any employee or prospective employee who is refused
25 employment, terminated, discharged, or otherwise discriminated against in

1 violation of sub. (1) (a) or (2) (a) to (c) may file a complaint with the department, and
2 the department shall process the complaint in the same manner that employment
3 discrimination complaints are processed under s. 111.39. If the department finds
4 that a violation has occurred, the department may order the employer to take action
5 to remedy the violation, including reinstating the employee, providing compensation
6 in lieu of reinstatement, providing back pay accrued not more than 2 years before the
7 complaint was filed, and paying reasonable actual costs and, notwithstanding s.
8 814.04 (1), reasonable attorney fees to the complainant.

9 (4) NOTICE POSTED. (a) Each employer shall provide notice to employees and
10 prospective employees regarding their rights under this section by doing all of the
11 following:

12 1. Posting, in one or more conspicuous places where notices to employees are
13 customarily posted, a notice in a form approved by the department setting forth
14 employees' and prospective employees' rights under this section.

15 2. Including, on each listing for a job vacancy or other employment opportunity
16 that is advertised by electronic mail, posting on an Internet site, or other electronic
17 means, a notice that includes all of the following information:

18 a. A statement that the employer is prohibited from relying on a prospective
19 employee's current or former compensation.

20 b. A statement that the employer is prohibited from asking about a prospective
21 employee's compensation until after the employer has offered the prospective
22 employee employment and they have agreed upon the details of compensation.

23 c. A statement that the employer is prohibited from requiring that a
24 prospective employee's current or prior compensation meet certain criteria in order
25 for the prospective employee to be considered for employment.

1 d. Information, or a hyperlink to information, regarding prohibited bases of
2 discrimination under subch. II of ch. 111.

3 (b) Any employer who violates par. (a) shall forfeit not more than \$100 for each
4 offense.

5 **(5) STATEWIDE CONCERN.** (a) The legislature finds that this section is a matter
6 of statewide concern and that the enactment of an ordinance by a city, village, town,
7 or county regulating employment compensation information would be logically
8 inconsistent with, would defeat the purpose of, and would go against the spirit of this
9 section. Therefore, this section shall be construed as an enactment of statewide
10 concern for the purpose of providing uniform regulation throughout the state
11 regarding employment compensation information.”.

12 **18.** Page 6, line 20: delete “**(3) (a)**” and substitute “**(b)**”.

13 **19.** Page 6, line 23: delete “**(b)**” and substitute “**(bm)**”.

14 **20.** Page 7, line 2: after that line, on page 2, line 23, of the material inserted
15 by assembly amendment 4, delete “this subsection” and substitute “par. (b) or (bm)”.

16 **21.** Page 7, line 3: delete “104.001 (3)” and substitute “104.001”.

17 **22.** Page 7, line 3: after that line insert:

18 “**SECTION 6m.** 106.54 (11) of the statutes is created to read:

19 106.54 **(11)** The division shall receive complaints under s. 103.135 (1) (a) and
20 (2) (a) to (c) and shall process the complaints in the same manner that employment
21 discrimination complaints are processed under s. 111.39.”.

22 **23.** Page 7, line 17: before that line insert:

1 **“SECTION 7g.** 111.322 (2m) (a) of the statutes is amended to read:

2 111.322 **(2m)** (a) The individual files a complaint or attempts to enforce any
3 right under s. 103.02, 103.035, 103.10, 103.11, 103.13, 103.28, 103.32, 103.34,
4 103.455, 104.12, 109.03, 109.07, 109.075, 146.997, or 995.55, or ss. 101.58 to 101.599
5 or 103.64 to 103.82.

6 **SECTION 7r.** 111.322 (2m) (b) of the statutes is amended to read:

7 111.322 **(2m)** (b) The individual testifies or assists in any action or proceeding
8 held under or to enforce any right under s. 103.02, 103.035, 103.10, 103.11, 103.13,
9 103.28, 103.32, 103.34, 103.455, 104.12, 109.03, 109.07, 109.075, 146.997, or 995.55,
10 or ss. 101.58 to 101.599 or 103.64 to 103.82.”.

11 **24.** Page 8, line 7: after that line insert:

12 **“SECTION 9g.** 111.322 (2m) (a) of the statutes is amended to read:

13 111.322 **(2m)** (a) The individual files a complaint or attempts to enforce any
14 right under s. 103.02, 103.10, 103.11, 103.13, 103.135, 103.28, 103.32, 103.34,
15 103.455, 104.12, 109.03, 109.07, 109.075, 146.997, or 995.55, or ss. 101.58 to 101.599
16 or 103.64 to 103.82.

17 **SECTION 9r.** 111.322 (2m) (b) of the statutes is amended to read:

18 111.322 **(2m)** (b) The individual testifies or assists in any action or proceeding
19 held under or to enforce any right under s. 103.02, 103.10, 103.11, 103.13, 103.135,
20 103.28, 103.32, 103.34, 103.455, 104.12, 109.03, 109.07, 109.075, 146.997, or 995.55,
21 or ss. 101.58 to 101.599 or 103.64 to 103.82.”.

22 **25.** Page 8, line 8: before that line insert:

23 **“SECTION 9g.** 111.322 (2m) (a) of the statutes is amended to read:

1 111.322 **(2m)** (a) The individual files a complaint or attempts to enforce any
2 right under s. 103.02, 103.10, 103.105, 103.11, 103.13, 103.28, 103.32, 103.34,
3 103.455, 104.12, 109.03, 109.07, 109.075, 146.997, or 995.55, or ss. 101.58 to 101.599
4 or 103.64 to 103.82.

5 **SECTION 9r.** 111.322 (2m) (b) of the statutes is amended to read:

6 111.322 **(2m)** (b) The individual testifies or assists in any action or proceeding
7 held under or to enforce any right under s. 103.02, 103.10, 103.105, 103.11, 103.13,
8 103.28, 103.32, 103.34, 103.455, 104.12, 109.03, 109.07, 109.075, 146.997, or 995.55,
9 or ss. 101.58 to 101.599 or 103.64 to 103.82.”.

10 **26.** Page 8, line 11: after that line insert:

11 “**SECTION 2.** 230.01 (2) (bm) of the statutes is repealed.

12 **SECTION 3.** 230.01 (2) (bp) of the statutes is repealed.

13 **SECTION 4.** 230.04 (13m) of the statutes is repealed.

14 **SECTION 5.** 230.04 (14) of the statutes is amended to read:

15 230.04 **(14)** ~~Except as provided in s. 230.445, the~~ The administrator shall
16 establish, by rule, the scope and minimum requirements of a state employee
17 grievance procedure relating to conditions of employment.

18 **SECTION 6.** 230.04 (19) of the statutes is repealed.

19 **SECTION 7.** 230.046 (2) of the statutes is amended to read:

20 230.046 **(2)** SUPERVISORY TRAINING. After initial appointment to a supervisory
21 position, each appointing authority shall ensure that each classified service
22 supervisor successfully completes a supervisory development program. A waiver of
23 any part of the probationary period under s. 230.28 (1) (c) may not be granted before
24 completion of the development program. The program shall include such subjects

1 as state personnel policies, grievance handling, discipline, performance evaluation,
2 understanding the concerns of state employees with children, the supervisor's role
3 in management and the concept of the total quality leadership process, including
4 quality improvement through participatory management.

5 **SECTION 8.** 230.05 (7) of the statutes is amended to read:

6 230.05 (7) The director shall use techniques and procedures designed to certify
7 eligible applicants to any vacant permanent position within ~~30~~ 45 days after the
8 filing of an appropriate request by an appointing authority.

9 **SECTION 9.** 230.05 (10) of the statutes is repealed.

10 **SECTION 10.** 230.06 (1) (m) of the statutes is repealed.

11 **SECTION 11.** 230.06 (4) of the statutes is repealed.

12 **SECTION 12.** 230.08 (2) (c) of the statutes is amended to read:

13 230.08 (2) (c) The director, associate director, and state historian of the
14 historical society; and, with the approval of the board of curators and the
15 administrator, such number of specialists as are required by the society for specific
16 research, writing, collecting, or editing projects which for a limited period of time not
17 to exceed 2 years, renewable at the discretion of the board of curators and the
18 administrator for an additional 2-year period, require persons with particular
19 training or experience in a specialized phase or field of history, historical research,
20 writing, collecting, or editing, and any persons whose entire salary is paid from funds
21 reappropriated to the society by s. 20.245 (1) (r) where a competitive process
22 examination is impractical.

23 **SECTION 13.** 230.12 (1) (h) of the statutes is amended to read:

24 230.12 (1) (h) *Other pay, benefits, and working conditions.* The compensation
25 plan may include other provisions relating to pay, benefits, and working conditions

1 that shall supersede the provisions of the civil service and other applicable statutes
2 and rules promulgated by the director and the administrator.

3 **SECTION 14.** 230.13 (1) (a) of the statutes is amended to read:

4 230.13 (1) (a) ~~Evaluations~~ Examination scores and ranks and other
5 evaluations of applicants, ~~including any examination scores and rankings.~~

6 **SECTION 15.** 230.13 (3) (b) of the statutes is amended to read:

7 230.13 (3) (b) The ~~administrator~~ director and the ~~director~~ administrator may
8 provide any agency with personnel information relating to the hiring and
9 recruitment process, including specifically examination scores and ranks and other
10 evaluations of applicants.

11 **SECTION 16.** 230.13 (3) (c) of the statutes is repealed.

12 **SECTION 17.** 230.15 (1) of the statutes is amended to read:

13 230.15 (1) Subject to the restriction under s. 230.143, appointments to, and
14 promotions in, the classified service shall be made only according to merit and
15 fitness, which shall be ascertained so far as practicable by competitive ~~procedures~~
16 examinations. The director may waive competitive ~~procedures~~ examinations for
17 appointments made under subs. (1m) and (2) and shall waive competitive ~~procedures~~
18 examinations for appointments made under sub. (2m).

19 **SECTION 18.** 230.15 (1m) (c) 1. of the statutes is amended to read:

20 230.15 (1m) (c) 1. Whenever a position is included in the classified service
21 under par. (a), the director may waive the requirement for competitive ~~procedures~~
22 examinations under sub. (1) with respect to the position and certify the incumbent
23 employee for appointment to the position in accordance with subd. 2.

24 **SECTION 19.** 230.15 (6) of the statutes is repealed.

25 **SECTION 20.** 230.15 (7) of the statutes is repealed.

1 **SECTION 21.** 230.16 (title) of the statutes is amended to read:

2 **230.16** (title) **Applications and selection processes examinations.**

3 **SECTION 22.** 230.16 (1) (a) of the statutes is amended to read:

4 230.16 (1) (a) The director shall require persons applying for a position in the
5 classified service admission to any examination under this subchapter or under the
6 rules of the director to file an application and resume with the bureau a reasonable
7 time prior to the proposed examination.

8 **SECTION 23.** 230.16 (1) (ap) of the statutes is repealed.

9 **SECTION 24.** 230.16 (2) of the statutes is amended to read:

10 230.16 (2) The selection process for a position in the civil service Competitive
11 examinations shall be free and open to all applicants who have fulfilled the
12 preliminary requirements stated in the position examination announcement. To
13 assure that all applicants have a fair opportunity to compete, ~~competitive procedures~~
14 examinations shall be scheduled in a manner that most nearly meet the convenience
15 of applicants and needs of the service, as determined by the director.

16 **SECTION 25.** 230.16 (3) of the statutes is amended to read:

17 230.16 (3) The director may appoint boards of evaluators examiners of at least
18 2 persons, ~~one of which is selected by the bureau and one of which is a representative~~
19 ~~of the appointing authority,~~ for the purpose of conducting oral evaluations
20 examinations as a part of the hiring examination procedure for certain positions. All
21 evaluators board members shall be well-qualified and impartial. All questions
22 asked and answers made in any ~~oral evaluation~~ examination of applicants shall be
23 recorded and made a part of the applicant's records.

24 **SECTION 26.** 230.16 (4) of the statutes is amended to read:

1 230.16 (4) All ~~selection criteria~~ examinations, including minimum training
2 and experience requirements, for positions in the classified service shall be
3 job-related in compliance with appropriate validation standards and shall be subject
4 to the approval of the director. All relevant experience, whether paid or unpaid, shall
5 satisfy experience requirements.

6 **SECTION 27.** 230.16 (5) of the statutes is amended to read:

7 230.16 (5) In the interest of sound personnel management, consideration of
8 applicants, and service to agencies, the director may set a standard for proceeding
9 to subsequent steps in ~~the selection process~~ an examination, provided that all
10 applicants are fairly treated and due notice has been given. The standard may be
11 at or above the passing point set by the director for any portion of the examination.
12 The director shall utilize appropriate scientific techniques and procedures in
13 administering the selection process, in rating the results of ~~any evaluations used in~~
14 ~~the selection process~~ examinations, and in determining the relative ratings of the
15 competitors.

16 **SECTION 28.** 230.16 (6) of the statutes is amended to read:

17 230.16 (6) If any applicant is unable to complete ~~an evaluation that is used in~~
18 ~~the selection process~~ the examination in the form presented to the applicant due to
19 a disability, the bureau shall provide necessary accommodations to ensure equality
20 of opportunity in the ~~selection process~~ examination.

21 **SECTION 29.** 230.16 (7m) (b) 4. of the statutes is amended to read:

22 230.16 (7m) (b) 4. The ~~appointing authority has not extended interviews~~
23 examination for the position ~~or filled the position at the time the application is~~
24 received is a written, nonessay examination that is scored by a machine.

25 **SECTION 30.** 230.16 (7m) (c) of the statutes is created to read:

1 230.16 (7m) (c) Within 30 days after acceptance of an application under par.
2 (b), the administrator shall give the applicant an examination.

3 **SECTION 31.** 230.16 (9) of the statutes is created to read:

4 230.16 (9) The officials in control of state, municipal, and county buildings,
5 upon requisition by the administrator, shall furnish without charge adequate rooms
6 and building services for the administration of examinations.

7 **SECTION 32.** 230.16 (10) of the statutes is amended to read:

8 230.16 (10) Every reasonable precaution shall be taken to prevent any
9 unauthorized person from gaining any knowledge of the nature or content of
10 ~~competitive procedures in the selection process~~ the examination that is not available
11 to every applicant.

12 **SECTION 33.** 230.16 (11) of the statutes is amended to read:

13 230.16 (11) Records of applicants examinations shall be retained for at least
14 one year. Inspection of such records shall be regulated by rules of the director.

15 **SECTION 34.** 230.17 (1) of the statutes is amended to read:

16 230.17 (1) The director shall provide by rule, the conditions, not otherwise
17 provided by law, under which an eligible applicant may be refused examination or
18 reexamination, or an eligible refused certification. These conditions shall be based
19 on sufficient reason and shall reflect sound technical personnel management
20 practices and those standards of conduct, deportment, and character necessary and
21 demanded to the orderly, efficient, and just operation of the state service.

22 **SECTION 35.** 230.17 (2) of the statutes is amended to read:

23 230.17 (2) If the director refuses to examine an applicant, or after examination
24 to certify an eligible, as provided in this section, the director, if requested by the
25 applicant so rejected within 10 days of the date of receipt of the notice of rejection,

1 shall give the applicant a full and explicit statement of the exact cause of such refusal
2 to examine or certify. Applicants may appeal to the commission the decision of the
3 director to refuse to examine or certify under s. 230.44 (1) (a). Upon request of an
4 applicant or an eligible for a civil service position who has a disability, the
5 department of health services shall obtain from the director a detailed description
6 of all duties entailed by such position and shall determine and report its findings to
7 the director, as to the ability of the applicant, or eligible, to perform the duties of such
8 position. Such findings shall be conclusive as to the qualifications of any applicant,
9 or eligible, so examined. A notice of rejection shall notify an applicant or eligible of
10 his or her rights under this subsection.

11 **SECTION 36.** 230.18 of the statutes is amended to read:

12 **230.18 Discrimination prohibited.** No question in any form of application
13 or in any ~~evaluation used in the hiring process~~ examination may be so framed as to
14 elicit information concerning the partisan political or religious opinions or
15 affiliations of any applicant nor may any inquiry be made concerning such opinions
16 or affiliations and all disclosures thereof shall be discountenanced except that the
17 director may evaluate the competence and impartiality of applicants for positions
18 such as clinical chaplain in a state institutional program. No discriminations may
19 be exercised in the recruitment, application, examination, or hiring process against
20 or in favor of any person because of the person's political or religious opinions or
21 affiliations or because of age, sex, disability, race, color, sexual orientation, national
22 origin, or ancestry except as otherwise provided.

23 **SECTION 37.** 230.19 of the statutes is repealed and recreated to read:

24 **230.19 Promotion.** (1) The administrator shall provide employees with
25 reasonable opportunities for career advancement, within a classified service

1 structure designed to achieve and maintain a highly competent work force, with due
2 consideration given to affirmative action.

3 (2) If, in the judgment of the administrator, the group of applicants best able
4 to meet the requirements for vacancies in positions in the classified service are
5 available within the classified service, the vacancies shall be filled by competition
6 limited to persons in the classified service who are not employed under s. 230.26 or
7 230.27 and persons with the right of restoration resulting from layoff under s. 230.34
8 (2), unless it is necessary to go outside the classified service to be consistent with an
9 approved affirmative action plan or program. The administrator may also limit
10 competition for promotion to the employees of an agency or an employing unit within
11 an agency if the resulting group of applicants would fairly represent the proportion
12 of members of racial and ethnic, gender, or disabled groups in the relevant labor pool
13 for the state.

14 (3) A person with the right of restoration resulting from layoff under s. 230.34
15 (2) may compete only for a position under sub. (2) for which he or she could have
16 competed had the layoff not occurred.

17 **SECTION 38.** 230.21 (1) of the statutes is amended to read:

18 230.21 (1) Subject to s. 230.275, the director may, to meet the needs of the
19 service, establish separate recruitment, examination, and certification procedures
20 for filling positions in unskilled labor and service classes.

21 **SECTION 39.** 230.21 (2) of the statutes is amended to read:

22 230.21 (2) The director may designate classifications in which applicants are
23 in critically short supply and may develop such recruitment, examination, and
24 certification processes as will provide agencies with prompt certification when

1 qualified applicants can be found, provided that due notice has been given and proper
2 competitive standards have been maintained.

3 **SECTION 40.** 230.21 (3) of the statutes is amended to read:

4 230.21 (3) The director shall designate classifications in prison industries in
5 the department of corrections as critical positions requiring expeditious hiring and
6 shall develop such recruitment, examination, and certification processes as will
7 provide the department with prompt certification when qualified applicants can be
8 found, provided that due notice has been given and proper competitive standards
9 have been maintained.

10 **SECTION 41.** 230.213 of the statutes is amended to read:

11 **230.213 Affirmative action procedures for corrections positions.** The
12 director may, to meet affirmative action objectives, establish such recruitment,
13 examination, and certification procedures for positions in the department of
14 corrections as will enable the department of corrections to increase the number of
15 employees of a specified gender or a specified racial or ethnic group in those positions.
16 The director shall design the procedures to obtain a work force in the department of
17 corrections that reflects the relevant labor pool. The director may determine the
18 relevant labor pool from the population of the state or of a particular geographic area
19 of the state, whichever is more appropriate for achieving the affirmative action
20 objective.

21 **SECTION 42.** 230.24 (1) of the statutes is amended to read:

22 230.24 (1) The administrator may by rule develop a career executive program
23 that emphasizes excellence in administrative skills in order to provide agencies with
24 a pool of highly qualified executive candidates, to provide outstanding
25 administrative employees a broad opportunity for career advancement, and to

1 provide for the mobility of such employees among the agencies and units of state
2 government for the most advantageous use of their managerial and administrative
3 skills. To accomplish the purpose of this program, the director may provide policies
4 and standards for recruitment, examination, probation, employment register
5 control, certification, transfer, promotion, and reemployment, and the director may
6 provide policies and standards for classification and salary administration, separate
7 from procedures established for other employment. The administrator shall
8 determine the positions which may be filled from career executive employment
9 registers.

10 **SECTION 43.** 230.24 (2) of the statutes is repealed and recreated to read:

11 230.24 (2) A vacancy in a career executive position may be filled through an
12 open competitive examination, a competitive promotional examination or by
13 restricting competition to employees in career executive positions in order to achieve
14 and maintain a highly competent work force in career executive positions, with due
15 consideration given to affirmative action. The appointing authority shall consider
16 the guidelines under s. 230.19 when deciding how to fill a vacancy under this
17 paragraph.

18 **SECTION 44.** 230.25 (1) of the statutes is amended to read:

19 230.25 (1) Appointing authorities shall give written notice to the director of any
20 vacancy to be filled in any position in the classified service. The director shall certify,
21 under this subchapter and the rules of the director, from the register of eligibles
22 appropriate for the kind and type of employment, the grade and class in which the
23 position is classified, any number of names at the head thereof. In determining the
24 number of names to certify, the director shall use statistical methods and personnel
25 management principles that are designed to maximize the number of certified names

1 that are appropriate for filling the specific position vacancy. Up to 2 persons
2 considered for appointment 3 times and not selected may be removed from the
3 register for each 3 appointments made. Certification under this subsection shall be
4 made before granting any preference under s. 230.16 (7).

5 **SECTION 45.** 230.25 (1g) of the statutes is repealed and recreated to read:

6 230.25 (1g) For every position to be filled by promotion from a promotional
7 register, the administrator shall, after certifying names under sub. (1), additionally
8 certify the name of the highest ranked disabled veteran whose disability is at least
9 70 percent.

10 **SECTION 46.** 230.25 (1m) of the statutes is repealed and recreated to read:

11 230.25 (1m) After certifying names under sub. (1), additional names shall be
12 certified in rank order of those who with the combination of veterans preference
13 points awarded under s. 230.16 (7) and examination score earn a total score equal
14 to or higher than the lowest score of those certified on the basis of examination only.
15 The number of veterans or spouses of veterans added to the list may not exceed the
16 number of names certified under sub. (1).

17 **SECTION 47.** 230.25 (2) (a) of the statutes is amended to read:

18 230.25 (2) (a) When certifying names to appointing authorities under this
19 section, the director shall specify whether the certification includes qualifying
20 veterans or persons the hiring of whom would serve affirmative action purposes,
21 without divulging the names of those individuals. The director shall not disclose any
22 applicant's test score, with or without the addition of veterans preference points
23 under s. 230.16 (7), to the appointing authority.

24 **SECTION 48.** 230.25 (2) (am) of the statutes is repealed.

25 **SECTION 49.** 230.25 (2) (b) of the statutes is amended to read:

1 230.25 (2) (b) Unless otherwise provided in this subchapter or the rules of the
2 director, appointments shall be made by appointing authorities to all positions in the
3 classified service from among those certified to them in accordance with this section.
4 Appointments shall be made within ~~30~~ 60 days after the date of certification unless
5 an exception is made by the director. If an appointing authority does not make an
6 appointment within ~~30~~ 60 days after certification, he or she shall immediately report
7 in writing to the director the reasons therefor. If the director determines that the
8 failure to make an appointment is not justified under the merit system, the director
9 shall issue an order directing that an appointment be made.

10 **SECTION 50.** 230.25 (3) (a) of the statutes is amended to read:

11 230.25 (3) (a) Subject to par. (b), the term of eligibility on original entrance and
12 promotional registers is 6 months and thereafter the register expires but may be
13 reactivated by the administrator for up to 3 years from the date of the establishment
14 of the register. Except as provided in ss. 230.28 and 230.34, the eligibility of
15 individuals for reinstatement is 5 years and the eligibility of individuals for
16 restoration is 3 years.

17 **SECTION 51.** 230.26 (2) of the statutes is amended to read:

18 230.26 (2) If there are urgent reasons for filling a vacancy in any position in
19 the classified service and the director is unable to certify to the appointing authority,
20 upon requisition by the latter, a list of persons eligible for appointment from an
21 appropriate employment register, the appointing authority may nominate a person
22 to the director for noncompetitive examination. If the nominee is certified by the
23 director as qualified, the nominee may be appointed provisionally to fill the vacancy
24 until an appointment can be made from a register established after announcement
25 of competition for the position, except that no provisional appointment may be

1 continued for more than 45 working days after the date of certification from the
2 register. Successive appointments may not be made under this subsection. This
3 subsection does not apply to a person appointed to a vacant position in the classified
4 service under s. 230.275.

5 **SECTION 52.** 230.26 (4) of the statutes is amended to read:

6 230.26 (4) Fringe benefits specifically authorized by statutes, with the
7 exception of deferred compensation plan participation under subch. VII of ch. 40,
8 worker's compensation, unemployment insurance, group insurance, retirement, and
9 social security coverage, shall be denied employees hired under this section. Such
10 employees may not be considered permanent employees and do not qualify for
11 tenure, vacation, paid holidays, sick leave, performance awards, or the right to
12 compete in promotional processes examinations.

13 **SECTION 53.** 230.28 (1) (a) of the statutes is amended to read:

14 230.28 (1) (a) All original and all promotional appointments to permanent,
15 sessional and seasonal positions, with the exception of those positions designated as
16 supervisor or management under s. 111.81, in the classified service shall be for a
17 probationary period of ~~one year~~ 6 months, but the director at the request of the
18 appointing authority and in accordance with related rules may extend any such
19 period for a maximum of ~~12~~ 3 additional months. Dismissal may be made at any time
20 during such periods. Upon such dismissal, the appointing authority shall report to
21 the director and to the employee removed, the dismissal and the reason therefor. The
22 director may remove an employee during the employee's probationary period if the
23 director finds, after giving notice and an opportunity to be heard, that such employee
24 was appointed as a result of fraud or error.

25 **SECTION 54.** 230.28 (1) (am) of the statutes is amended to read:

1 230.28 (1) (am) All probationary periods for employees in supervisory or
2 management positions are one year, ~~but the director at the request of the appointing~~
3 ~~authority may extend any such period for a maximum of 12 additional months unless~~
4 ~~waived after 6 months under par. (c). The waiver under par. (c) may be exercised for~~
5 ~~an employee in a supervisory position only if the employee has successfully~~
6 ~~completed a supervisory development program under s. 230.046 (2).~~ However,
7 persons who transfer or are reinstated to supervisory or management positions
8 consistent with conditions under sub. (4) and who had previously obtained
9 permanent status in class in a supervisory or management position prior to the
10 transfer or reinstatement shall serve a probationary period in accordance with sub.
11 (4).

12 **SECTION 55.** 230.28 (1) (c) of the statutes is amended to read:

13 230.28 (1) (c) Upon request by the appointing authority, the director may waive
14 any portion of ~~a~~ the lengthened probationary period but in no case before a ~~one-year~~
15 6-month probationary period has been served.

16 **SECTION 56.** 230.28 (6) of the statutes is created to read:

17 230.28 (6) A person with a right of restoration resulting from layoff under s.
18 230.34 (2) who competes for promotion to a position under s. 230.19 (3) and is
19 appointed shall serve a probationary period under sub. (1). If the appointing
20 authority terminates the employee during the probationary period, the person shall
21 return to his or her former layoff status.

22 **SECTION 57.** 230.31 (1) (intro.) of the statutes is amended to read:

23 230.31 (1) (intro.) Any person who has held a position and obtained permanent
24 status in a class under the civil service law and rules and who has separated from
25 the service ~~before July 1, 2016,~~ without any delinquency or misconduct on his or her

1 part but owing to reasons of economy or otherwise shall be granted the following
2 considerations:

3 **SECTION 58.** 230.31 (2) of the statutes is created to read:

4 230.31 (2) The administrator may also provide for the reinstatement of persons
5 who have served in seasonal and sessional employment and for persons who separate
6 from a position while serving a probationary period.

7 **SECTION 59.** 230.31 (3) of the statutes is repealed.

8 **SECTION 60.** 230.32 (4) of the statutes is amended to read:

9 230.32 (4) Any person appointed to fill the position of an employee on such
10 military or civilian leave shall be designated as a substitute or replacement employee
11 and upon the return and reemployment of the original employee the substitute
12 employee shall be transferred to a similar position with the same employing agency
13 if one is available, or if not, he or she shall be eligible for reinstatement or have the
14 right of restoration in accordance with this subchapter and the rules of the director.
15 The status of any person who is appointed to fill the place of an employee on military
16 or civilian leave under this section shall be governed by the rules of the director
17 pursuant thereto.

18 **SECTION 61.** 230.34 (1) (a) (intro.) of the statutes is renumbered 230.34 (1) (a)
19 and amended to read:

20 230.34 (1) (a) An employee with permanent status in class or an employee who
21 has served with the state as an assistant district attorney or an assistant state public
22 defender for a continuous period of 12 months or more may be removed, suspended
23 without pay, discharged, reduced in base pay, or demoted only for just cause. ~~It is just~~
24 ~~cause to remove, suspend without pay, discharge, reduce the base pay of, or demote~~
25 ~~an employee for work performance or personal conduct that is inadequate,~~

1 ~~unsuitable, or inferior, as determined by the appointing authority, but only after~~
2 ~~imposing progressive discipline that complies with the administrator's standards~~
3 ~~under s. 230.04 (13m). It is just cause to remove, suspend without pay, discharge,~~
4 ~~reduce the base pay of, or demote an employee without imposing progressive~~
5 ~~discipline for any of the following conduct:~~

6 **SECTION 62.** 230.34 (1) (a) 1. to 9. of the statutes are repealed.

7 **SECTION 63.** 230.34 (1) (am) of the statutes is amended to read:

8 230.34 (1) (am) If an employee fails to report for work as scheduled or to contact
9 his or her supervisor, the appointing authority may discipline the employee. If an
10 employee fails to report for work as scheduled, or to contact his or her supervisor for
11 a minimum of ~~3~~ 5 consecutive working days ~~during a calendar year~~, the appointing
12 authority shall consider the employee's position abandoned and may discipline the
13 employee or treat the employee as having resigned his or her position. If the
14 appointing authority decides to treat the position abandonment as a resignation, the
15 appointing authority shall notify the employee in writing that the employee is being
16 treated as having effectively resigned as of the end of the last day worked.

17 **SECTION 64.** 230.34 (2) (intro.) of the statutes is amended to read:

18 230.34 (2) (intro.) Employees with permanent status in class in permanent,
19 sessional and seasonal positions in the classified service and employees serving a
20 probationary period in such positions after promotion or transfer may be laid off
21 because of a reduction in force due to a stoppage or lack of work or funds or owing to
22 material changes in duties or organization but only after all original appointment
23 probationary and limited term employees in the classes used for layoff, are
24 terminated.

25 **SECTION 65.** 230.34 (2) (a) of the statutes is repealed and recreated to read:

1 230.34 (2) (a) The order of layoff of such employees may be determined by
2 seniority or performance or a combination thereof or by other factors.

3 **SECTION 66.** 230.34 (2) (b) of the statutes is repealed and recreated to read:

4 230.34 (2) (b) The director shall promulgate rules governing layoffs and
5 appeals therefrom and alternative procedures in lieu of layoff to include voluntary
6 and involuntary demotion and the exercise of a displacing right to a comparable or
7 lower class, as well as the subsequent employee right of restoration or eligibility for
8 reinstatement.

9 **SECTION 67.** 230.35 (3) (d) of the statutes is amended to read:

10 230.35 (3) (d) Employees of the state are entitled to reasonable paid leaves of
11 absence to compete in promotional ~~evaluations~~ examinations and interviews. The
12 administrator shall promulgate rules governing the lengths of time allowable for
13 such leaves, their frequency and the provisions for their use.

14 **SECTION 68.** 230.37 (1) of the statutes is amended to read:

15 230.37 (1) In cooperation with appointing authorities the administrator shall
16 establish an employee performance evaluation program to provide a continuing
17 record of employee development and, when applicable, to serve as a basis for
18 pertinent personnel actions. ~~Under the employee performance evaluation program~~
19 ~~established under this subsection, the administrator shall require each appointing~~
20 ~~authority to conduct at least an annual performance evaluation of each employee~~
21 ~~appointed by the appointing authority.~~ Similar evaluations shall be conducted
22 during the probationary period but may not infringe upon the authority of the
23 appointing authority to retain or dismiss employees during the probationary period.

24 **SECTION 69.** 230.40 (3) of the statutes is created to read:

1 230.40 (3) A person who separates from the classified service to fill an elective
2 position shall have reinstatement privileges for 5 years following termination from
3 the classified service or for one year following termination from the elective position,
4 whichever is longer.

5 **SECTION 70.** 230.43 (1) (title) of the statutes is amended to read:

6 230.43 (1) (title) ~~HIRING PROCESS; OBSTRUCTION~~ OBSTRUCTION OR FALSIFICATIONS
7 OF EXAMINATIONS.

8 **SECTION 71.** 230.43 (1) (am) of the statutes is amended to read:

9 230.43 (1) (am) Willfully defeats, deceives or obstructs any person in respect
10 of the rights of ~~application~~ examination or registration under this subchapter or any
11 rules prescribed pursuant thereto.

12 **SECTION 72.** 230.43 (1) (b) of the statutes is amended to read:

13 230.43 (1) (b) Willfully or corruptly, falsely marks, grades, estimates, or reports
14 upon an ~~application or resume~~ examination, or proper standing of any person
15 evaluated examined, registered, or certified, pursuant to this subchapter, or aids in
16 so doing.

17 **SECTION 73.** 230.43 (1) (c) of the statutes is amended to read:

18 230.43 (1) (c) Willfully or corruptly makes any false representations concerning
19 the same, or concerning an ~~applicant~~ the person examined.

20 **SECTION 74.** 230.43 (1) (d) of the statutes is amended to read:

21 230.43 (1) (d) Willfully or corruptly furnishes any person any special or secret
22 information for the purpose of either improving or injuring the prospects or chances
23 of any persons so evaluated examined, registered, or certified, being appointed,
24 employed, or promoted.

25 **SECTION 75.** 230.43 (1) (e) of the statutes is amended to read:

1 230.43 (1) (e) Personates any other person, or permits or aids in any manner
2 any other person to personate him or her in connection with any examination,
3 registration, application, or request to be ~~evaluated~~ examined or registered.

4 **SECTION 76.** 230.43 (5) of the statutes is amended to read:

5 230.43 (5) TAXPAYERS' SUITS. The right of any taxpayer to bring any action to
6 restrain the payment of compensation to any person appointed to or holding any
7 office or place of employment in violation of this subchapter shall not be limited or
8 denied by reason of the fact that the office or place of employment has been classified
9 as, or determined to be, not subject to a competitive ~~hiring process~~ examination;
10 however, any judgment or injunction in any such action shall be prospective only, and
11 shall not affect payments already made or due to such persons by the proper
12 disbursing officers, in accordance with the rules of the administrator in force at the
13 time of such payments.

14 **SECTION 77.** 230.44 (1) (c) of the statutes is amended to read:

15 230.44 (1) (c) *Demotion, layoff, suspension or discharge.* If an employee has
16 permanent status in class, or an employee has served with the state as an assistant
17 district attorney or an assistant state public defender for a continuous period of 12
18 months or more, the employee may appeal a demotion, layoff, suspension, discharge
19 or reduction in base pay to the commission as the final step in the state employee
20 grievance ~~process~~ procedure established under s. ~~230.445~~ 230.04 (14), if the appeal
21 alleges that the decision was not based on just cause.

22 **SECTION 78.** 230.44 (1) (e) of the statutes is amended to read:

23 230.44 (1) (e) *Discretionary performance awards.* This subsection does not
24 apply to decisions of an appointing authority relating to discretionary performance
25 awards under s. 230.12 (5) ~~or under the discretionary merit award program~~

1 established under s. 230.04 (19), including the evaluation methodology and results
2 used to determine the award or the amount awarded.

3 **SECTION 79.** 230.445 of the statutes is repealed.

4 **SECTION 80.** 321.65 (3) (g) of the statutes is amended to read:

5 321.65 (3) (g) *Veterans preferences.* The right of a person to reemployment
6 under this subsection does not entitle the person to retention, preference, or
7 displacement rights over any person who has a superior claim under s. 45.03 (4),
8 62.13 (4) (d), 63.08 (1) (f) ~~or (fm)~~, 63.37, 63.39 (2m), 66.0509 (1), 230.15 (2m), 230.16
9 (7) or (7m), 230.21 (1m), 230.25, or 230.275.”.

10 **27.** Page 8, line 12: before that line insert:

11 “**SECTION 7b.** 111.01 of the statutes is created to read:

12 **111.01 Declaration of policy.** The public policy of the state as to employment
13 relations and collective bargaining, in the furtherance of which this subchapter is
14 enacted, is declared to be as follows:

15 (1) It recognizes that there are 3 major interests involved, namely: the public,
16 the employee, and the employer. These 3 interests are to a considerable extent
17 interrelated. It is the policy of the state to protect and promote each of these interests
18 with due regard to the situation and to the rights of the others.

19 (2) Industrial peace, regular and adequate income for the employee, and
20 uninterrupted production of goods and services are promotive of all of these
21 interests. They are largely dependent upon the maintenance of fair, friendly, and
22 mutually satisfactory employment relations and the availability of suitable
23 machinery for the peaceful adjustment of whatever controversies may arise. It is
24 recognized that certain employers, including farmers, farmer cooperatives, and

1 unincorporated farmer cooperative associations, in addition to their general
2 employer problems, face special problems arising from perishable commodities and
3 seasonal production which require adequate consideration. It is also recognized that
4 whatever may be the rights of disputants with respect to each other in any
5 controversy regarding employment relations, they should not be permitted, in the
6 conduct of their controversy, to intrude directly into the primary rights of 3rd parties
7 to earn a livelihood, transact business, and engage in the ordinary affairs of life by
8 any lawful means and free from molestation, interference, restraint, or coercion.

9 (3) Negotiations of terms and conditions of work should result from voluntary
10 agreement between employer and employee. For the purpose of such negotiation an
11 employee has the right, if the employee desires, to associate with others in organizing
12 and bargaining collectively through representatives of the employee's own choosing,
13 without intimidation or coercion from any source.

14 (4) It is the policy of the state, in order to preserve and promote the interests
15 of the public, the employee, and the employer alike, to establish standards of fair
16 conduct in employment relations and to provide a convenient, expeditious, and
17 impartial tribunal by which these interests may have their respective rights and
18 obligations adjudicated. While limiting individual and group rights of aggression
19 and defense, the state substitutes processes of justice for the more primitive methods
20 of trial by combat.

21 **SECTION 7d.** 111.04 (1) and (2) of the statutes are consolidated, renumbered
22 111.04 and amended to read:

23 **111.04 Rights of employees.** Employees shall have the right of
24 self-organization and the right to form, join, or assist labor organizations, to bargain
25 collectively through representatives of their own choosing, and to engage in lawful,

1 concerted activities for the purpose of collective bargaining or other mutual aid or
2 protection. ~~(2)~~ Employees shall also have the right to refrain from self-organization;
3 forming, joining, or assisting labor organizations; bargaining collectively through
4 representatives; or engaging in activities for the purpose of collective bargaining or
5 other mutual aid or protection.

6 **SECTION 7e.** 111.04 (3) of the statutes is repealed.

7 **SECTION 7f.** 111.06 (1) (c) of the statutes is amended to read:

8 111.06 (1) (c) To encourage or discourage membership in any labor
9 organization, employee agency, committee, association, or representation plan by
10 discrimination in regard to hiring, tenure, or other terms or conditions of
11 employment except in a collective bargaining unit where an all-union, fair-share,
12 or maintenance of membership agreement is in effect. An employer may enter into
13 an all-union agreement with the voluntarily recognized representative of the
14 employees in a collective bargaining unit, where at least a majority of such employees
15 voting have voted affirmatively, by secret ballot, in favor of the all-union agreement
16 in a referendum conducted by the commission, except that where the bargaining
17 representative has been certified by either the commission or the national labor
18 relations board as the result of a representation election, no referendum is required
19 to authorize the entry into an all-union agreement. An authorization of an all-union
20 agreement continues, subject to the right of either party to the all-union agreement
21 to petition the commission to conduct a new referendum on the subject. Upon receipt
22 of the petition, if the commission determines there is reasonable ground to believe
23 that the employees concerned have changed their attitude toward the all-union
24 agreement, the commission shall conduct a referendum. If the continuance of the
25 all-union agreement is supported on a referendum by a vote at least equal to that

1 provided in this paragraph for its initial authorization, it may continue, subject to
2 the right to petition for a further vote by the procedure under this paragraph. If the
3 continuance of the all-union agreement is not supported on a referendum, it
4 terminates at the expiration of the contract of which it is then a part or at the end
5 of one year from the date of the announcement by the commission of the result of the
6 referendum, whichever is earlier. The commission shall declare any all-union
7 agreement terminated whenever it finds that the labor organization involved has
8 unreasonably refused to receive as a member any employee of such employer. An
9 interested person may, as provided in s. 111.07, request the commission to perform
10 this duty.

11 **SECTION 7g.** 111.06 (1) (e) of the statutes is amended to read:

12 111.06 (1) (e) To bargain collectively with the representatives of less than a
13 majority of the employer's employees in a collective bargaining unit, or to enter into
14 an all-union agreement except in the manner provided in par. (c).

15 **SECTION 7h.** 111.06 (1) (i) of the statutes is amended to read:

16 111.06 (1) (i) To deduct labor organization dues or assessments from an
17 employee's earnings, unless the employer has been presented with an individual
18 order therefor, signed by the employee personally, and terminable by the employee
19 giving to the employer at least 30 days' written notice of the termination. ~~This~~
20 ~~paragraph applies to the extent permitted under federal law~~ unless there is an
21 all-union, fair-share, or maintenance of membership agreement in effect. The
22 employer shall give notice to the labor organization of receipt of a notice of
23 termination.

24 **SECTION 7i.** 111.06 (1) (m) of the statutes is created to read:

1 111.06 (1) (m) To fail to give the notice of intention to engage in a lockout
2 provided in s. 111.115 (2).

3 **SECTION 11t.** 947.20 of the statutes is repealed.”.

4 **28.** Page 8, line 12: before that line insert:

5 “**SECTION 7c.** 111.39 (4) (d) of the statutes is amended to read:

6 111.39 (4) (d) The department shall serve a certified copy of the findings and
7 order on the respondent, the order to have the same force as other orders of the
8 department and be enforced as provided in s. 103.005. The department shall also
9 serve a certified copy of the findings and order on the complainant, together with a
10 notice advising the complainant about the right to seek, and the time for seeking,
11 review by the commission under sub. (5); about the right to bring, and the time for
12 bringing, an action for judicial review under s. 111.395; and about the right to bring,
13 and the time for bringing, an action under s. 111.397 (1) (a). Any person aggrieved
14 by noncompliance with the order may have the order enforced specifically by suit in
15 equity. If the examiner finds that the respondent has not engaged in discrimination,
16 unfair honesty testing, or unfair genetic testing as alleged in the complaint, the
17 ~~department shall serve a certified copy of the examiner’s findings served~~ on the
18 ~~complainant, together with~~ shall be accompanied by an order dismissing the
19 complaint.

20 **SECTION 7g.** 111.39 (5) (b) of the statutes is amended to read:

21 111.39 (5) (b) ~~If no petition is filed~~ the respondent or complainant does not file
22 a petition under par. (a) within 21 days from the date that a copy of the findings and
23 order of the examiner is mailed to the last-known address of the respondent served
24 on that party, the findings and order shall be considered final for purposes of

1 enforcement under sub. (4) (d). If a timely petition is filed, the commission, on review,
2 may either affirm, reverse, or modify the findings or order in whole or in part, or set
3 aside the findings and order and remand to the department for further proceedings.
4 Such actions shall be based on a review of the evidence submitted. If the commission
5 is satisfied that a respondent or complainant has been prejudiced because of
6 exceptional delay in the receipt of a copy of any findings and order, ~~it~~ the commission
7 may extend the time another 21 days for filing the petition with the department.

8 **SECTION 7n.** 111.39 (5) (d) of the statutes is created to read:

9 111.39 (5) (d) The commission shall serve a certified copy of the commission's
10 decision on the respondent. The commission shall also serve a certified copy of the
11 commission's decision on the complainant, together with a notice advising the
12 complainant about the right to bring, and the time for bringing, an action for judicial
13 review under s. 111.395 and about the right to bring, and the time for bringing, an
14 action under s. 111.397 (1) (a).

15 **SECTION 7r.** 111.397 of the statutes is created to read:

16 **111.397 Civil action.** (1) (a) Except as provided in this paragraph, the
17 department or a person alleged or found to have been discriminated against or
18 subjected to unfair honesty testing or unfair genetic testing may bring an action in
19 circuit court requesting the relief described in sub. (2) (a) against any employer, labor
20 organization, or employment agency that is alleged or found to have engaged in that
21 discrimination, unfair honesty testing, or unfair genetic testing. The department or
22 a person alleged or found to have been discriminated against or subjected to unfair
23 honesty testing or unfair genetic testing may not bring an action under this
24 paragraph against any local governmental unit, as defined in s. 19.42 (7u), or against
25 any employer, labor organization, or employment agency employing fewer than 15

1 individuals for each working day in each of 20 or more calendar weeks in the current
2 or preceding year.

3 (b) If a petition for judicial review of the findings and order of the commission
4 concerning the same violation as the violation giving rise to the action under par. (a)
5 is filed, the circuit court shall consolidate the proceeding for judicial review and the
6 action under par. (a).

7 (c) A person alleged or found to have been discriminated against or subjected
8 to unfair honesty testing or unfair genetic testing is not required to file a complaint
9 under s. 111.39 or seek review under s. 111.395 in order for the department or the
10 person to bring an action under par. (a).

11 **(2)** (a) Subject to pars. (b) and (c), in an action under sub. (1) (a), if the circuit
12 court finds that discrimination, unfair honesty testing, or unfair genetic testing has
13 occurred, or if such a finding has been made by an examiner or the commission and
14 not been further appealed, the circuit court may order any relief that an examiner
15 would be empowered to order under s. 111.39 (4) (c) after a hearing on a complaint
16 filed under s. 111.39. In addition, the circuit court shall order the defendant to pay
17 to the person discriminated against or subjected to unfair honesty testing or unfair
18 genetic testing any other compensatory damages, and punitive damages under s.
19 895.043 that the circuit court or jury finds appropriate, plus reasonable costs and
20 attorney fees incurred in the action. If any relief was ordered under s. 111.39 or
21 111.395, the circuit court shall specify whether the relief ordered under this
22 paragraph is in addition to or replaces the relief ordered under s. 111.39 or 111.395.
23 The sum of the amount of compensatory damages for future economic losses and for
24 pain and suffering, emotional distress, mental anguish, loss of enjoyment of life, and

1 other noneconomic losses and the amount of punitive damages that a circuit court
2 may order may not exceed the following:

3 1. In the case of a defendant that employs 100 or fewer employees for each
4 working day in each of 20 or more calendar weeks in the current or preceding year,
5 \$50,000.

6 2. In the case of a defendant that employs more than 100 but fewer than 201
7 employees for each working day in each of 20 or more calendar weeks in the current
8 or preceding year, \$100,000.

9 3. In the case of a defendant that employs more than 200 but fewer than 501
10 employees for each working day in each of 20 or more calendar weeks in the current
11 or preceding year, \$200,000.

12 4. In the case of a defendant that employs more than 500 employees for each
13 working day in each of 20 or more calendar weeks in the current or preceding year,
14 \$300,000.

15 (b) If the circuit court orders any payment under par. (a) because of a violation
16 of s. 111.321, 111.37, or 111.372 by an individual employed by an employer, the
17 employer of that individual is liable for the payment.

18 (c) 1. In this paragraph, “consumer price index” means the average of the
19 consumer price index for all urban consumers, U.S. city average, as determined by
20 the bureau of labor statistics of the federal department of labor.

21 2. Except as provided in this subdivision, beginning on July 1, 2019, and on
22 each July 1 after that, the department shall adjust the amounts specified in par. (a)
23 1., 2., 3., and 4. by calculating the percentage difference between the consumer price
24 index for the 12-month period ending on December 31 of the preceding year and the
25 consumer price index for the 12-month period ending on December 31 of the year

1 before the preceding year and adjusting those amounts by that percentage
2 difference. The department shall publish the adjusted amounts calculated under
3 this subdivision in the Wisconsin Administrative Register, and the adjusted amounts
4 shall apply to actions commenced under sub. (1) (a) beginning on July 1 of the year
5 of publication. This subdivision does not apply if the consumer price index for the
6 12-month period ending on December 31 of the preceding year did not increase over
7 the consumer price index for the 12-month period ending on December 31 of the year
8 before the preceding year.

9 **SECTION 7w.** 814.04 (intro.) of the statutes is amended to read:

10 **814.04 Items of costs.** (intro.) Except as provided in ss. 93.20, 100.195 (5m)
11 (b), 100.30 (5m), 106.50 (6) (i) and (6m) (a), 111.397 (2) (a), 115.80 (9), 767.553 (4) (d),
12 769.313, 802.05, 814.245, 895.035 (4), 895.044, 895.443 (3), 895.444 (2), 895.445 (3),
13 895.446 (3), 895.506, 943.212 (2) (b), 943.245 (2) (d), 943.51 (2) (b), and 995.10 (3),
14 when allowed costs shall be as follows:".

15 **29.** Page 8, line 14: after that line insert:

16 **"SECTION 12m. Nonstatutory provisions.**

17 (1) No later than the effective date of this subsection, an employer, as defined
18 in section 103.035 (1) (e) of the statutes, shall provide each service employee, as
19 defined in section 103.035 (1) (L) of the statutes, with a written copy of the service
20 employee's work schedule, as defined in section 103.035 (1) (o) of the statutes. That
21 work schedule is considered a work schedule provided to a service employee under
22 section 103.035 (3) (a) 2. of the statutes for all purposes under section 103.035 of the
23 statutes, including that the employer shall post a copy of the work schedule as

1 provided in section 103.035 (3) (a) 3. of the statutes and, if the employer changes that
2 work schedule, section 103.035 (3) (a) 2. of the statutes applies to that change.”.

3 **30.** Page 8, line 14: after that line insert:

4 **“SECTION 12m. Nonstatutory provisions.**

5 (1) The department of workforce development shall submit in proposed form
6 the rules required under section 103.105 (11) (b) of the statutes to the legislative
7 council staff under section 227.15 (1) of the statutes no later than the first day of the
8 4th month beginning after the effective date of this subsection.

9 (2) (a) Notwithstanding section 227.135 (2) of the statutes, the department of
10 workforce development is not required to present the statement of the scope of the
11 rules required under section 103.105 (11) (b) of the statutes to the governor for
12 approval.

13 (b) Notwithstanding section 227.185 of the statutes, the department of
14 workforce development is not required to present the rules required under section
15 103.105 (11) (b) of the statutes in final draft form to the governor for approval.

16 (c) Notwithstanding section 227.137 (2) of the statutes, the department of
17 workforce development is not required to prepare an economic impact analysis for
18 the rules required under section 103.105 (11) (b) of the statutes.

19 (d) Notwithstanding sections 227.14 (2g) and 227.19 (3) (e) of the statutes, the
20 department of workforce development is not required to submit the proposed rules
21 required under section 103.105 (11) (b) of the statutes to the small business
22 regulatory review board and is not required to prepare a final regulatory flexibility
23 analysis for those rules.

1 (3) Using the procedure under section 227.24 of the statutes, the department
2 of workforce development shall promulgate the rules required under section 103.105
3 (11) (b) of the statutes for the period before the effective date of the permanent rules
4 promulgated under section 103.105 (11) (b) of the statutes but not to exceed the
5 period authorized under section 227.24 (1) (c) of the statutes, subject to extension
6 under section 227.24 (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2)
7 (b), and (3) of the statutes, the department is not required to provide evidence that
8 promulgating a rule under this subsection as an emergency rule is necessary for the
9 preservation of public peace, health, safety, or welfare and is not required to provide
10 a finding of an emergency for a rule promulgated under this subsection.
11 Notwithstanding section 227.24 (1) (e) 1d. and 1g. of the statutes, the department is
12 not required to prepare a statement of the scope of the rules promulgated under this
13 subsection or present the rules to the governor for approval.”.

14 **31.** Page 8, line 17: after that line insert:

15 “(2) The treatment of sections 103.035 and 111.322 (2m) (a) and (b) of the
16 statutes and SECTION 12m of this act first apply to an employee who is covered by a
17 collective bargaining agreement that contains provisions inconsistent with section
18 103.035 of the statutes on the day on which the collective bargaining agreement
19 expires or is extended, modified, or renewed, whichever occurs first.

20 **SECTION 13m. Effective date.**

21 (1) This act takes effect on the first day of the 6th month beginning after
22 publication.”.

23 **32.** Page 8, line 17: after that line insert:

1 “(2m) The treatment of section 66.0145 of the statutes and the creation of
2 section 16.754 (2) (a) of the statutes first apply to purchases made in the fiscal year
3 that begins in the year after this subsection takes effect.

4 (3m) The treatment of section 16.754 (2m) of the statutes first applies to
5 responses made and bids submitted in the fiscal year that begins in the year after
6 this subsection takes effect.”.

7 **33.** Page 8, line 17: after that line insert:

8 “(1m) The treatment of sections 63.08 (1) (fm) and 230.25 (1g) and (1m) of the
9 statutes first applies to a position that is posted on the effective date of this
10 subsection.

11 (2m) The treatment of section 230.28 (1) (a), (am), and (c) of the statutes first
12 applies to a probationary period that begins on the effective date of this subsection.

13 (3m) The treatment of section 230.34 (1) (a) (intro.) and (am) of the statutes first
14 applies to employee discipline for conduct that occurs on the effective date of this
15 subsection.

16 (4m) The treatment of section 230.44 (1) (c) of the statutes first applies to an
17 action taken against an employee on the effective date of this subsection.

18 (5m) The treatment of section 230.40 (3) of the statutes first applies to a person
19 who separates from the classified service on the effective date of this subsection.”.

20 **34.** Page 8, line 17: after that line insert:

21 “(2) The treatment of sections 103.135, 106.54 (11), and 111.322 (2m) (a) and
22 (b) of the statutes first applies to an employee who is affected by a collective
23 bargaining agreement that contains provisions inconsistent with this act on the day

1 on which the collective bargaining agreement expires or is extended, modified, or
2 renewed, whichever occurs first.”

3 **35.** Page 8, line 17: after that line insert:

4 “(2m) The treatment of sections 16.75 (1p), 16.855 (1p), 66.0901 (1) (ae) and
5 (am), (6), (6m), and (6s) of the statutes first applies to bids or proposals solicited on
6 the effective date of this subsection.”

7 **36.** Page 8, line 17: after that line insert:

8 “(2) The treatment of sections 111.39 (4) (d) and (5) (b) and (d), 111.397, and
9 814.04 (intro.) of the statutes first applies to acts of employment discrimination,
10 unfair honesty testing, or unfair genetic testing committed on the effective date of
11 this subsection.”

12 **37.** Page 8, line 17: after that line insert:

13 “(2) Except as provided in subsection (4), the treatment of section 103.105 (7)
14 of the statutes first applies to wages earned on January 1, 2021.

15 (3) Except as provided in subsection (4), the treatment of section 103.105 (2)
16 (a) and (c) of the statutes first applies to a period of family leave, as defined in section
17 103.105 (1) (h) of the statutes, or a period of medical leave, as defined in section
18 103.105 (1) (L) of the statutes, commencing on January 1, 2022.

19 (4) The treatment of sections 20.445 (1) (w), 25.17 (1) (er), 25.52, 71.05 (6) (b)
20 54., 103.10 (1) (ap), (b), (c), (dm), (dp), and (gm), (1m) (b) 4., (3) (a) 1. and (b) 3. and
21 4., (6) (b) (intro.) and 1. and (c), (7) (a), (b) (intro.) and 1., and (d), (12) (c), and (14)
22 (a), 103.105, and 111.322 (2m) (a) and (b) of the statutes, the repeal of section 103.10
23 (1) (a) 1. and 2. and (14) (b) of the statutes, and the renumbering and amendment of
24 section 103.10 (1) (a) (intro.) of the statutes first apply to an employee who is affected

1 by a collective bargaining agreement that contains provisions inconsistent with this
2 act on the day on which the collective bargaining agreement expires or is extended,
3 modified, or renewed.”.

4 **38.** Page 8, line 17: after that line insert:

5 “(2m) The appropriate provisions regarding prevailing wage first apply, with
6 respect to a project of public works that is subject to bidding, to a project for which
7 the request for bids is issued on the effective date of this subsection and, with respect
8 to a project of public works that is not subject to bidding, to a project the contract for
9 which is entered into on the effective date of this subsection.

10 (3m) The treatment of sections 66.0903 (10) (d), 111.322 (2m) (c), and 229.8275
11 of the statutes first applies to acts of discrimination that occur on the effective date
12 of this subsection.”.

13 **39.** Page 8, line 17: after that line insert:

14 “(2m) The treatment of sections 109.09 (1) (with respect to the receipt and
15 investigation of a wage claim) and (2) (b) 3., 109.11 (1) (a), (b), and (c), (2) (a) and (b),
16 and (4), and 893.44 (1) and (2) of the statutes first applies to wages earned on the
17 effective date of this subsection.

18 (3m) The treatment of sections 109.03 (5) and 109.09 (1) (with respect to the
19 filing of a wage claim) of the statutes first applies to a wage claim action commenced
20 or a wage claim filed on the effective date of this subsection.

21 (4m) The treatment of sections 103.40 and 109.01 (3m) of the statutes first
22 applies to an employee hired on, or a change in a term of employment effective 7 days
23 after, the effective date of this subsection.

1 (5m) The treatment of section 103.35 (3) of the statutes first applies to an
2 application for issuance or renewal of a professional or occupational license filed on
3 the effective date of this subsection.”.

4 **40.** At the appropriate places, insert all of the following:

5 “**SECTION 81.** 20.445 (1) (gs) of the statutes is created to read:

6 20.445 (1) (gs) *Wage claim surcharges.* All moneys received from surcharges
7 collected under s. 109.11 (4), for the administration of ch. 109.

8 **SECTION 82.** 103.34 (6) (d) of the statutes is amended to read:

9 103.34 (6) (d) A traveling sales crew worker who is owed compensation may file
10 a wage claim with the department under s. 109.09 (1) (a) or may bring an action
11 under s. 109.03 (5) without first filing a wage claim with the department.

12 **SECTION 83.** 103.35 of the statutes is renumbered 103.35 (2) and amended to
13 read:

14 103.35 (2) ~~No state office, department, board, examining board, affiliated~~
15 ~~credentialing board, commission, council or independent agency in the executive~~
16 ~~branch, the legislature or the courts may, as a condition for receiving an occupational~~
17 ~~or professional certificate, license, permit or registration, require the submission of~~
18 ~~information by the applicant which is not essential for the determination of licensing~~
19 ~~agency may require an applicant for issuance or renewal of a license to submit any~~
20 ~~information that is not essential for the licensing agency to determine the applicant's~~
21 ~~eligibility for the issuance or renewal of the certificate, license, permit or~~
22 ~~registration. Information which. A licensing agency may request information that~~
23 ~~is not essential for the licensing agency to determine an applicant's eligibility for~~
24 ~~issuance or renewal may be requested of a license, but the licensing agency shall~~

1 ~~notify the applicant shall be notified~~ in a prominent place on or accompanying the
2 request that she or he is not required to provide such information.

3 **SECTION 84.** 103.35 (1) of the statutes is created to read:

4 103.35 (1) In this section:

5 (a) “License” means an occupational or professional certificate, license, permit,
6 or registration.

7 (b) “Licensing agency” means a state office, department, board, examining
8 board, affiliated credentialing board, commission, council, or independent agency in
9 the executive branch, the legislature, or the courts.

10 **SECTION 85.** 103.35 (3) of the statutes is created to read:

11 103.35 (3) A licensing agency shall require an applicant for issuance or renewal
12 of a license to disclose whether there are any judgments under s. 109.03 (5) or 109.09
13 (1) against the applicant that the applicant has not paid. A licensing agency shall
14 use the circuit court automated information systems established under s. 758.19 (4)
15 to verify the applicant’s disclosure. If there are any judgments under s. 109.03 (5)
16 or 109.09 (1) against the applicant that the applicant has not paid, the licensing
17 agency shall determine that the applicant is ineligible for issuance or renewal of the
18 license, unless the applicant demonstrates that the applicant has the willingness
19 and ability to pay the judgment.

20 **SECTION 86.** 103.40 of the statutes is created to read:

21 **103.40 Terms of employment; disclosure statement. (1) DISCLOSURE**
22 **STATEMENT REQUIRED.** An employer shall provide an employee with a written
23 statement disclosing the terms of employment at the time the employee is hired, on
24 January 1 of each year in which the employee is employed by the employer, and not
25 less than 7 days before the effective date of any change in the terms of employment.

1 The written disclosure statement shall be in English and, if the employee has limited
2 English proficiency, in the employee's native language. The written disclosure
3 statement shall include all of the following information:

4 (a) The full name, mailing address, and telephone number of the employer.

5 (b) The remuneration to be paid to the employee, the frequency of payment of
6 that remuneration, and, if that remuneration is paid as an hourly wage, the hourly
7 basic rate of pay to be paid to the employee.

8 (c) The circumstances under which the employee will be paid at a rate that is
9 higher than the hourly basic rate of pay for working in excess of an established
10 number of hours per day, per week, or per month or for working on designated nights,
11 weekends, or holidays.

12 (d) A description of any other economic benefits that the employer will provide,
13 including health insurance benefits, paid sick leave, vacation pay, holiday pay,
14 pension or other retirement benefits, personal protective equipment that is required
15 for the performance of the employee's work, worker's compensation coverage, or
16 unemployment insurance, whether an employee contribution will be required for
17 those benefits, and, if so, the amount of that employee contribution.

18 **(2) WAIVER PROHIBITED.** Any agreement between an employer and an employee
19 purporting to waive or modify the written disclosure statement requirement under
20 sub. (1) or any term of employment specified in such a statement is void.

21 **(3) NONCOMPLIANCE; ENFORCEMENT.** (a) Any employer that fails to provide a
22 written disclosure statement to an employee as required under sub. (1) or that fails
23 to comply with the terms of employment specified in a written disclosure statement
24 provided to an employee under sub. (1) is liable to the employee for all of the
25 following:

1 1. All actual damages, including any wage claim or wage deficiency, sustained
2 by the employee as a result of the employer's failure to provide that statement or to
3 comply with those terms.

4 2. Liquidated damages of not more than \$50 for each working day that the
5 employer fails to provide that statement or to comply with those terms or, if
6 applicable, the increased wages payable under s. 109.11 (2) (a) or (b), whichever is
7 greater.

8 3. Reasonable costs and attorney fees, notwithstanding s. 814.04.

9 (b) In addition to the liability specified in par. (a) 1. to 3., the department or the
10 circuit court may order an employer that fails to provide a written disclosure
11 statement to an employee as required under sub. (1) or that fails to comply with the
12 terms of employment specified in a written disclosure statement provided to an
13 employee under sub. (1) to take such action as will effectuate the purpose of this
14 section.

15 (c) An employee who is affected by a violation of par. (a) may file a wage claim
16 with the department under s. 109.09 (1) (a) or may bring an action under s. 109.03
17 (5) without first filing a wage claim with the department under s. 109.09 (1) (a).
18 Section 111.322 applies to any discharge or other discriminatory acts arising in
19 connection with any proceeding under this section.

20 **SECTION 87.** 109.01 (3m) of the statutes is created to read:

21 109.01 (3m) "Wage claim" includes a claim under s. 103.40 (3) (c) that an
22 employer has failed to provide a written disclosure statement to an employee as
23 required under s. 103.40 (1) or has failed to comply with the terms of employment
24 specified in a written disclosure statement provided to an employee under s. 103.40
25 (1).

1 **SECTION 88.** 109.03 (5) of the statutes is amended to read:

2 109.03 (5) ENFORCEMENT. Except as provided in sub. (1), no employer may by
3 special contract with employees or by any other means secure exemption from this
4 section. Each employee shall have a right of action against any employer for the full
5 amount of the employee's wages due on each regular pay day as provided in this
6 section and for interest on that amount and increased wages as provided in s. 109.11
7 (2), in any court of competent jurisdiction. An employee may bring an action under
8 this subsection on his or her own behalf and on behalf of other employees similarly
9 situated who consent in writing to being parties to the action. Such a consent shall
10 be filed with the court. An employee may bring an action ~~against an employer~~ under
11 this subsection without first filing a wage claim with the department under s. 109.09
12 (1) (a). An employee who brings an action against an employer under this subsection
13 shall have a lien upon all property of the employer, real or personal, located in this
14 state as described in s. 109.09 (2).

15 **SECTION 89.** 109.09 (1) of the statutes, as affected by 2017 Wisconsin Act 59,
16 is renumbered 109.09 (1) (a) and amended to read:

17 109.09 (1) (a) The department shall investigate and attempt equitably to adjust
18 controversies between employers and employees as to alleged wage claims. An
19 employee may file a wage claim under this paragraph on his or her own behalf and
20 on behalf of other employees similarly situated who consent in writing to being
21 parties to the claim. Such a consent shall be filed with the department. The
22 department may receive and investigate any wage claim that is filed with the
23 department, or received by the department under s. 109.10 (4), no later than ~~2~~ 4
24 years after the date the wages are due. ~~The department may, after~~ After receiving
25 a wage claim, the department may investigate any wages due from the employer

1 against whom the claim is filed to any employee during the period commencing ~~2~~
2 4 years before the date the claim is filed.

3 (b) The department shall enforce this chapter and s. 66.0903, 2013 stats., s.
4 103.49, 2013 stats., s. 229.8275, 2013 stats., and s. 16.856, 2015 stats., and ss. 103.02,
5 103.40, 103.82, and 104.12. In pursuance of this duty, the department may sue the
6 employer on behalf of the employee to collect any wage claim or wage deficiency and
7 ss. 109.03 (6) and 109.11 (2) and (3) shall apply to such actions. Except for actions
8 under s. 109.10, the department may refer such an action to the district attorney of
9 the county in which the violation ~~occurs~~ occurred for prosecution and collection and
10 the district attorney shall commence an action in the circuit court having appropriate
11 jurisdiction. Any number of wage claims or wage deficiencies against the same
12 employer may be joined in a single proceeding, but the court may order separate
13 trials or hearings.

14 (c) In actions that are referred to a district attorney under ~~this subsection~~ par.
15 (b), any taxable costs recovered by the district attorney shall be paid into the general
16 fund of the county in which the violation occurs and used by that county to meet its
17 financial responsibility under s. 978.13 (2) (b) for the operation of the office of the
18 district attorney who prosecuted the action.

19 **SECTION 90.** 109.09 (2) (a) of the statutes is amended to read:

20 109.09 (2) (a) The department of workforce development, under its authority
21 under sub. (1) (b) to maintain actions for the benefit of employees, or an employee
22 who brings an action under s. 109.03 (5) shall have a lien upon all property of the
23 employer, real or personal, located in this state for the full amount of any wage claim
24 or wage deficiency.

25 **SECTION 91.** 109.09 (2) (b) 3. of the statutes is amended to read:

1 109.09 (2) (b) 3. The department of workforce development or employee must
2 file the notice under subd. 1. or 2. within ~~2~~ 4 years after the date on which the wages
3 were due. The notice shall specify the nature of the claim and the amount claimed,
4 describe the property upon which the claim is made, and state that the person filing
5 the notice claims a lien on that property.

6 **SECTION 92.** 109.09 (2) (c) 2. of the statutes is amended to read:

7 109.09 (2) (c) 2. Except as provided in this subdivision, a lien under par. (a) does
8 not take precedence over a lien of a commercial lending institution against the
9 employer that originates before the lien under par. (a) takes effect. Subject to subd.
10 3., a lien under par. (a) takes precedence over a lien of a commercial lending
11 institution against the employer that originates before the lien under par. (a) takes
12 effect only as to the first \$3,000 of unpaid wages covered under the lien that are
13 earned by an employee within the 6 months preceding the date on which the
14 employee files the wage claim under sub. (1) (a) or brings the action under s. 109.03
15 (5) or the date on which the department receives the wage claim under s. 109.10 (4)
16 (a), whichever is applicable.

17 **SECTION 93.** 109.11 (title) of the statutes is amended to read:

18 **109.11 (title) Penalties and surcharge.**

19 **SECTION 94.** 109.11 (1) (a) of the statutes is amended to read:

20 109.11 (1) (a) In adjusting a controversy between an employer and an employee
21 as to an alleged wage claim filed with the department under s. 109.09 (1) (a), the
22 department may compromise and settle that wage claim for such sum as may be
23 agreed upon between the department, the employee, and the employer plus interest
24 on that sum at the rate of 2 percent per month for each month that the wages were
25 due and unpaid and the surcharge specified in sub. (4).

1 **SECTION 95.** 109.11 (1) (b) of the statutes is renumbered 109.11 (1) (b) 1. and
2 amended to read:

3 109.11 (1) (b) 1. If the department finds that a wage claim is valid, the
4 department may instruct the employer against whom the wage claim is filed to audit
5 his or her payroll records to determine whether the employer may be liable for any
6 other wage claims that are of the same type as the wage claim that prompted the
7 audit instruction. If after the requested completion date of the audit the department
8 receives a wage claim against the employer that is of the same type as the wage claim
9 that prompted the audit instruction and if the department determines that the
10 subsequent wage claim is valid, the department may audit the employer's payroll
11 records to determine whether the employer may be liable for any other wage claims
12 that are of the same type as the wage claim that prompted the audit instruction.

13 2. For any valid wage claim that is filed against an employer after the
14 department has instructed the employer to audit his or her payroll records under ~~this~~
15 ~~paragraph subd. 1.~~ and that is of the same type as the wage claim that prompted the
16 audit instruction and for any valid wage claim that is discovered as a result of the
17 department's audit under ~~this paragraph subd. 1.~~ and that is of the same type as the
18 wage claim that prompted the audit instruction, the department shall require the
19 employer to pay, in addition to the amount of wages due and unpaid, increased wages
20 of not more than 50 percent of the amount of wages due and unpaid, interest on the
21 amount of wages due and unpaid at the rate of 2 percent per month for each month
22 that the wages were due and unpaid, and the surcharge specified in sub. (4), unless
23 the employer shows the department that payment of the increased wages, interest,
24 or surcharge would cause extreme hardship. The department shall require an

1 employer to make that payment without regard to whether the employer's failure to
2 pay the wages due and unpaid was intentional or unintentional.

3 **SECTION 96.** 109.11 (1) (c) of the statutes is amended to read:

4 109.11 (1) (c) If an employer does not agree to compromise and settle a wage
5 claim under this subsection, the department may refer the wage claim to a district
6 attorney under s. 109.09 (1) (b) or to the department of justice under s. 109.10 (3) for
7 commencement of an action in circuit court to collect the amount of wages due and
8 unpaid plus interest on that amount at the rate of 2 percent per month for each month
9 that the wages were due and unpaid, increased wages as specified in sub. (2) (b), and
10 the surcharge specified in sub. (4).

11 **SECTION 97.** 109.11 (2) (a) of the statutes is amended to read:

12 109.11 (2) (a) In a wage claim action that is commenced by an employee before
13 the department has completed its investigation under s. 109.09 (1) (a) and its
14 attempts to compromise and settle the wage claim under sub. (1), a circuit court may
15 order the employer to pay to the employee, in addition to the amount of wages due
16 and unpaid and in addition to or in lieu of the criminal penalties specified in sub. (3),
17 increased wages of not more than ~~50~~ 100 percent of the amount of wages due and
18 unpaid, interest on the amount of wages due and unpaid at the rate of 2 percent per
19 month for each month that the wages were due and unpaid, the surcharge specified
20 in sub. (4), and, notwithstanding s. 814.04, reasonable costs and attorney fees. A
21 circuit court may order an employer to make that payment without regard to
22 whether the employer's failure to pay the wages due and unpaid was intentional or
23 unintentional.

24 **SECTION 98.** 109.11 (2) (b) of the statutes is amended to read:

1 109.11 (2) (b) In a wage claim action that is commenced after the department
2 has completed its investigation under s. 109.09 (1) (a) and its attempts to settle and
3 compromise the wage claim under sub. (1), a circuit court may order the employer
4 to pay to the employee, in addition to the amount of wages due and unpaid to an
5 employee and in addition to or in lieu of the criminal penalties specified in sub. (3),
6 increased wages of not more than ~~100~~ 200 percent of the amount of those wages due
7 and unpaid, interest on the amount of wages due and unpaid at the rate of 2 percent
8 per month for each month that the wages were due and unpaid, the surcharge
9 specified in sub. (4), and, notwithstanding s. 814.04, reasonable costs and attorney
10 fees. A circuit court may order an employer to make that payment without regard
11 to whether the employer's failure to pay the wages due and unpaid was intentional
12 or unintentional.

13 **SECTION 99.** 109.11 (4) of the statutes is created to read:

14 109.11 (4) SURCHARGE. In addition to the amounts payable under sub. (1) (a)
15 or (b) or (2) (a) or (b), the department shall require, or a circuit court shall order, an
16 employer who fails to pay wages that are due and payable to an employee to pay to
17 the department or circuit court a surcharge of \$500 for a first violation, \$750 for a
18 2nd violation, and \$1,000 for a 3rd or subsequent violation. If the surcharge is
19 required by the department, the department shall collect the surcharge, deposit the
20 surcharge in the general fund, and credit the surcharge to the appropriation account
21 under s. 20.445 (1) (gs). If the surcharge is ordered by the circuit court, the clerk of
22 circuit court shall collect the surcharge and transmit the surcharge to the county
23 treasurer under s. 59.40 (2) (m), the county treasurer shall pay the surcharge to the
24 secretary of administration under s. 59.25 (3) (f) 2., and the secretary of

1 administration shall deposit the surcharge in the general fund and credit the
2 surcharge to the appropriation account under s. 20.445 (1) (gs).

3 **SECTION 100.** 111.322 (2m) (a) of the statutes is amended to read:

4 111.322 **(2m)** (a) The individual files a complaint or attempts to enforce any
5 right under s. 103.02, 103.10, 103.11, 103.13, 103.28, 103.32, 103.34, 103.40,
6 103.455, 104.12, 109.03, 109.07, 109.075, 109.09, 146.997, or 995.55, or ss. 101.58 to
7 101.599 or 103.64 to 103.82.

8 **SECTION 101.** 111.322 (2m) (b) of the statutes is amended to read:

9 111.322 **(2m)** (b) The individual testifies or assists in any action or proceeding
10 held under or to enforce any right under s. 103.02, 103.10, 103.11, 103.13, 103.28,
11 103.32, 103.34, 103.40, 103.455, 104.12, 109.03, 109.07, 109.075, 109.09, 146.997, or
12 995.55, or ss. 101.58 to 101.599 or 103.64 to 103.82.

13 **SECTION 102.** 814.75 (28) of the statutes is created to read:

14 814.75 **(28)** The wage claim surcharge under s. 109.11 (4).

15 **SECTION 103.** 893.44 (1) of the statutes is amended to read:

16 893.44 **(1)** Any action to recover unpaid salary, wages or other compensation
17 for personal services, except actions to recover fees for professional services and
18 except as provided in sub. (2), shall be commenced within ~~2~~ 4 years after the cause
19 of action accrues or be barred.

20 **SECTION 104.** 893.44 (2) of the statutes is amended to read:

21 893.44 **(2)** An action to recover wages under s. 109.09 shall be commenced
22 within ~~2~~ 4 years after the claim is filed with the department of workforce
23 development or be barred.”.

24 **41.** At the appropriate places, insert all of the following:

1 **SECTION 105.** 19.36 (12) of the statutes is created to read:

2 **19.36 (12) INFORMATION RELATING TO CERTAIN EMPLOYEES.** Unless access is
3 specifically authorized or required by statute, an authority may not provide access
4 to a record prepared or provided by an employer performing work on a project to
5 which s. 66.0903, 103.49, or 103.50 applies, or on which the employer is otherwise
6 required to pay prevailing wages, if that record contains the name or other personally
7 identifiable information relating to an employee of that employer, unless the
8 employee authorizes the authority to provide access to that information. In this
9 subsection, “personally identifiable information” does not include an employee’s
10 work classification, hours of work, or wage or benefit payments received for work on
11 such a project.

12 **SECTION 106.** 66.0129 (5) of the statutes is amended to read:

13 **66.0129 (5) BIDS FOR CONSTRUCTION.** The nonprofit corporation shall let all
14 contracts exceeding \$1,000 for the construction, maintenance or repair of hospital
15 facilities to the lowest responsible bidder after advertising for bids by the publication
16 of a class 2 notice under ch. 985. ~~Section~~ Sections 66.0901 applies and 66.0903 apply
17 to bids and contracts under this subsection.

18 **SECTION 107.** 66.0903 (1) (a), (am), (b), (cm), (dr), (em), (hm) and (im) of the
19 statutes are created to read:

20 **66.0903 (1) (a)** “Area” means the county in which a proposed project of public
21 works that is subject to this section is located or, if the department determines that
22 there is insufficient wage data in that county, “area” means those counties that are
23 contiguous to that county or, if the department determines that there is insufficient
24 wage data in those counties, “area” means those counties that are contiguous to those
25 counties or, if the department determines that there is insufficient wage data in those

1 counties, “area” means the entire state or, if the department is requested to review
2 a determination under sub. (3) (br), “area” means the city, village, or town in which
3 a proposed project of public works that is subject to this section is located.

4 (am) “Bona fide economic benefit” has the meaning given in s. 103.49 (1) (am).

5 (b) “Department” means the department of workforce development.

6 (cm) “Insufficient wage data” has the meaning given in s. 103.49 (1) (bg).

7 (dr) “Minor service or maintenance work” means a project of public works that
8 is limited to minor crack filling, chip or slurry sealing, or other minor pavement
9 patching, not including overlays, that has a projected life span of no longer than 5
10 years or that is performed for a town and is not funded under s. 86.31, regardless of
11 projected life span; the depositing of gravel on an existing gravel road applied solely
12 to maintain the road; road shoulder maintenance; cleaning of drainage or sewer
13 ditches or structures; or any other limited, minor work on public facilities or
14 equipment that is routinely performed to prevent breakdown or deterioration.

15 (em) “Multiple-trade project of public works” has the meaning given in s.
16 103.49 (1) (br).

17 (hm) “Single-trade project of public works” has the meaning given in s. 103.49
18 (1) (em).

19 (im) “Supply and installation contract” means a contract under which the
20 material is installed by the supplier, the material is installed by means of simple
21 fasteners or connectors such as screws or nuts and bolts, and no other work is
22 performed on the site of the project of public works, and the total labor cost to install
23 the material does not exceed 20 percent of the total cost of the contract.

24 **SECTION 108.** 66.0903 (1) (c) of the statutes, as affected by 2017 Wisconsin Act
25 59, is amended to read:

1 66.0903 (1) (c) “Hourly basic rate of pay” has the meaning given in s. ~~16.856~~
2 ~~103.49~~ (1) (b), ~~2015 stats.~~

3 **SECTION 109.** 66.0903 (1) (f) of the statutes, as affected by 2017 Wisconsin Act
4 59, is amended to read:

5 66.0903 (1) (f) “Prevailing hours of labor” has the meaning given in s. ~~16.856~~
6 ~~103.49~~ (1) (e), ~~2015 stats.~~ (c).

7 **SECTION 110.** 66.0903 (1) (g) of the statutes, as affected by 2017 Wisconsin Act
8 59, is repealed and recreated to read:

9 66.0903 (1) (g) 1. Except as provided in subd. 2., “prevailing wage rate” for any
10 trade or occupation engaged in the erection, construction, remodeling, repairing, or
11 demolition of any project of public works in any area means the hourly basic rate of
12 pay, plus the hourly contribution for health insurance benefits, vacation benefits,
13 pension benefits, and any other bona fide economic benefit, paid directly or
14 indirectly, for a majority of the hours worked in the trade or occupation on projects
15 in the area.

16 2. If there is no rate at which a majority of the hours worked in the trade or
17 occupation on projects in the area is paid, “prevailing wage rate” for any trade or
18 occupation engaged in the erection, construction, remodeling, repairing, or
19 demolition of any project of public works in any area means the average hourly basic
20 rate of pay, weighted by the number of hours worked, plus the average hourly
21 contribution, weighted by the number of hours worked, for health insurance benefits,
22 vacation benefits, pension benefits, and any other bona fide economic benefit, paid
23 directly or indirectly for all hours worked at the hourly basic rate of pay of the
24 highest-paid 51 percent of hours worked in that trade or occupation on projects in
25 that area.

1 **SECTION 111.** 66.0903 (1) (j) of the statutes, as affected by 2017 Wisconsin Act
2 59, is amended to read:

3 66.0903 (1) (j) “Truck driver” ~~includes an owner-operator of a truck~~ has the
4 meaning given in s. 103.49 (1) (g).

5 **SECTION 112.** 66.0903 (1m) (b) of the statutes is amended to read:

6 66.0903 (1m) (b) The legislature finds that the enactment of ordinances or
7 other enactments by local governmental units requiring laborers, workers,
8 mechanics, and truck drivers employed on projects of public works or on publicly
9 funded private construction projects to be paid the prevailing wage rate and to be
10 paid at least 1.5 times their hourly basic rate of pay for hours worked in excess of the
11 prevailing hours of labor would be logically inconsistent with, would defeat the
12 purpose of, and would go against the ~~repeals~~ spirit of this section and the repeal of
13 s. 66.0904, 2009 stats., ~~and s. 66.0903 (2) to (12), 2013 stats.~~ Therefore, this section
14 shall be construed as an enactment of statewide concern for the ~~purposes of~~
15 ~~facilitating broader participation with respect to bidding on projects of public works,~~
16 ~~ensuring that wages accurately reflect market conditions, providing local~~
17 ~~governments with the flexibility to reduce costs on capital projects, and reducing~~
18 ~~spending at all levels of government in this state~~ purpose of providing uniform
19 prevailing wage rate and prevailing hours of labor requirements throughout the
20 state.

21 **SECTION 113.** 66.0903 (2) to (12) of the statutes are created to read:

22 66.0903 (2) APPLICABILITY. Subject to sub. (5), this section applies to any project
23 of public works erected, constructed, repaired, remodeled, or demolished for a local
24 governmental unit, including all of the following:

25 (a) A highway, street, bridge, building, or other infrastructure project.

1 (b) A project erected, constructed, repaired, remodeled, or demolished by one
2 local governmental unit for another local governmental unit under a contract under
3 s. 66.0301 (2), 83.03, 83.035, or 86.31 (2) (b) or under any other statute specifically
4 authorizing cooperation between local governmental units.

5 (c) A project in which the completed facility is leased, purchased, lease
6 purchased, or otherwise acquired by, or dedicated to, a local governmental unit in lieu
7 of the local governmental unit contracting for the erection, construction, repair,
8 remodeling, or demolition of the facility.

9 (d) A road, street, bridge, sanitary sewer, or water main project in which the
10 completed road, street, bridge, sanitary sewer, or water main is acquired by, or
11 dedicated to, a local governmental unit, including under s. 236.13 (2), for ownership
12 or maintenance by the local governmental unit.

13 **(3) PREVAILING WAGE RATES AND HOURS OF LABOR.** (am) A local governmental unit,
14 before making a contract by direct negotiation or soliciting bids on a contract for the
15 erection, construction, remodeling, repairing, or demolition of any project of public
16 works, shall apply to the department to determine the prevailing wage rate for each
17 trade or occupation required in the work contemplated. The department shall
18 conduct investigations and hold public hearings as necessary to define the trades or
19 occupations that are commonly employed on projects of public works that are subject
20 to this section and to inform itself as to the prevailing wage rates in all areas of the
21 state for those trades or occupations, in order to determine the prevailing wage rate
22 for each trade or occupation. The department shall issue its determination within
23 30 days after receiving the request and shall file the determination with the
24 requesting local governmental unit.

1 (ar) The department shall, by January 1 of each year, compile the prevailing
2 wage rates for each trade or occupation in each area. The compilation shall, in
3 addition to the current prevailing wage rates, include future prevailing wage rates
4 when those prevailing wage rates can be determined for any trade or occupation in
5 any area and shall specify the effective date of those future prevailing wage rates.
6 If a project of public works extends into more than one area, there shall be only one
7 standard of prevailing wage rates for the entire project.

8 (av) In determining prevailing wage rates under par. (am) or (ar), the
9 department may not use data from projects that are subject to this section, s. 103.49
10 or 103.50, or 40 USC 3142 unless the department determines that there is
11 insufficient wage data in the area to determine those prevailing wage rates, in which
12 case the department may use data from projects that are subject to this section, s.
13 103.49 or 103.50, or 40 USC 3142. In determining prevailing wage rates under par.
14 (am) or (ar), the department may not use data from any construction work that is
15 performed by a local governmental unit or a state agency.

16 (bm) Any person may request a recalculation of any portion of an initial
17 determination within 30 days after the initial determination date if the person
18 submits evidence with the request showing that the prevailing wage rate for any
19 given trade or occupation included in the initial determination does not represent the
20 prevailing wage rate for that trade or occupation in the area. The evidence shall
21 include wage rate information reflecting work performed by persons working in the
22 contested trade or occupation in the area during the current survey period. The
23 department shall affirm or modify the initial determination within 15 days after the
24 date on which the department receives the request for recalculation.

1 (br) In addition to the recalculation under par. (bm), the local governmental
2 unit that requested the determination under this subsection may request a review
3 of any portion of a determination within 30 days after the date of issuance of the
4 determination if the local governmental unit submits evidence with the request
5 showing that the prevailing wage rate for any given trade or occupation included in
6 the determination does not represent the prevailing wage rate for that trade or
7 occupation in the city, village, or town in which the proposed project of public works
8 is located. That evidence shall include wage rate information for the contested trade
9 or occupation on at least 3 similar projects located in the city, village, or town where
10 the proposed project of public works is located and on which some work has been
11 performed during the current survey period and which were considered by the
12 department in issuing its most recent compilation under par. (ar). The department
13 shall affirm or modify the determination within 15 days after the date on which the
14 department receives the request for review.

15 (dm) A reference to the prevailing wage rates determined by the department
16 and to the prevailing hours of labor shall be published in the notice issued for the
17 purpose of securing bids for the project of public works. If any contract or subcontract
18 for a project of public works is entered into, the prevailing wage rates determined by
19 the department and the prevailing hours of labor shall be physically incorporated
20 into and made a part of the contract or subcontract, except that for a minor
21 subcontract, as determined by the department, the department shall prescribe by
22 rule the method of notifying the minor subcontractor of the prevailing wage rates and
23 prevailing hours of labor applicable to the minor subcontract. The prevailing wage
24 rates and prevailing hours of labor applicable to a contract or subcontract may not
25 be changed during the time that the contract or subcontract is in force. No person

1 performing the work described in sub. (4) may be paid less than the prevailing wage
2 rate in the same or most similar trade or occupation determined under this
3 subsection; nor may he or she be permitted to work a greater number of hours per
4 day or per week than the prevailing hours of labor, unless he or she is paid for all
5 hours worked in excess of the prevailing hours of labor at a rate of at least 1.5 times
6 his or her hourly basic rate of pay.

7 (4) COVERED EMPLOYEES. (a) Subject to par. (b), all of the following employees
8 shall be paid the prevailing wage rate determined under sub. (3) and may not be
9 permitted to work a greater number of hours per day or per week than the prevailing
10 hours of labor, unless they are paid for all hours worked in excess of the prevailing
11 hours of labor at a rate of at least 1.5 times their hourly basic rate of pay:

12 1. All laborers, workers, mechanics, and truck drivers employed on the site of
13 a project of public works that is subject to this section.

14 2. All laborers, workers, mechanics, and truck drivers employed in the
15 manufacturing or furnishing of materials, articles, supplies, or equipment on the site
16 of a project of public works that is subject to this section or from a facility dedicated
17 exclusively, or nearly so, to a project of public works that is subject to this section by
18 a contractor, subcontractor, agent, or other person performing any work on the site
19 of the project.

20 (b) A laborer, worker, mechanic, or truck driver who is employed to process,
21 manufacture, pick up, or deliver materials or products from a commercial
22 establishment that has a fixed place of business from which the establishment
23 supplies processed or manufactured materials or products or from a facility that is
24 not dedicated exclusively, or nearly so, to a project of public works that is subject to
25 this section is not entitled to receive the prevailing wage rate determined under sub.

1 (3) or to receive at least 1.5 times his or her hourly basic rate of pay for all hours
2 worked in excess of the prevailing hours of labor unless any of the following applies:

3 1. The laborer, worker, mechanic, or truck driver is employed to go to the source
4 of mineral aggregate such as sand, gravel, or stone and deliver that mineral
5 aggregate to the site of a project of public works that is subject to this section by
6 depositing the material directly in final place, from the transporting vehicle or
7 through spreaders from the transporting vehicle.

8 2. The laborer, worker, mechanic, or truck driver is employed to go to the site
9 of a project of public works that is subject to this section, pick up excavated material
10 or spoil from the site of the project, and transport that excavated material or spoil
11 away from the site of the project.

12 (c) A truck driver who is an owner-operator of a truck shall be paid separately
13 for his or her work and for the use of his or her truck.

14 **(5) NONAPPLICABILITY.** This section does not apply to any of the following:

15 (a) A single-trade project of public works for which the estimated project cost
16 of completion is less than \$48,000, a multiple-trade project of public works for which
17 the estimated project cost of completion is less than \$100,000, or, in the case of a
18 multiple-trade project of public works erected, constructed, repaired, remodeled, or
19 demolished by a private contractor for a city or village having a population of less
20 than 2,500 or for a town, a multiple-trade project of public works for which the
21 estimated project cost of completion is less than \$234,000.

22 (b) Work performed on a project of public works for which the local
23 governmental unit contracting for the project is not required to compensate any
24 contractor, subcontractor, contractor's or subcontractor's agent, or individual for
25 performing the work.

1 (c) Minor service or maintenance work, warranty work, or work under a supply
2 and installation contract.

3 (f) A project of public works involving the erection, construction, repair,
4 remodeling, or demolition of a residential property containing 2 dwelling units or
5 less.

6 (g) A road, street, bridge, sanitary sewer, or water main project that is a part
7 of a development in which not less than 90 percent of the lots contain or will contain
8 2 dwelling units or less, as determined by the local governmental unit at the time of
9 approval of the development, and that, on completion, is acquired by, or dedicated to,
10 a local governmental unit, including under s. 236.13 (2), for ownership or
11 maintenance by the local governmental unit.

12 **(8) POSTING.** For the information of the employees working on the project of
13 public works, the prevailing wage rates determined by the department, the
14 prevailing hours of labor, and the provisions of subs. (10) (a) and (11) (a) shall be kept
15 posted by the local governmental unit in at least one conspicuous and easily
16 accessible place on the site of the project or, if there is no common site on the project,
17 at the place normally used by the local governmental unit to post public notices.

18 **(9) COMPLIANCE.** (a) When the department finds that a local governmental unit
19 has not requested a determination under sub. (3) (am) or that a local governmental
20 unit, contractor, or subcontractor has not physically incorporated a determination
21 into a contract or subcontract as required under this section or has not notified a
22 minor subcontractor of a determination in the manner prescribed by the department
23 by rule promulgated under sub. (3) (dm), the department shall notify the local
24 governmental unit, contractor, or subcontractor of the noncompliance and shall file

1 the determination with the local governmental unit, contractor, or subcontractor
2 within 30 days after the notice.

3 (b) Upon completion of a project of public works and before receiving final
4 payment for his or her work on the project, each agent or subcontractor shall furnish
5 the contractor with an affidavit stating that the agent or subcontractor has complied
6 fully with the requirements of this section. A contractor may not authorize final
7 payment until the affidavit is filed in proper form and order.

8 (c) Upon completion of a project of public works and before receiving final
9 payment for his or her work on the project, each contractor shall file with the local
10 governmental unit authorizing the work an affidavit stating that the contractor has
11 complied fully with the requirements of this section and that the contractor has
12 received an affidavit under par. (b) from each of the contractor's agents and
13 subcontractors. A local governmental unit may not authorize a final payment until
14 the affidavit is filed in proper form and order. If a local governmental unit authorizes
15 a final payment before an affidavit is filed in proper form and order or if the
16 department determines, based on the greater weight of the credible evidence, that
17 any person performing the work specified in sub. (4) has been or may have been paid
18 less than the prevailing wage rate or less than 1.5 times the hourly basic rate of pay
19 for all hours worked in excess of the prevailing hours of labor and requests that the
20 local governmental unit withhold all or part of the final payment, but the local
21 governmental unit fails to do so, the local governmental unit is liable for all back
22 wages payable up to the amount of the final payment.

23 **(10) RECORDS; INSPECTION; ENFORCEMENT.** (a) Each contractor, subcontractor, or
24 contractor's or subcontractor's agent performing work on a project of public works
25 that is subject to this section shall keep full and accurate records clearly indicating

1 the name and trade or occupation of every person performing the work described in
2 sub. (4) and an accurate record of the number of hours worked by each of those
3 persons and the actual wages paid for the hours worked.

4 (b) The department or the contracting local governmental unit may demand
5 and examine, and every contractor, subcontractor, and contractor's or
6 subcontractor's agent shall keep, and furnish upon request by the department or
7 local governmental unit, copies of payrolls and other records and information
8 relating to the wages paid to persons performing the work described in sub. (4) for
9 work to which this section applies. The department may inspect records in the
10 manner provided in ch. 103. Every contractor, subcontractor, or agent performing
11 work on a project of public works that is subject to this section is subject to the
12 requirements of ch. 103 relating to the examination of records.

13 (c) If requested by any person, the department shall inspect the payroll records
14 of any contractor, subcontractor, or agent performing work on a project of public
15 works that is subject to this section as provided in this paragraph to ensure
16 compliance with this section. On receipt of such a request, the department shall
17 request the contractor, subcontractor, or agent to submit to the department a
18 certified record of the information specified in par. (a), other than personally
19 identifiable information relating to an employee of the contractor, subcontractor, or
20 agent, for no longer than a 4-week period. The department may request a contractor,
21 subcontractor, or agent to submit those records no more than once per calendar
22 quarter for each project of public works on which the contractor, subcontractor, or
23 agent is performing work. The department may not charge a requester a fee for
24 obtaining that information. The department shall make available for public
25 inspection certified records submitted to the department under this paragraph.

1 (d) Section 103.005 (5) (f), (11), (12), and (13) applies to this section, except that
2 s. 103.005 (12) (a) does not apply to any person who fails to provide any information
3 to the department to assist the department in determining prevailing wage rates
4 under sub. (3) (am) or (ar). Section 111.322 (2m) applies to discharge and other
5 discriminatory acts arising in connection with any proceeding under this section,
6 including proceedings under sub. (11) (a).

7 **(11) LIABILITY AND PENALTIES.** (a) 1. Any contractor, subcontractor, or
8 contractor's or subcontractor's agent who fails to pay the prevailing wage rate
9 determined by the department under sub. (3) or who pays less than 1.5 times the
10 hourly basic rate of pay for all hours worked in excess of the prevailing hours of labor
11 is liable to any affected employee in the amount of his or her unpaid wages or his or
12 her unpaid overtime compensation and in an additional amount as liquidated
13 damages as provided under subd. 2. or 3., whichever is applicable.

14 2. If the department determines upon inspection under sub. (10) (b) or (c) that
15 a contractor, subcontractor, or contractor's or subcontractor's agent has failed to pay
16 the prevailing wage rate determined by the department under sub. (3) or has paid
17 less than 1.5 times the hourly basic rate of pay for all hours worked in excess of the
18 prevailing hours of labor, the department shall order the contractor to pay to any
19 affected employee the amount of his or her unpaid wages or his or her unpaid
20 overtime compensation and an additional amount equal to 100 percent of the amount
21 of those unpaid wages or that unpaid overtime compensation as liquidated damages
22 within a period specified by the department in the order.

23 3. In addition to or in lieu of recovering the liability specified in subd. 1. as
24 provided in subd. 2., any employee for and in behalf of that employee and other
25 employees similarly situated may commence an action to recover that liability in any

1 court of competent jurisdiction. If the court finds that a contractor, subcontractor,
2 or contractor's or subcontractor's agent has failed to pay the prevailing wage rate
3 determined by the department under sub. (3) or has paid less than 1.5 times the
4 hourly basic rate of pay for all hours worked in excess of the prevailing hours of labor,
5 the court shall order the contractor, subcontractor, or agent to pay to any affected
6 employee the amount of his or her unpaid wages or his or her unpaid overtime
7 compensation and an additional amount equal to 100 percent of the amount of those
8 unpaid wages or that unpaid overtime compensation as liquidated damages.

9 5. No employee may be a party plaintiff to an action under subd. 3. unless the
10 employee consents in writing to become a party and the consent is filed in the court
11 in which the action is brought. Notwithstanding s. 814.04 (1), the court shall, in
12 addition to any judgment awarded to the plaintiff, allow reasonable attorney fees
13 and costs to be paid by the defendant.

14 (b) 1. Except as provided in subds. 2., 4., and 6., any contractor, subcontractor,
15 or contractor's or subcontractor's agent who violates this section may be fined not
16 more than \$200 or imprisoned for not more than 6 months or both. Each day that
17 any violation continues is a separate offense.

18 2. Whoever induces any person who seeks to be or is employed on any project
19 of public works that is subject to this section to give up, waive, or return any part of
20 the wages to which the person is entitled under the contract governing the project,
21 or who reduces the hourly basic rate of pay normally paid to a person for work on a
22 project that is not subject to this section during a week in which the person works
23 both on a project of public works that is subject to this section and on a project that
24 is not subject to this section, by threat not to employ, by threat of dismissal from
25 employment, or by any other means is guilty of an offense under s. 946.15 (1).

1 3. Any person employed on a project of public works that is subject to this
2 section who knowingly permits a contractor, subcontractor, or contractor's or
3 subcontractor's agent to pay him or her less than the prevailing wage rate set forth
4 in the contract governing the project, who gives up, waives, or returns any part of the
5 compensation to which he or she is entitled under the contract, or who gives up,
6 waives, or returns any part of the compensation to which he or she is normally
7 entitled for work on a project that is not subject to this section during a week in which
8 the person works both on a project of public works that is subject to this section and
9 on a project that is not subject to this section, is guilty of an offense under s. 946.15
10 (2).

11 4. Whoever induces any person who seeks to be or is employed on any project
12 of public works that is subject to this section to permit any part of the wages to which
13 the person is entitled under the contract governing the project to be deducted from
14 the person's pay is guilty of an offense under s. 946.15 (3), unless the deduction would
15 be permitted under 29 CFR 3.5 or 3.6 from a person who is working on a project that
16 is subject to 40 USC 3142.

17 5. Any person employed on a project of public works that is subject to this
18 section who knowingly permits any part of the wages to which he or she is entitled
19 under the contract governing the project to be deducted from his or her pay is guilty
20 of an offense under s. 946.15 (4), unless the deduction would be permitted under 29
21 CFR 3.5 or 3.6 from a person who is working on a project that is subject to 40 USC
22 3142.

23 6. Subdivision 1. does not apply to any person who fails to provide any
24 information to the department to assist the department in determining prevailing
25 wage rates under sub. (3) (am) or (ar).

1 **(12) DEBARMENT.** (a) Except as provided under pars. (b) and (c), the department
2 shall notify any local governmental unit applying for a determination under sub. (3)
3 of the names of all persons whom the department has found to have failed to pay the
4 prevailing wage rate determined under sub. (3) or has found to have paid less than
5 1.5 times the hourly basic rate of pay for all hours worked in excess of the prevailing
6 hours of labor at any time in the preceding 3 years. The department shall include
7 with each name the address of the person and shall specify when the person failed
8 to pay the prevailing wage rate and when the person paid less than 1.5 times the
9 hourly basic rate of pay for all hours worked in excess of the prevailing hours of labor.
10 A local governmental unit may not award any contract to the person unless otherwise
11 recommended by the department or unless 3 years have elapsed from the date the
12 department issued its findings or the date of final determination by a court of
13 competent jurisdiction, whichever is later.

14 (b) The department may not include in a notification under par. (a) the name
15 of any person on the basis of having let work to a person whom the department has
16 found to have failed to pay the prevailing wage rate determined under sub. (3) or has
17 found to have paid less than 1.5 times the hourly basic rate of pay for all hours worked
18 in excess of the prevailing hours of labor.

19 (c) This subsection does not apply to any contractor, subcontractor, or agent
20 who in good faith commits a minor violation of this section, as determined on a
21 case-by-case basis through administrative hearings with all rights to due process
22 afforded to all parties or who has not exhausted or waived all appeals.

23 (d) Any person submitting a bid or negotiating a contract on a project of public
24 works that is subject to this section shall, on the date the person submits the bid or
25 negotiates the contract, identify any construction business in which the person, or

1 a shareholder, officer, or partner of the person, if the person is a business, owns, or
2 has owned at least a 25 percent interest on the date the person submits the bid or
3 negotiates the contract or at any other time within 3 years preceding the date the
4 person submits the bid or negotiates the contract, if the business has been found to
5 have failed to pay the prevailing wage rate determined under sub. (3) or to have paid
6 less than 1.5 times the hourly basic rate of pay for all hours worked in excess of the
7 prevailing hours of labor.

8 (e) The department shall promulgate rules to administer this subsection.

9 **SECTION 114.** 84.41 (3) of the statutes is created to read:

10 84.41 (3) EMPLOYMENT REGULATIONS. Employment regulations set forth in s.
11 103.50 pertaining to wages and hours shall apply to all projects constructed under
12 s. 84.40 in the same manner as such laws apply to projects on other state highways.
13 Where applicable, the federal wages and hours law known as the Davis-Bacon act
14 shall apply.

15 **SECTION 115.** 103.005 (12) (a) of the statutes is amended to read:

16 103.005 (12) (a) If any employer, employee, owner, or other person violates chs.
17 103 to 106, or fails or refuses to perform any duty required under chs. 103 to 106,
18 within the time prescribed by the department, for which no penalty has been
19 specifically provided, or fails, neglects or refuses to obey any lawful order given or
20 made by the department or any judgment or decree made by any court in connection
21 with chs. 103 to 106, for each such violation, failure or refusal, the employer,
22 employee, owner or other person shall forfeit not less than \$10 nor more than \$100
23 for each offense. This paragraph does not apply to any person who fails to provide
24 any information to the department to assist the department in determining

1 prevailing wage rates or prevailing hours of labor under s. 103.49 (3) (a) or (am) or
2 103.50 (3) or (4).

3 **SECTION 116.** 103.49 of the statutes is created to read:

4 **103.49 Wage rate on state work. (1) DEFINITIONS.** In this section:

5 (a) "Area" means the county in which a proposed project of public works that
6 is subject to this section is located or, if the department determines that there is
7 insufficient wage data in that county, "area" means those counties that are
8 contiguous to that county or, if the department determines that there is insufficient
9 wage data in those counties, "area" means those counties that are contiguous to those
10 counties or, if the department determines that there is insufficient wage data in those
11 counties, "area" means the entire state or, if the department is requested to review
12 a determination under sub. (3) (c), "area" means the city, village, or town in which
13 a proposed project of public works that is subject to this section is located.

14 (am) "Bona fide economic benefit" means an economic benefit for which an
15 employer makes irrevocable contributions to a trust or fund created under 29 USC
16 186 (c) or to any other bona fide plan, trust, program, or fund no less often than
17 quarterly or, if an employer makes annual contributions to such a bona fide plan,
18 trust, program, or fund, for which the employer irrevocably escrows moneys at least
19 quarterly based on the employer's expected annual contribution.

20 (b) "Hourly basic rate of pay" means the hourly wage paid to any employee,
21 excluding any contributions or payments for health insurance benefits, vacation
22 benefits, pension benefits, and any other bona fide economic benefits, whether paid
23 directly or indirectly.

1 (bg) “Insufficient wage data” means less than 500 hours of work performed in
2 a particular trade or occupation on projects that are similar to a proposed project of
3 public works that is subject to this section.

4 (bj) “Minor service or maintenance work” means a project of public works that
5 is limited to minor crack filling, chip or slurry sealing, or other minor pavement
6 patching, not including overlays, that has a projected life span of no longer than 5
7 years; cleaning of drainage or sewer ditches or structures; or any other limited, minor
8 work on public facilities or equipment that is routinely performed to prevent
9 breakdown or deterioration.

10 (br) “Multiple-trade project of public works” means a project of public works
11 in which no single trade accounts for 85 percent or more of the total labor cost of the
12 project.

13 (c) “Prevailing hours of labor” for any trade or occupation in any area means
14 10 hours per day and 40 hours per week and may not include any hours worked on
15 a Saturday or Sunday or on any of the following holidays:

- 16 1. January 1.
- 17 2. The last Monday in May.
- 18 3. July 4.
- 19 4. The first Monday in September.
- 20 5. The 4th Thursday in November.
- 21 6. December 25.
- 22 7. The day before if January 1, July 4, or December 25 falls on a Saturday.
- 23 8. The day following if January 1, July 4, or December 25 falls on a Sunday.

24 (d) 1. Except as provided in subd. 2., “prevailing wage rate” for any trade or
25 occupation engaged in the erection, construction, remodeling, repairing, or

1 demolition of any project of public works in any area means the hourly basic rate of
2 pay, plus the hourly contribution for health insurance benefits, vacation benefits,
3 pension benefits, and any other bona fide economic benefit, paid directly or indirectly
4 for a majority of the hours worked in the trade or occupation on projects in the area.

5 2. If there is no rate at which a majority of the hours worked in the trade or
6 occupation on projects in the area is paid, “prevailing wage rate” for any trade or
7 occupation engaged in the erection, construction, remodeling, repairing, or
8 demolition of any project of public works in any area means the average hourly basic
9 rate of pay, weighted by the number of hours worked, plus the average hourly
10 contribution, weighted by the number of hours worked, for health insurance benefits,
11 vacation benefits, pension benefits, and any other bona fide economic benefit, paid
12 directly or indirectly for all hours worked at the hourly basic rate of pay of the
13 highest-paid 51 percent of hours worked in that trade or occupation on projects in
14 that area.

15 (em) “Single-trade project of public works” means a project of public works in
16 which a single trade accounts for 85 percent or more of the total labor cost of the
17 project.

18 (f) “State agency” means any office, department, independent agency,
19 institution of higher education, association, society, or other body in state
20 government created or authorized to be created by the constitution or any law,
21 including the legislature and the courts. “State agency” also includes the University
22 of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System
23 Authority, and the Wisconsin Aerospace Authority.

24 (fm) “Supply and installation contract” means a contract under which the
25 material is installed by the supplier, the material is installed by means of simple

1 fasteners or connectors such as screws or nuts and bolts, and no other work is
2 performed on the site of the project of public works, and the total labor cost to install
3 the material does not exceed 20 percent of the total cost of the contract.

4 (g) "Truck driver" includes an owner-operator of a truck.

5 **(1m)** APPLICABILITY. Subject to sub. (3g), this section applies to any project of
6 public works erected, constructed, repaired, remodeled, or demolished for the state
7 or a state agency, including all of the following:

8 (a) A project erected, constructed, repaired, remodeled, or demolished by one
9 state agency for another state agency under any contract or under any statute
10 specifically authorizing cooperation between state agencies.

11 (b) A project in which the completed facility is leased, purchased, lease
12 purchased, or otherwise acquired by, or dedicated to, the state in lieu of the state or
13 a state agency contracting for the erection, construction, repair, remodeling, or
14 demolition of the facility.

15 (c) A sanitary sewer or water main project in which the completed sanitary
16 sewer or water main is acquired by, or dedicated to, the state for ownership or
17 maintenance by the state.

18 **(2)** PREVAILING WAGE RATES AND HOURS OF LABOR. Any contract made for the
19 erection, construction, remodeling, repairing, or demolition of any project of public
20 works to which the state or any state agency is a party shall contain a stipulation that
21 no person performing the work described in sub. (2m) may be permitted to work a
22 greater number of hours per day or per week than the prevailing hours of labor,
23 except that any such person may be permitted or required to work more than such
24 prevailing hours of labor per day and per week if he or she is paid for all hours worked
25 in excess of the prevailing hours of labor at a rate of at least 1.5 times his or her hourly

1 basic rate of pay; nor may he or she be paid less than the prevailing wage rate
2 determined under sub. (3) in the same or most similar trade or occupation in the area
3 in which the project of public works is situated. A reference to the prevailing wage
4 rates determined under sub. (3) and the prevailing hours of labor shall be published
5 in the notice issued for the purpose of securing bids for the project. If any contract
6 or subcontract for a project of public works that is subject to this section is entered
7 into, the prevailing wage rates determined under sub. (3) and the prevailing hours
8 of labor shall be physically incorporated into and made a part of the contract or
9 subcontract, except that for a minor subcontract, as determined by the department,
10 the department shall prescribe by rule the method of notifying the minor
11 subcontractor of the prevailing wage rates and prevailing hours of labor applicable
12 to the minor subcontract. The prevailing wage rates and prevailing hours of labor
13 applicable to a contract or subcontract may not be changed during the time that the
14 contract or subcontract is in force.

15 **(2m) COVERED EMPLOYEES.** (a) Subject to par. (b), all of the following employees
16 shall be paid the prevailing wage rate determined under sub. (3) and may not be
17 permitted to work a greater number of hours per day or per week than the prevailing
18 hours of labor, unless they are paid for all hours worked in excess of the prevailing
19 hours of labor at a rate of at least 1.5 times their hourly basic rate of pay:

20 1. All laborers, workers, mechanics, and truck drivers employed on the site of
21 a project of public works that is subject to this section.

22 2. All laborers, workers, mechanics, and truck drivers employed in the
23 manufacturing or furnishing of materials, articles, supplies, or equipment on the site
24 of a project of public works that is subject to this section or from a facility dedicated
25 exclusively, or nearly so, to a project of public works that is subject to this section by

1 a contractor, subcontractor, agent, or other person performing any work on the site
2 of the project.

3 (b) A laborer, worker, mechanic, or truck driver who is employed to process,
4 manufacture, pick up, or deliver materials or products from a commercial
5 establishment that has a fixed place of business from which the establishment
6 supplies processed or manufactured materials or products or from a facility that is
7 not dedicated exclusively, or nearly so, to a project of public works that is subject to
8 this section is not entitled to receive the prevailing wage rate determined under sub.
9 (3) or to receive at least 1.5 times his or her hourly basic rate of pay for all hours
10 worked in excess of the prevailing hours of labor unless any of the following applies:

11 1. The laborer, worker, mechanic, or truck driver is employed to go to the source
12 of mineral aggregate such as sand, gravel, or stone and deliver that mineral
13 aggregate to the site of a project of public works that is subject to this section by
14 depositing the material directly in final place, from the transporting vehicle or
15 through spreaders from the transporting vehicle.

16 2. The laborer, worker, mechanic, or truck driver is employed to go to the site
17 of a project that is subject to this section, pick up excavated material or spoil from
18 the site of the project of public works, and transport that excavated material or spoil
19 away from the site of the project.

20 (c) A truck driver who is an owner-operator of a truck shall be paid separately
21 for his or her work and for the use of his or her truck.

22 **(3) INVESTIGATION; DETERMINATION.** (a) Before bids are asked for any work to
23 which this section applies, the state agency having the authority to prescribe the
24 specifications shall apply to the department to determine the prevailing wage rate
25 for each trade or occupation required in the work under contemplation in the area

1 in which the work is to be done. The department shall conduct investigations and
2 hold public hearings as necessary to define the trades or occupations that are
3 commonly employed on projects that are subject to this section and to inform itself
4 as to the prevailing wage rates in all areas of the state for those trades or occupations,
5 in order to determine the prevailing wage rate for each trade or occupation. The
6 department shall issue its determination within 30 days after receiving the request
7 and shall file the determination with the requesting state agency. For the
8 information of the employees working on the project, the prevailing wage rates
9 determined by the department, the prevailing hours of labor, and the provisions of
10 subs. (2) and (6m) shall be kept posted by the state agency in at least one conspicuous
11 and easily accessible place on the site of the project.

12 (am) The department shall, by January 1 of each year, compile the prevailing
13 wage rates for each trade or occupation in each area. The compilation shall, in
14 addition to the current prevailing wage rates, include future prevailing wage rates
15 when those prevailing wage rates can be determined for any trade or occupation in
16 any area and shall specify the effective date of those future prevailing wage rates.
17 If a project of public works extends into more than one area there shall be only one
18 standard of prevailing wage rates for the entire project.

19 (ar) In determining prevailing wage rates under par. (a) or (am), the
20 department may not use data from projects that are subject to this section, s. 66.0903,
21 103.50, or 229.8275, or 40 USC 3142 unless the department determines that there
22 is insufficient wage data in the area to determine those prevailing wage rates, in
23 which case the department may use data from projects that are subject to this
24 section, s. 66.0903, 103.50, or 229.8275, or 40 USC 3142. In determining prevailing
25 wage rates under par. (a) or (am), the department may not use data from any

1 construction work performed by a state agency or a local governmental unit, as
2 defined in s. 66.0903 (1) (d).

3 (b) Any person may request a recalculation of any portion of an initial
4 determination within 30 days after the initial determination date if the person
5 submits evidence with the request showing that the prevailing wage rate for any
6 given trade or occupation included in the initial determination does not represent the
7 prevailing wage rate for that trade or occupation in the area. The evidence shall
8 include wage rate information reflecting work performed by persons working in the
9 contested trade or occupation in the area during the current survey period. The
10 department shall affirm or modify the initial determination within 15 days after the
11 date on which the department receives the request for recalculation.

12 (c) In addition to the recalculation under par. (b), the state agency that
13 requested the determination under this subsection may request a review of any
14 portion of a determination within 30 days after the date of issuance of the
15 determination if the state agency submits evidence with the request showing that
16 the prevailing wage rate for any given trade or occupation included in the
17 determination does not represent the prevailing wage rate for that trade or
18 occupation in the city, village, or town in which the proposed project of public works
19 is located. That evidence shall include wage rate information for the contested trade
20 or occupation on at least 3 similar projects located in the city, village, or town where
21 the proposed project of public works is located on which some work has been
22 performed during the current survey period and that were considered by the
23 department in issuing its most recent compilation under par. (am). The department
24 shall affirm or modify the determination within 15 days after the date on which the
25 department receives the request for review.

1 **(3g) NONAPPLICABILITY.** This section does not apply to any of the following:

2 (a) A single-trade project of public works for which the estimated project cost
3 of completion is less than \$48,000 or a multiple-trade project of public works for
4 which the estimated project cost of completion is less than \$100,000.

5 (b) Work performed on a project of public works for which the state or the state
6 agency contracting for the project is not required to compensate any contractor,
7 subcontractor, contractor's or subcontractor's agent, or individual for performing the
8 work.

9 (c) Minor service or maintenance work, warranty work, or work under a supply
10 and installation contract.

11 (f) A public highway, street, or bridge project.

12 (g) A project of public works involving the erection, construction, repair,
13 remodeling, or demolition of a residential property containing 2 dwelling units or
14 less.

15 (h) A road, street, bridge, sanitary sewer, or water main project that is a part
16 of a development in which not less than 90 percent of the lots contain or will contain
17 2 dwelling units or less, as determined by the local governmental unit at the time of
18 approval of the development, and that, on completion, is acquired by, or dedicated to,
19 the state for ownership or maintenance by the state.

20 **(4r) COMPLIANCE.** (a) When the department finds that a state agency has not
21 requested a determination under sub. (3) (a) or that a state agency, contractor, or
22 subcontractor has not physically incorporated a determination into a contract or
23 subcontract as required under sub. (2) or has not notified a minor subcontractor of
24 a determination in the manner prescribed by the department by rule promulgated
25 under sub. (2), the department shall notify the state agency, contractor or

1 subcontractor of the noncompliance and shall file the determination with the state
2 agency, contractor, or subcontractor within 30 days after such notice.

3 (b) Upon completion of a project of public works and before receiving final
4 payment for his or her work on the project, each agent or subcontractor shall furnish
5 the contractor with an affidavit stating that the agent or subcontractor has complied
6 fully with the requirements of this section. A contractor may not authorize final
7 payment until the affidavit is filed in proper form and order.

8 (c) Upon completion of a project of public works and before receiving final
9 payment for his or her work on the project, each contractor shall file with the state
10 agency authorizing the work an affidavit stating that the contractor has complied
11 fully with the requirements of this section and that the contractor has received an
12 affidavit under par. (b) from each of the contractor's agents and subcontractors. A
13 state agency may not authorize a final payment until the affidavit is filed in proper
14 form and order. If a state agency authorizes a final payment before an affidavit is
15 filed in proper form and order or if the department determines, based on the greater
16 weight of the credible evidence, that any person performing the work specified in sub.
17 (2m) has been or may have been paid less than the prevailing wage rate or less than
18 1.5 times the hourly basic rate of pay for all hours worked in excess of the prevailing
19 hours of labor and requests that the state agency withhold all or part of the final
20 payment, but the state agency fails to do so, the state agency is liable for all back
21 wages payable up to the amount of the final payment.

22 **(5) RECORDS; INSPECTION; ENFORCEMENT.** (a) Each contractor, subcontractor, or
23 contractor's or subcontractor's agent performing work on a project of public works
24 that is subject to this section shall keep full and accurate records clearly indicating
25 the name and trade or occupation of every person performing the work described in

1 sub. (2m) and an accurate record of the number of hours worked by each of those
2 persons and the actual wages paid for the hours worked.

3 (b) It shall be the duty of the department to enforce this section. To this end
4 it may demand and examine, and every contractor, subcontractor, and contractor's
5 and subcontractor's agent shall keep, and furnish upon request by the department,
6 copies of payrolls and other records and information relating to the wages paid to
7 persons performing the work described in sub. (2m) for work to which this section
8 applies. The department may inspect records in the manner provided in this chapter.
9 Every contractor, subcontractor, or agent performing work on a project of public
10 works that is subject to this section is subject to the requirements of this chapter
11 relating to the examination of records. Section 111.322 (2m) applies to discharge and
12 other discriminatory acts arising in connection with any proceeding under this
13 section.

14 (c) If requested by any person, the department shall inspect the payroll records
15 of any contractor, subcontractor, or agent performing work on a project of public
16 works that is subject to this section as provided in this paragraph to ensure
17 compliance with this section. On receipt of such a request, the department shall
18 request the contractor, subcontractor, or agent to submit to the department a
19 certified record of the information specified in par. (a), other than personally
20 identifiable information relating to an employee of the contractor, subcontractor, or
21 agent, for no longer than a 4-week period. The department may request a contractor,
22 subcontractor, or agent to submit those records no more than once per calendar
23 quarter for each project of public works on which the contractor, subcontractor, or
24 agent is performing work. The department may not charge a requester a fee for

1 obtaining that information. The department shall make available for public
2 inspection certified records submitted to the department under this paragraph.

3 **(6m)** LIABILITY AND PENALTIES. (ag) 1. Any contractor, subcontractor, or
4 contractor's or subcontractor's agent who fails to pay the prevailing wage rate
5 determined by the department under sub. (3) or who pays less than 1.5 times the
6 hourly basic rate of pay for all hours worked in excess of the prevailing hours of labor
7 is liable to any affected employee in the amount of his or her unpaid wages or his or
8 her unpaid overtime compensation and in an additional amount as liquidated
9 damages as provided in subd. 2. or 3., whichever is applicable.

10 2. If the department determines upon inspection under sub. (5) (b) or (c) that
11 a contractor, subcontractor, or contractor's or subcontractor's agent has failed to pay
12 the prevailing wage rate determined by the department under sub. (3) or has paid
13 less than 1.5 times the hourly basic rate of pay for all hours worked in excess of the
14 prevailing hours of labor, the department shall order the contractor to pay to any
15 affected employee the amount of his or her unpaid wages or his or her unpaid
16 overtime compensation and an additional amount equal to 100 percent of the amount
17 of those unpaid wages or that unpaid overtime compensation as liquidated damages
18 within a period specified by the department in the order.

19 3. In addition to or in lieu of recovering the liability specified in subd. 1. as
20 provided in subd. 2., any employee for and in behalf of that employee and other
21 employees similarly situated may commence an action to recover that liability in any
22 court of competent jurisdiction. If the court finds that a contractor, subcontractor,
23 or contractor's or subcontractor's agent has failed to pay the prevailing wage rate
24 determined by the department under sub. (3) or has paid less than 1.5 times the
25 hourly basic rate of pay for all hours worked in excess of the prevailing hours of labor,

1 the court shall order the contractor, subcontractor, or agent to pay to any affected
2 employee the amount of his or her unpaid wages or his or her unpaid overtime
3 compensation and an additional amount equal to 100 percent of the amount of those
4 unpaid wages or that unpaid overtime compensation as liquidated damages.

5 5. No employee may be a party plaintiff to an action under subd. 3. unless the
6 employee consents in writing to become a party and the consent is filed in the court
7 in which the action is brought. Notwithstanding s. 814.04 (1), the court shall, in
8 addition to any judgment awarded to the plaintiff, allow reasonable attorney fees
9 and costs to be paid by the defendant.

10 (am) Except as provided in pars. (b), (d), and (f), any contractor, subcontractor,
11 or contractor's or subcontractor's agent who violates this section may be fined not
12 more than \$200 or imprisoned for not more than 6 months or both. Each day that
13 a violation continues is a separate offense.

14 (b) Whoever induces any person who seeks to be or is employed on any project
15 of public works that is subject to this section to give up, waive, or return any part of
16 the wages to which the person is entitled under the contract governing the project,
17 or who reduces the hourly basic rate of pay normally paid to a person for work on a
18 project that is not subject to this section during a week in which the person works
19 both on a project of public works that is subject to this section and on a project that
20 is not subject to this section, by threat not to employ, by threat of dismissal from
21 employment, or by any other means is guilty of an offense under s. 946.15 (1).

22 (c) Any person employed on a project of public works that is subject to this
23 section who knowingly permits a contractor, subcontractor, or contractor's or
24 subcontractor's agent to pay him or her less than the prevailing wage rate set forth
25 in the contract governing the project, who gives up, waives, or returns any part of the

1 compensation to which he or she is entitled under the contract, or who gives up,
2 waives, or returns any part of the compensation to which he or she is normally
3 entitled for work on a project that is not subject to this section during a week in which
4 the person works both on a project of public works that is subject to this section and
5 on a project that is not subject to this section, is guilty of an offense under s. 946.15
6 (2).

7 (d) Whoever induces any person who seeks to be or is employed on any project
8 of public works that is subject to this section to permit any part of the wages to which
9 the person is entitled under the contract governing the project to be deducted from
10 the person's pay is guilty of an offense under s. 946.15 (3), unless the deduction would
11 be permitted under 29 CFR 3.5 or 3.6 from a person who is working on a project that
12 is subject to 40 USC 3142.

13 (e) Any person employed on a project of public works that is subject to this
14 section who knowingly permits any part of the wages to which he or she is entitled
15 under the contract governing the project to be deducted from his or her pay is guilty
16 of an offense under s. 946.15 (4), unless the deduction would be permitted under 29
17 CFR 3.5 or 3.6 from a person who is working on a project that is subject to 40 USC
18 3142.

19 (f) Paragraph (am) does not apply to any person who fails to provide any
20 information to the department to assist the department in determining prevailing
21 wage rates under sub. (3) (a) or (am).

22 **(7) DEBARMENT.** (a) Except as provided under pars. (b) and (c), the department
23 shall distribute to all state agencies a list of all persons whom the department has
24 found to have failed to pay the prevailing wage rate determined under sub. (3) or has
25 found to have paid less than 1.5 times the hourly basic rate of pay for all hours worked

1 in excess of the prevailing hours of labor at any time in the preceding 3 years. The
2 department shall include with any name the address of the person and shall specify
3 when the person failed to pay the prevailing wage rate and when the person paid less
4 than 1.5 times the hourly basic rate of pay for all hours worked in excess of the
5 prevailing hours of labor. A state agency may not award any contract to the person
6 unless otherwise recommended by the department or unless 3 years have elapsed
7 from the date the department issued its findings or date of final determination by a
8 court of competent jurisdiction, whichever is later.

9 (b) The department may not include in a notification under par. (a) the name
10 of any person on the basis of having let work to a person whom the department has
11 found to have failed to pay the prevailing wage rate determined under sub. (3) or has
12 found to have paid less than 1.5 times the hourly basic rate of pay for all hours worked
13 in excess of the prevailing hours of labor.

14 (c) This subsection does not apply to any contractor, subcontractor, or agent
15 who in good faith commits a minor violation of this section, as determined on a
16 case-by-case basis through administrative hearings with all rights to due process
17 afforded to all parties or who has not exhausted or waived all appeals.

18 (d) Any person submitting a bid on a project of public works that is subject to
19 this section shall, on the date the person submits the bid, identify any construction
20 business in which the person, or a shareholder, officer, or partner of the person if the
21 person is a business, owns or has owned at least a 25 percent interest on the date the
22 person submits the bid or at any other time within 3 years preceding the date the
23 person submits the bid, if the business has been found to have failed to pay the
24 prevailing wage rate determined under sub. (3) or to have paid less than 1.5 times

1 the hourly basic rate of pay for all hours worked in excess of the prevailing hours of
2 labor.

3 (e) The department shall promulgate rules to administer this subsection.

4 **SECTION 117.** 103.50 of the statutes is created to read:

5 **103.50 Highway contracts. (1) DEFINITIONS.** In this section:

6 (a) “Area” means the county in which a proposed project that is subject to this
7 section is located or, if the department determines that there is insufficient wage
8 data in that county, “area” means those counties that are contiguous to that county
9 or, if the department determines that there is insufficient wage data in those
10 counties, “area” means those counties that are contiguous to those counties or, if the
11 department determines that there is insufficient wage data in those counties, “area”
12 means the entire state.

13 (b) “Hourly basic rate of pay” has the meaning given in s. 103.49 (1) (b).

14 (bg) “Insufficient wage data” has the meaning given in s. 103.49 (1) (bg).

15 (c) “Prevailing hours of labor” has the meaning given in s. 103.49 (1) (c).

16 (d) 1. Except as provided in subd. 2., “prevailing wage rate” for any trade or
17 occupation in any area means the hourly basic rate of pay, plus the hourly
18 contribution for health insurance benefits, vacation benefits, pension benefits, and
19 any other bona fide economic benefit, paid directly or indirectly, for a majority of the
20 hours worked in the trade or occupation in the area.

21 2. If there is no rate at which a majority of the hours worked in the trade or
22 occupation in the area is paid, “prevailing wage rate” means the average hourly basic
23 rate of pay, weighted by the number of hours worked, plus the average hourly
24 contribution, weighted by the number of hours worked, for health insurance benefits,
25 vacation benefits, pension benefits, and any other bona fide economic benefit, paid

1 directly or indirectly for all hours worked at the hourly basic rate of pay of the
2 highest-paid 51 percent of hours worked in that trade or occupation in that area.

3 (e) “Truck driver” has the meaning given in s. 103.49 (1) (g).

4 **(2) PREVAILING WAGE RATES AND HOURS OF LABOR.** No person performing the work
5 described in sub. (2m) in the employ of a contractor, subcontractor, agent, or other
6 person performing any work on a project under a contract based on bids as provided
7 in s. 84.06 (2) to which the state is a party for the construction or improvement of any
8 highway may be permitted to work a greater number of hours per day or per week
9 than the prevailing hours of labor; nor may he or she be paid a lesser rate of wages
10 than the prevailing wage rate in the area in which the work is to be done determined
11 under sub. (3); except that any such person may be permitted or required to work
12 more than such prevailing hours of labor per day and per week if he or she is paid
13 for all hours worked in excess of the prevailing hours of labor at a rate of at least 1.5
14 times his or her hourly basic rate of pay.

15 **(2g) NONAPPLICABILITY.** This section does not apply to a single-trade project of
16 public works, as defined in s. 103.49 (1) (em), for which the estimated project cost of
17 completion is less than \$48,000 or a multiple-trade project of public works, as
18 defined in s. 103.49 (1) (br), for which the estimated project cost of completion is less
19 than \$100,000.

20 **(2m) COVERED EMPLOYEES.** (a) Subject to par. (b), all of the following employees
21 shall be paid the prevailing wage rate determined under sub. (3) and may not be
22 permitted to work a greater number of hours per day or per week than the prevailing
23 hours of labor, unless they are paid for all hours worked in excess of the prevailing
24 hours of labor at a rate of at least 1.5 times their hourly basic rate of pay:

1 1. All laborers, workers, mechanics, and truck drivers employed on the site of
2 a project that is subject to this section.

3 2. All laborers, workers, mechanics, and truck drivers employed in the
4 manufacturing or furnishing of materials, articles, supplies, or equipment on the site
5 of a project that is subject to this section or from a facility dedicated exclusively, or
6 nearly so, to a project that is subject to this section by a contractor, subcontractor,
7 agent, or other person performing any work on the site of the project.

8 (b) A laborer, worker, mechanic, or truck driver who is employed to process,
9 manufacture, pick up, or deliver materials or products from a commercial
10 establishment that has a fixed place of business from which the establishment
11 supplies processed or manufactured materials or products or from a facility that is
12 not dedicated exclusively, or nearly so, to a project that is subject to this section is not
13 entitled to receive the prevailing wage rate determined under sub. (3) or to receive
14 at least 1.5 times his or her hourly basic rate of pay for all hours worked in excess
15 of the prevailing hours of labor unless any of the following applies:

16 1. The laborer, worker, mechanic, or truck driver is employed to go to the source
17 of mineral aggregate such as sand, gravel, or stone and deliver that mineral
18 aggregate to the site of a project that is subject to this section by depositing the
19 material directly in final place, from the transporting vehicle or through spreaders
20 from the transporting vehicle.

21 2. The laborer, worker, mechanic, or truck driver is employed to go to the site
22 of a project that is subject to this section, pick up excavated material or spoil from
23 the site of the project, and transport that excavated material or spoil away from the
24 site of the project and return to the site of the project.

1 (c) A truck driver who is an owner-operator of a truck shall be paid separately
2 for his or her work and for the use of his or her truck.

3 **(3)** INVESTIGATIONS; DETERMINATIONS. The department shall conduct
4 investigations and hold public hearings necessary to define the trades or occupations
5 that are commonly employed in the highway construction industry and to inform
6 itself as to the prevailing wage rates in all areas of the state for those trades or
7 occupations, in order to ascertain and determine the prevailing wage rates
8 accordingly.

9 **(4)** CERTIFICATION OF PREVAILING WAGE RATES. The department of workforce
10 development shall, by May 1 of each year, certify to the department of transportation
11 the prevailing wage rates in each area for all trades or occupations commonly
12 employed in the highway construction industry. The certification shall, in addition
13 to the current prevailing wage rates, include future prevailing wage rates when such
14 prevailing wage rates can be determined for any such trade or occupation in any area
15 and shall specify the effective date of those future prevailing wage rates. The
16 certification shall also include wage rates for work performed on Sundays or the
17 holidays specified in s. 103.49 (1) (c) and shift differentials based on the time of day
18 or night when work is performed. If a construction project extends into more than
19 one area, there shall be but one standard of prevailing wage rates for the entire
20 project.

21 **(4m)** WAGE RATE DATA. In determining prevailing wage rates for projects that
22 are subject to this section, the department shall use data from projects that are
23 subject to this section, s. 66.0903 or 103.49, or 40 USC 3142. In determining
24 prevailing wage rates for those projects, the department may not use data from any

1 construction work that is performed by a state agency or a local governmental unit,
2 as defined in s. 66.0903 (1) (d).

3 (5) APPEALS TO GOVERNOR. If the department of transportation considers any
4 determination of the department of workforce development as to the prevailing wage
5 rates in an area to have been incorrect, it may appeal to the governor, whose
6 determination shall be final.

7 (6) CONTENTS OF CONTRACTS. A reference to the prevailing wage rates
8 determined under sub. (3) and the prevailing hours of labor shall be published in the
9 notice issued for the purpose of securing bids for a project. If any contract or
10 subcontract for a project that is subject to this section is entered into, the prevailing
11 wage rates determined under sub. (3) and the prevailing hours of labor shall be
12 physically incorporated into and made a part of the contract or subcontract, except
13 that for a minor subcontract, as determined by the department of workforce
14 development, that department shall prescribe by rule the method of notifying the
15 minor subcontractor of the prevailing wage rates and prevailing hours of labor
16 applicable to the minor subcontract. The prevailing wage rates and prevailing hours
17 of labor applicable to a contract or subcontract may not be changed during the time
18 that the contract or subcontract is in force. For the information of the employees
19 working on the project, the prevailing wage rates determined by the department, the
20 prevailing hours of labor, and the provisions of subs. (2) and (7) shall be kept posted
21 by the department of transportation in at least one conspicuous and easily accessible
22 place on the site of the project.

23 (7) PENALTIES. (a) Except as provided in pars. (b), (d), and (f), any contractor,
24 subcontractor, or contractor's or subcontractor's agent who violates this section may

1 be fined not more than \$200 or imprisoned for not more than 6 months or both. Each
2 day that a violation continues is a separate offense.

3 (b) Whoever induces any person who seeks to be or is employed on any project
4 that is subject to this section to give up, waive, or return any part of the wages to
5 which the person is entitled under the contract governing the project, or who reduces
6 the hourly basic rate of pay normally paid to a person for work on a project that is
7 not subject to this section during a week in which the person works both on a project
8 that is subject to this section and on a project that is not subject to this section, by
9 threat not to employ, by threat of dismissal from employment or by any other means
10 is guilty of an offense under s. 946.15 (1).

11 (c) Any person employed on a project that is subject to this section who
12 knowingly permits a contractor, subcontractor, or contractor's or subcontractor's
13 agent to pay him or her less than the prevailing wage rate set forth in the contract
14 governing the project, who gives up, waives, or returns any part of the compensation
15 to which he or she is entitled under the contract, or who gives up, waives, or returns
16 any part of the compensation to which he or she is normally entitled for work on a
17 project that is not subject to this section during a week in which the person works
18 both on a project that is subject to this section and on a project that is not subject to
19 this section, is guilty of an offense under s. 946.15 (2).

20 (d) Whoever induces any person who seeks to be or is employed on any project
21 that is subject to this section to permit any part of the wages to which the person is
22 entitled under the contract governing the project to be deducted from the person's
23 pay is guilty of an offense under s. 946.15 (3), unless the deduction would be
24 permitted under 29 CFR 3.5 or 3.6 from a person who is working on a project that is
25 subject to 40 USC 3142.

1 (e) Any person employed on a project that is subject to this section who
2 knowingly permits any part of the wages to which he or she is entitled under the
3 contract governing the project to be deducted from his or her pay is guilty of an
4 offense under s. 946.15 (4), unless the deduction would be permitted under 29 CFR
5 3.5 or 3.6 from a person who is working on a project that is subject to 40 USC 3142.

6 (f) Paragraph (a) does not apply to any person who fails to provide any
7 information to the department to assist the department in determining prevailing
8 wage rates under sub. (3) or (4).

9 (8) ENFORCEMENT AND PROSECUTION. The department of transportation shall
10 require adherence to subs. (2), (2m), and (6). The department of transportation may
11 demand and examine, and every contractor, subcontractor, and contractor's or
12 subcontractor's agent shall keep and furnish upon request by the department of
13 transportation, copies of payrolls and other records and information relating to
14 compliance with this section. Upon request of the department of transportation or
15 upon complaint of alleged violation, the district attorney of the county in which the
16 work is located shall investigate as necessary and prosecute violations in a court of
17 competent jurisdiction. Section 111.322 (2m) applies to discharge and other
18 discriminatory acts arising in connection with any proceeding under this section.

19 **SECTION 118.** 103.503 (1) (a) of the statutes, as affected by 2017 Wisconsin Act
20 59, is amended to read:

21 103.503 (1) (a) "Accident" means an incident caused, contributed to, or
22 otherwise involving an employee that resulted or could have resulted in death,
23 personal injury, or property damage and that occurred while the employee was
24 performing the work described in s. 66.0903 (4), ~~2013 stats., or s. 16.856~~ 103.49 (2m),

1 ~~2015 stats.,~~ on a project of public works or while the employee was performing work
2 on a public utility project.

3 **SECTION 119.** 103.503 (1) (e) of the statutes, as affected by 2017 Wisconsin Act
4 59, is amended to read:

5 103.503 (1) (e) “Employee” means a laborer, worker, mechanic, or truck driver
6 who performs the work described in s. 66.0903 (4), ~~2013 stats.,~~ or s. ~~16.856~~ 103.49
7 (2m), ~~2015 stats.,~~ on a project of public works or on a public utility project.

8 **SECTION 120.** 103.503 (1) (g) of the statutes, as affected by 2017 Wisconsin Act
9 59, is repealed and recreated to read:

10 103.503 (1) (g) “Project of public works” means a project of public works that
11 is subject to s. 66.0903 or 103.49.

12 **SECTION 121.** 103.503 (2) of the statutes, as affected by 2017 Wisconsin Act 59,
13 is amended to read:

14 103.503 (2) SUBSTANCE ABUSE PROHIBITED. No employee may use, possess,
15 attempt to possess, distribute, deliver, or be under the influence of a drug, or use or
16 be under the influence of alcohol, while performing the work described in s. 66.0903
17 (4), ~~2013 stats.,~~ or s. ~~16.856~~ 103.49 (2m), ~~2015 stats.,~~ on a project of public works or
18 while performing work on a public utility project. An employee is considered to be
19 under the influence of alcohol for purposes of this subsection if he or she has an
20 alcohol concentration that is equal to or greater than the amount specified in s.
21 885.235 (1g) (d).

22 **SECTION 122.** 103.503 (3) (a) 2. of the statutes, as affected by 2017 Wisconsin
23 Act 59, is amended to read:

24 103.503 (3) (a) 2. A requirement that employees performing the work described
25 in s. 66.0903 (4), ~~2013 stats.,~~ or s. ~~16.856~~ 103.49 (2m), ~~2015 stats.,~~ on a project of

1 public works or performing work on a public utility project submit to random,
2 reasonable suspicion, and post-accident drug and alcohol testing and to drug and
3 alcohol testing before commencing work on the project, except that testing of an
4 employee before commencing work on a project is not required if the employee has
5 been participating in a random testing program during the 90 days preceding the
6 date on which the employee commenced work on the project.

7 **SECTION 123.** 104.001 (4) of the statutes is created to read:

8 104.001 (4) This section does not affect the requirement that employees
9 employed on a public works project contracted for by a city, village, town, or county
10 be paid at the prevailing wage rate, as defined in s. 66.0903 (1) (g), as required under
11 s. 66.0903.

12 **SECTION 124.** 106.04 of the statutes is created to read:

13 **106.04 Employment of apprentices on state public works projects. (1)**

14 DEFINITION. In this section, “project” means a project of public works that is subject
15 to s. 103.49 or 103.50 in which work is performed by employees employed in trades
16 that are apprenticeable under this subchapter.

17 (2) WAIVER. If the department grants an exception or modification to any
18 requirement in any contract for the performance of work on a project relating to the
19 employment and training of apprentices, the department shall post that information
20 on its Internet site, together with a detailed explanation of why the exception or
21 modification was granted.

22 **SECTION 125.** 109.09 (1) of the statutes, as affected by 2017 Wisconsin Act 59,
23 is amended to read:

24 109.09 (1) The department shall investigate and attempt equitably to adjust
25 controversies between employers and employees as to alleged wage claims. The

1 department may receive and investigate any wage claim that is filed with the
2 department, or received by the department under s. 109.10 (4), no later than 2 years
3 after the date the wages are due. The department may, after receiving a wage claim,
4 investigate any wages due from the employer against whom the claim is filed to any
5 employee during the period commencing 2 years before the date the claim is filed.
6 The department shall enforce this chapter and ~~s. ss. 66.0903, 2013 stats., s. 103.49,~~
7 ~~2013 stats., s. 229.8275, 2013 stats., and s. 16.856, 2015 stats., and ss. 103.02, 103.49,~~
8 ~~103.82, and 104.12, and 229.8275.~~ In pursuance of this duty, the department may
9 sue the employer on behalf of the employee to collect any wage claim or wage
10 deficiency and ss. 109.03 (6) and 109.11 (2) and (3) shall apply to such actions. Except
11 for actions under s. 109.10, the department may refer such an action to the district
12 attorney of the county in which the violation occurs for prosecution and collection and
13 the district attorney shall commence an action in the circuit court having appropriate
14 jurisdiction. Any number of wage claims or wage deficiencies against the same
15 employer may be joined in a single proceeding, but the court may order separate
16 trials or hearings. In actions that are referred to a district attorney under this
17 subsection, any taxable costs recovered by the district attorney shall be paid into the
18 general fund of the county in which the violation occurs and used by that county to
19 meet its financial responsibility under s. 978.13 (2) (b) for the operation of the office
20 of the district attorney who prosecuted the action.

21 **SECTION 126.** 111.322 (2m) (a) of the statutes is amended to read:

22 111.322 (2m) (a) The individual files a complaint or attempts to enforce any
23 right under s. 103.02, 103.10, 103.11, 103.13, 103.28, 103.32, 103.34, 103.455,
24 103.50, 104.12, 109.03, 109.07, 109.075, 146.997, or 995.55, or ss. 101.58 to 101.599
25 or 103.64 to 103.82.

1 **SECTION 127.** 111.322 (2m) (b) of the statutes is amended to read:

2 111.322 **(2m)** (b) The individual testifies or assists in any action or proceeding
3 held under or to enforce any right under s. 103.02, 103.10, 103.11, 103.13, 103.28,
4 103.32, 103.34, 103.50, 103.455, 104.12, 109.03, 109.07, 109.075, 146.997, or 995.55,
5 or ss. 101.58 to 101.599 or 103.64 to 103.82.

6 **SECTION 128.** 111.322 (2m) (c) of the statutes is created to read:

7 111.322 **(2m)** (c) The individual files a complaint or attempts to enforce a right
8 under s. 66.0903, 103.49, or 229.8275 or testifies or assists in any action or
9 proceeding under s. 66.0903, 103.49, or 229.8275.

10 **SECTION 129.** 227.01 (13) (t) of the statutes is created to read:

11 227.01 **(13)** (t) Ascertains and determines prevailing wage rates under ss.
12 66.0903, 103.49, 103.50, and 229.8275, except that any action or inaction which
13 ascertains and determines prevailing wage rates under ss. 66.0903, 103.49, 103.50,
14 and 229.8275 is subject to judicial review under s. 227.40.

15 **SECTION 130.** 229.682 (2) of the statutes is created to read:

16 229.682 **(2)** PREVAILING WAGE. The construction of a baseball park facility that
17 is financed in whole or in part by a district is subject to s. 66.0903.

18 **SECTION 131.** 229.8275 of the statutes is created to read:

19 **229.8275 Prevailing wage.** A district may not enter into a contract under s.
20 229.827 with a professional football team, as described in s. 229.823, or a related
21 party that requires the team or related party to acquire and construct or renovate
22 football stadium facilities that are part of any facilities that are leased by the district
23 to the team or to a related party unless the professional football team or related party
24 agrees as follows:

1 (1) Not to permit any employee working on the football stadium facilities who
2 would be entitled to receive the prevailing wage rate under s. 66.0903 and who would
3 not be required or permitted to work more than the prevailing hours of labor, if the
4 football stadium facilities were a project of public works subject to s. 66.0903, to be
5 paid less than the prevailing wage rate or to be required or permitted to work more
6 than the prevailing hours of labor, except as permitted under s. 66.0903 (4) (a).

7 (2) To require any contractor, subcontractor, or agent thereof performing work
8 on the football stadium facilities to keep and permit inspection of records in the same
9 manner as a contractor, subcontractor, or agent thereof performing work on a project
10 of public works that is subject to s. 66.0903 is required to keep and permit inspection
11 of records under s. 66.0903 (10).

12 (3) Otherwise to comply with s. 66.0903 in the same manner as a local
13 governmental unit contracting for the erection, construction, remodeling, repairing,
14 or demolition of a project of public works is required to comply with s. 66.0903 and
15 to require any contractor, subcontractor, or agent thereof performing work on the
16 football stadium facilities to comply with s. 66.0903 in the same manner as a
17 contractor, subcontractor, or agent thereof performing work on a project of public
18 works that is subject to s. 66.0903 is required to comply with s. 66.0903.

19 **SECTION 132.** 946.15 of the statutes is created to read:

20 **946.15 Public construction contracts at less than full rate.** (1) Any
21 employer, or any agent or employee of an employer, who induces any person who
22 seeks to be or is employed pursuant to a public contract, as defined in s. 66.0901 (1)
23 (c), or who seeks to be or is employed on a project on which a prevailing wage rate
24 determination has been issued by the department of workforce development under
25 s. 66.0903 (3), 103.49 (3), 103.50 (3), or 229.8275 (3) to give up, waive, or return any

1 part of the compensation to which that person is entitled under his or her contract
2 of employment or under the prevailing wage rate determination issued by the
3 department, or who reduces the hourly basic rate of pay normally paid to an
4 employee for work on a project on which a prevailing wage rate determination has
5 not been issued under s. 66.0903 (3), 103.49 (3), 103.50 (3), or 229.8275 (3) during a
6 week in which the employee works both on a project on which a prevailing wage rate
7 determination has been issued and on a project on which a prevailing wage rate
8 determination has not been issued, is guilty of a Class I felony.

9 **(2)** Any person employed pursuant to a public contract, as defined in s. 66.0901
10 (1) (c), or employed on a project on which a prevailing wage rate determination has
11 been issued by the department of workforce development under s. 66.0903 (3), 103.49
12 (3), 103.50 (3), or 229.8275 (3) who gives up, waives, or returns to the employer or
13 agent of the employer any part of the compensation to which the employee is entitled
14 under his or her contract of employment or under the prevailing wage determination
15 issued by the department, or who gives up any part of the compensation to which he
16 or she is normally entitled for work on a project on which a prevailing wage rate
17 determination has not been issued under s. 66.0903 (3), 103.49 (3), 103.50 (3), or
18 229.8275 (3) during a week in which the person works part-time on a project on
19 which a prevailing wage rate determination has been issued and part-time on a
20 project on which a prevailing wage rate determination has not been issued, is guilty
21 of a Class C misdemeanor.

22 **(3)** Any employer or labor organization, or any agent or employee of an
23 employer or labor organization, who induces any person who seeks to be or is
24 employed on a project on which a prevailing wage rate determination has been issued
25 by the department of workforce development under s. 66.0903 (3), 103.49 (3), 103.50

1 (3), or 229.8275 (3) to permit any part of the wages to which that person is entitled
2 under the prevailing wage rate determination issued by the department or local
3 governmental unit to be deducted from the person's pay is guilty of a Class I felony,
4 unless the deduction would be permitted under 29 CFR 3.5 or 3.6 from a person who
5 is working on a project that is subject to 40 USC 3142.

6 (4) Any person employed on a project on which a prevailing wage rate
7 determination has been issued by the department of workforce development under
8 s. 66.0903 (3), 103.49 (3), 103.50 (3), or 229.8275 (3) who permits any part of the
9 wages to which that person is entitled under the prevailing wage rate determination
10 issued by the department or local governmental unit to be deducted from his or her
11 pay is guilty of a Class C misdemeanor, unless the deduction would be permitted
12 under 29 CFR 3.5 or 3.6 from a person who is working on a project that is subject to
13 40 USC 3142.

14 **SECTION 133.** 978.05 (6) (a) of the statutes, as affected by 2017 Wisconsin Act
15 59, is amended to read:

16 978.05 (6) (a) Institute, commence, or appear in all civil actions or special
17 proceedings under and perform the duties set forth for the district attorney under ch.
18 980 and ss. 17.14, 30.03 (2), 48.09 (5), 59.55 (1), 59.64 (1), 70.36, 103.50 (8), 89.08,
19 103.92 (4), 109.09, 343.305 (9) (a), 806.05, 938.09, 938.18, 938.355 (6) (b) and (6g) (a),
20 946.86, 946.87, 961.55 (5), 971.14 and 973.075 to 973.077, perform any duties in
21 connection with court proceedings in a court assigned to exercise jurisdiction under
22 chs. 48 and 938 as the judge may request and perform all appropriate duties and
23 appear if the district attorney is designated in specific statutes, including matters
24 within chs. 782, 976 and 979 and ss. 51.81 to 51.85. Nothing in this paragraph limits
25 the authority of the county board to designate, under s. 48.09 (5), that the corporation

1 counsel provide representation as specified in s. 48.09 (5) or to designate, under s.
2 48.09 (6) or 938.09 (6), the district attorney as an appropriate person to represent the
3 interests of the public under s. 48.14 or 938.14.”.

4 (END)