



**State of Wisconsin
Department of Workforce Development
Equal Rights Division**

NOTICE OF PUBLIC HEARING

Annual Adjustment of Thresholds for Application of Prevailing Wage Rates

DWD 290.155(1)

NOTICE IS HEREBY GIVEN that pursuant to ss. 66.0903(5) and 103.49(3g), Stats., the Department of Workforce Development proposes to hold a public hearing to consider the amendment of s. DWD 290.155(1), relating to the adjustment of thresholds for application of prevailing wage rates.

Hearing Information

**February 12, 2009
Thursday
1:30 p.m.**

**MADISON
G.E.F. 1 Building, B103
201 E. Washington Avenue**

Interested persons are invited to appear at the hearing and will be afforded the opportunity to make an oral presentation of their positions. Persons making oral presentations are requested to submit their facts, views, and suggested rewording in writing.

Visitors to the GEF 1 building are requested to enter through the left East Washington Avenue door and register with the customer service desk. The entrance is accessible via a ramp from the corner of Webster Street and East Washington Avenue. If you have special needs or circumstances regarding communication or accessibility at the hearing, please call (608) 267-9403 at least 10 days prior to the hearing date. Accommodations such as ASL interpreters, English translators, or materials in audiotape format will be made available on request to the fullest extent possible.

Analysis Prepared by the Department of Workforce Development

Statutory authority: Sections 66.0903 (5), 103.49 (3g), and 227.11, Stats.

Statutes interpreted: Sections 66.0903 (5) and 103.49 (3g), Stats.

Explanation of agency authority. The prevailing wage laws require that when a state agency or local governmental unit contracts for the erection, construction, remodeling, repairing, or demolition of a public works project it must obtain a prevailing wage rate determination from the Department of Workforce Development and require that the contractors and subcontractors

on the project pay their employees in accordance with those wage rates. Sections 66.0903 (5) and 103.49 (3g), Stats., set initial estimated project cost thresholds for application of the prevailing wage rate requirements and direct the Department to adjust the thresholds each year in proportion to any change in construction costs since the thresholds were last determined. Pursuant to s. DWD 290.15, the Department adjusts the thresholds based on changes in the construction cost index published in the *Engineering News-Record*, a national construction trade publication.

Summary of the proposed rule. Section DWD 290.155 (1) currently provides that the prevailing wage rate requirements do not apply to any single-trade public works project for which the estimated cost of completion is below \$45,000 and do not apply to any multi-trade public works project for which the estimated cost of completion is below \$221,000. This rule adjusts the thresholds from \$45,000 to \$48,000 for a single-trade project and from \$221,000 to \$234,000 for a multi-trade project based on a 5.71% increase in the construction cost index between December 2007 and December 2008.

Summary of related federal law. The federal prevailing wage law applies to a federal public works project for which the contract is greater than \$2,000. This threshold is in statute and is rarely adjusted.

Comparison with laws in adjacent states. Minnesota has a statutory threshold of \$2,500 for a single-trade project and \$25,000 for a multi-trade project. Illinois does not have a threshold in its prevailing wage law. The law covers public works projects and defines public works projects as projects financed under various other specified laws. Michigan does not have a threshold in its prevailing wage law. The law covers projects that must be bid and relies on other agencies to determine the thresholds for what projects must be bid. Iowa does not have a prevailing wage law.

Summary of factual data and analytical methodologies. The thresholds are increased based on the national inflation rate in the construction industry. The Department uses the construction cost index in the *Engineering News-Record*, a national construction trade publication, to determine the inflation rate.

Effect on small business. The proposed rule does not affect small businesses.

Fiscal impact. Under the proposed and emergency rules, a state agency or local governmental unit contracting for the construction of a single-trade public works project that costs more than \$45,000 but less than \$48,000 or a multi-trade project that costs more than \$221,000 but less than \$234,000 will not be covered by the prevailing wage requirement.

Contact information. The proposed rules are available at the web site <http://adminrules.wisconsin.gov> by typing “prevailing wage” in the search engine. This site allows you to view documents associated with this rule’s promulgation, register to receive email notification whenever the Department posts new information about this rulemaking order, and submit comments and view comments by others during the public comment period. You may receive a paper copy of the rule by contacting:

Howard Bernstein
Office of Legal Counsel
Dept. of Workforce Development
P.O. Box 7946
Madison, WI 53707-7946
(608) 266-9427

Howard.Bernstein@dwd.wisconsin.gov

Written comments. Written comments on the proposed rules received at the above address, email, or through the <http://adminrules.wisconsin.gov> web site no later than February 12, 2009, will be given the same consideration as testimony presented at the hearing.

Secretary or designee

Date