



## 2023 SENATE BILL 540

October 16, 2023 - Introduced by Senators CARPENTER, L. JOHNSON, AGARD, HESSELBEIN, LARSON, PFAFF, ROYS, SMITH, SPREITZER, TAYLOR and WIRCH, cosponsored by Representatives SHANKLAND, SINICKI, OHNSTAD, C. ANDERSON, J. ANDERSON, BARE, CABRERA, CLANCY, CONLEY, CONSIDINE, DOYLE, DRAKE, EMERSON, GOYKE, HAYWOOD, HONG, JACOBSON, JOERS, MADISON, MOORE OMOKUNDE, NEUBAUER, ORTIZ-VELEZ, PALMERI, RATCLIFF, SHELTON, SNODGRASS, STUBBS, SUBECK and VINING. Referred to Committee on Labor, Regulatory Reform, Veterans and Military Affairs.

1     **AN ACT to repeal** 84.54 and 86.51; **to amend** 66.0129 (5), 66.0903 (1) (c), 66.0903  
2           (1) (f), 66.0903 (1) (j), 66.0903 (1m) (b), 103.005 (12) (a), 103.503 (1) (a), 103.503  
3           (1) (e), 103.503 (2), 103.503 (3) (a) 2., 109.09 (1), 111.322 (2m) (a), 111.322 (2m)  
4           (b) and 978.05 (6) (a); **to repeal and recreate** 66.0903 (1) (g) and 103.503 (1)  
5           (g); and **to create** 19.36 (12), 66.0903 (1) (a), (am), (b), (cm), (dr), (em), (hm) and  
6           (im), 66.0903 (2) to (12), 84.41 (3), 103.49, 103.50, 104.001 (4), 106.04, 111.322  
7           (2m) (c), 227.01 (13) (t), 229.682 (2), 229.8275 and 946.15 of the statutes;  
8           **relating to:** prevailing wage, granting rule-making authority, and providing  
9           a penalty.

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### *Analysis by the Legislative Reference Bureau*

#### ***Prevailing wage***

This bill requires that laborers, workers, mechanics, and truck drivers employed on the site of certain projects of public works be paid the prevailing wage and not be required or allowed to work a greater number of hours per day and per week than the prevailing hours of labor unless they are paid overtime for all hours worked in excess of the prevailing hours of labor. Projects subject to the bill include state and local projects of public works, including state highway projects, with

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exceptions including projects below certain cost thresholds, minor service or maintenance work, and certain residential projects. Under the bill, “prevailing wage rate” is defined as the hourly basic rate of pay, plus the hourly contribution for bona fide economic benefits, paid for a majority of the hours worked in a trade or occupation in the area in which the project is located, except that, if there is no rate at which a majority of those hours is paid, “prevailing wage rate” means the average hourly basic rate of pay, plus the average hourly contribution for bona fide economic benefits, paid for the highest-paid 51 percent of hours worked in a trade or occupation in the area. “Prevailing hours of labor” is defined as 10 hours per day and 40 hours per week, excluding weekends and holidays. The bill requires the Department of Workforce Development to conduct investigations and hold public hearings as necessary to define the trades or occupations that are commonly employed on projects that are subject to the prevailing wage law and to inform itself of the prevailing wage rates in all areas of the state for those trades or occupations, in order to determine the prevailing wage rate for each trade or occupation. The bill contains certain other provisions regarding the calculation of prevailing wage rates by DWD, including provisions allowing persons to request recalculations or reviews of the prevailing wage rates determined by DWD.

The bill requires contracts and notices for bids for projects subject to the bill to include and incorporate provisions ensuring compliance with the requirements. The bill also establishes a requirement that state agencies and local governments post prevailing wage rates and hours of labor in areas readily accessible to persons employed on the project or in sites regularly used for posting notices.

The bill makes a contractor that fails to pay the prevailing wage rate or overtime pay to an employee as required under the prevailing wage law liable to the affected employee for not only the amount of unpaid wages and overtime pay, but also for liquidated damages in an amount equal to 100 percent of the unpaid wages and overtime pay.

Finally, the bill includes, for both state and local projects of public works, provisions regarding coverage, compliance, enforcement, and penalties, including 1) requirements for affidavits to be filed by contractors affirming compliance with the prevailing wage law; 2) record retention requirements for contractors regarding wages paid to workers and provisions allowing for the inspection of those records by DWD; 3) liability and penalty provisions for certain violations, including criminal penalties; and 4) provisions prohibiting contracts from being awarded to persons who have failed to comply with the prevailing wage law.

***Transportation projects***

Under current law, for certain highway projects for which the Department of Transportation spends federal money, federal money must make up at least 70 percent of the funding for those projects. DOT is required to notify political subdivisions receiving aid for local projects whether the aid includes federal moneys and how those moneys must be spent. For certain projects that receive no federal money, DOT may not require political subdivisions to comply with any portion of DOT’s facilities development manual other than design standards. Any local project funded with state funds under the surface transportation program or the local bridge

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program must be let through competitive bidding and by contract to the lowest responsible bidder. The bill repeals all of these requirements.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report.

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

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

1           **SECTION 1.** 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 2.** 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.

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1           **SECTION 3.** 66.0903 (1) (a), (am), (b), (cm), (dr), (em), (hm) and (im) of the  
2 statutes are created to read:

3           66.0903 (1) (a) “Area” means the county in which a proposed project of public  
4 works that is subject to this section is located or, if the department determines that  
5 there is insufficient wage data in that county, “area” means those counties that are  
6 contiguous to that county or, if the department determines that there is insufficient  
7 wage data in those counties, “area” means those counties that are contiguous to those  
8 counties or, if the department determines that there is insufficient wage data in those  
9 counties, “area” means the entire state or, if the department is requested to review  
10 a determination under sub. (3) (br), “area” means the city, village, or town in which  
11 a proposed project of public works that is subject to this section is located.

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

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

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

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

23           (em) “Multiple-trade project of public works” has the meaning given in s.  
24 103.49 (1) (br).

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

2 (1) (em).

3 (im) “Supply and installation contract” has the meaning given in s. 103.49 (1)

4 (fm).

5 **SECTION 4.** 66.0903 (1) (c) of the statutes is amended to read:

6 66.0903 (1) (c) “Hourly basic rate of pay” has the meaning given in s. ~~16.856~~

7 103.49 (1) (b), ~~2015 stats.~~

8 **SECTION 5.** 66.0903 (1) (f) of the statutes is amended to read:

9 66.0903 (1) (f) “Prevailing hours of labor” has the meaning given in s. ~~16.856~~

10 103.49 (1) (e), ~~2015 stats.~~ (c).

11 **SECTION 6.** 66.0903 (1) (g) of the statutes is repealed and recreated to read:

12 66.0903 (1) (g) “Prevailing wage rate” has the meaning given in s. 103.49 (1)

13 (d).

14 **SECTION 7.** 66.0903 (1) (j) of the statutes is amended to read:

15 66.0903 (1) (j) “Truck driver” ~~includes an owner-operator of a truck~~ has the

16 meaning given in s. 103.49 (1) (g).

17 **SECTION 8.** 66.0903 (1m) (b) of the statutes is amended to read:

18 66.0903 (1m) (b) The legislature finds that the enactment of ordinances or

19 other enactments by local governmental units requiring laborers, workers,

20 mechanics, and truck drivers employed on projects of public works or on publicly

21 funded private construction projects to be paid the prevailing wage rate and to be

22 paid at least 1.5 times their hourly basic rate of pay for hours worked in excess of the

23 prevailing hours of labor would be logically inconsistent with, would defeat the

24 purpose of, and would go against the ~~repeals~~ spirit of this section and the repeal of

25 s. 66.0904, 2009 stats., and s. ~~66.0903 (2) to (12), 2013 stats.~~ Therefore, this section

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1 shall be construed as an enactment of statewide concern for the purposes of  
2 facilitating broader participation with respect to bidding on projects of public works,  
3 ensuring that wages accurately reflect market conditions, providing local  
4 governments with the flexibility to reduce costs on capital projects, and reducing  
5 spending at all levels of government in this state purpose of providing uniform  
6 prevailing wage rate and prevailing hours of labor requirements throughout the  
7 state.

8 **SECTION 9.** 66.0903 (2) to (12) of the statutes are created to read:

9 66.0903 (2) APPLICABILITY. Subject to sub. (5), this section applies to any project  
10 of public works erected, constructed, repaired, remodeled, or demolished for a local  
11 governmental unit, including all of the following:

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

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

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

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

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

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

20           (av) In determining prevailing wage rates under par. (am) or (ar), the  
21 department may not use data from projects that are subject to this section, s. 103.49  
22 or 103.50, or 40 USC 3142 unless the department determines that there is  
23 insufficient wage data in the area to determine those prevailing wage rates, in which  
24 case the department may use data from projects that are subject to this section, s.  
25 103.49 or 103.50, or 40 USC 3142. In determining prevailing wage rates under par.

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1 (am) or (ar), the department may not use data from any construction work that is  
2 performed by a local governmental unit or a state agency.

3 (bm) 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 individuals working in  
9 the 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 (br) In addition to the recalculation under par. (bm), the local governmental  
13 unit that requested the determination under this subsection may request a review  
14 of any portion of a determination within 30 days after the date of issuance of the  
15 determination if the local governmental unit submits evidence with the request  
16 showing that the prevailing wage rate for any given trade or occupation included in  
17 the 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 and on which some work has been  
22 performed during the current survey period and which were considered by the  
23 department in issuing its most recent compilation under par. (ar). 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.



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1 (dm) A local governmental unit that is subject to this section shall include a  
2 reference to the prevailing wage rates determined by the department and to the  
3 prevailing hours of labor in the notice published for the purpose of securing bids for  
4 the project of public works. Except as otherwise provided in this paragraph, if any  
5 contract or subcontract for a project of public works is entered into, the prevailing  
6 wage rates determined by the department and the prevailing hours of labor shall be  
7 physically incorporated into and made a part of the contract or subcontract. For a  
8 minor subcontract, as determined by the department, the department shall  
9 prescribe by rule the method of notifying the minor subcontractor of the prevailing  
10 wage rates and prevailing hours of labor applicable to the minor subcontract. The  
11 prevailing wage rates and prevailing hours of labor applicable to a contract or  
12 subcontract may not be changed during the time that the contract or subcontract is  
13 in force.

14 (e) No contractor, subcontractor, or contractor's or subcontractor's agent that  
15 is subject to this section may do any of the following:

16 1. Pay an individual performing the work described in sub. (4) less than the  
17 prevailing wage rate in the same or most similar trade or occupation determined  
18 under this subsection.

19 2. Allow an individual performing the work described in sub. (4) to work a  
20 greater number of hours per day or per week than the prevailing hours of labor,  
21 unless the contractor, subcontractor, or contractor's or subcontractor's agent pays  
22 the individual for all hours worked in excess of the prevailing hours of labor at a rate  
23 of at least 1.5 times the individual's hourly basic rate of pay.

24 **(4) COVERED EMPLOYEES.** (a) Subject to par. (b), any person subject to this  
25 section shall pay all of the following employees the prevailing wage rate determined

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1 under sub. (3) and may not allow such employees to work a greater number of hours  
2 per day or per week than the prevailing hours of labor, unless the person pays the  
3 employee for all hours worked in excess of the prevailing hours of labor at a rate of  
4 at least 1.5 times the employee's hourly basic rate of pay:

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

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

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

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

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

5           (c) A person subject to this section shall pay a truck driver who is an  
6 owner-operator of a truck separately for his or her work and for the use of his or her  
7 truck.

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

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

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

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

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

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1 (g) A road, street, bridge, sanitary sewer, or water main project that is a part  
2 of a development in which not less than 90 percent of the lots contain or will contain  
3 2 dwelling units or less, as determined by the local governmental unit at the time of  
4 approval of the development, and that, on completion, is acquired by, or dedicated to,  
5 a local governmental unit, including under s. 236.13 (2), for ownership or  
6 maintenance by the local governmental unit.

7 (8) POSTING. A local governmental unit that has contracted for a project of  
8 public works shall post the prevailing wage rates determined by the department, the  
9 prevailing hours of labor, and the provisions of subs. (10) (a) and (11) (a) in at least  
10 one conspicuous place on the site of the project that is easily accessible by employees  
11 working on the project, or, if there is no common site on the project, at the place  
12 normally used by the local governmental unit to post public notices.

13 (9) COMPLIANCE. (a) When the department finds that a local governmental unit  
14 has not requested a determination under sub. (3) (am) or that a local governmental  
15 unit, contractor, or subcontractor has not physically incorporated a determination  
16 into a contract or subcontract as required under this section or has not notified a  
17 minor subcontractor of a determination in the manner prescribed by the department  
18 by rule promulgated under sub. (3) (dm), the department shall notify the local  
19 governmental unit, contractor, or subcontractor of the noncompliance and shall file  
20 the determination with the local governmental unit, contractor, or subcontractor  
21 within 30 days after the notice.

22 (b) Upon completion of a project of public works and before receiving final  
23 payment for his or her work on the project, each agent or subcontractor shall furnish  
24 the contractor with an affidavit stating that the agent or subcontractor has complied

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1 fully with the requirements of this section. A contractor may not authorize final  
2 payment until the affidavit is filed in proper form and order.

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

18 **(10) RECORDS; INSPECTION; ENFORCEMENT.** (a) Each contractor, subcontractor, or  
19 contractor's or subcontractor's agent that performs work on a project of public works  
20 that is subject to this section shall keep full and accurate records clearly indicating  
21 the name and trade or occupation of every individual performing the work described  
22 in sub. (4) and an accurate record of the number of hours worked by each of those  
23 individuals and the actual wages paid for the hours worked.

24 (b) The department or the contracting local governmental unit may demand  
25 and examine, and every contractor, subcontractor, and contractor's or

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

8 (c) If requested by any person, the department shall inspect the payroll records  
9 of any contractor, subcontractor, or agent performing work on a project of public  
10 works that is subject to this section as provided in this paragraph to ensure  
11 compliance with this section. On receipt of such a request, the department shall  
12 request that the contractor, subcontractor, or agent submit to the department a  
13 certified record of the information specified in par. (a), other than personally  
14 identifiable information relating to an employee of the contractor, subcontractor, or  
15 agent, for no longer than a 4-week period. The department may request that a  
16 contractor, subcontractor, or agent submit those records no more than once per  
17 calendar quarter for each project of public works on which the contractor,  
18 subcontractor, or agent is performing work. The department may not charge a  
19 requester a fee for obtaining that information. Certified records submitted to the  
20 department under this paragraph are open for public inspection and copying under  
21 s. 19.35 (1).

22 (d) Section 103.005 (5) (f), (11), (12), and (13) applies to this section, except that  
23 s. 103.005 (12) (a) does not apply to a person who fails to provide any information to  
24 the department to assist the department in determining prevailing wage rates under  
25 sub. (3) (am) or (ar). Section 111.322 (2m) applies to discharge and other

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1 discriminatory acts arising in connection with any proceeding under this section,  
2 including proceedings under sub. (11) (a).

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

10 2. If the department determines upon inspection under sub. (10) (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 on 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,

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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 (b) 1. Except as provided in subds. 2., 4., and 6., 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 any violation continues is a separate offense.

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

23 3. Any individual employed on a project of public works that is subject to this  
24 section who knowingly allows a contractor, subcontractor, or contractor's or  
25 subcontractor's agent to pay him or her less than the prevailing wage rate set forth



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1 in the contract governing the project, who gives up, waives, or returns any part of the  
2 compensation to which he or she is entitled under the contract, or who gives up,  
3 waives, or returns any part of the compensation to which he or she is normally  
4 entitled for work on a project that is not subject to this section during a week in which  
5 the individual works both on a project of public works that is subject to this section  
6 and on a project that is not subject to this section, is guilty of an offense under s.  
7 946.15 (2).

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

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

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

23 **(12) DEPARTMENT.** (a) Except as provided under pars. (b) and (c), the department  
24 shall notify any local governmental unit applying for a determination under sub. (3)  
25 of the names of all persons that the department has found to have failed to pay the

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

11 (b) The department may not include in a notification under par. (a) the name  
12 of any person on the basis of having subcontracted a contract for a project of public  
13 works to a person that the department has found to have failed to pay the prevailing  
14 wage rate determined under sub. (3) or has found to have paid less than 1.5 times  
15 the hourly basic rate of pay for all hours worked in excess of the prevailing hours of  
16 labor.

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

21 (d) Any person submitting a bid or negotiating a contract on a project of public  
22 works that is subject to this section shall, on the date the person submits the bid or  
23 negotiates the contract, identify any construction business in which the person, or  
24 a shareholder, officer, or partner of the person, if the person is a business, owns, or  
25 has owned at least a 25 percent interest on the date the person submits the bid or

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1 negotiates the contract or at any other time within 3 years preceding the date the  
2 person submits the bid or negotiates the contract, if the business has been found to  
3 have failed to pay the prevailing wage rate determined under sub. (3) or to have paid  
4 less than 1.5 times the hourly basic rate of pay for all hours worked in excess of the  
5 prevailing hours of labor.

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

7 **SECTION 10.** 84.41 (3) of the statutes is created to read:

8 84.41 (3) EMPLOYMENT REGULATIONS. Employment regulations set forth in s.  
9 103.50 pertaining to wages and hours shall apply to all projects constructed under  
10 s. 84.40 in the same manner as such laws apply to projects on other state highways.  
11 Where applicable, the federal wages and hours law known as the Davis-Bacon act  
12 shall apply.

13 **SECTION 11.** 84.54 of the statutes is repealed.

14 **SECTION 12.** 86.51 of the statutes is repealed.

15 **SECTION 13.** 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 that fails to provide  
24 any information to the department to assist the department in determining

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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 14.** 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.

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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

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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

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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 individual performing the work described in sub. (2m) may be allowed to work a  
22 greater number of hours per day or per week than the prevailing hours of labor,  
23 except that any such individual may be allowed 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

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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. The notice published for the purpose  
4 of securing bids for the project must contain a reference to the prevailing wage rates  
5 determined under sub. (3) and the prevailing hours of labor. Except as otherwise  
6 provided in this subsection, if any contract or subcontract for a project of public works  
7 that is subject to this section is entered into, the prevailing wage rates determined  
8 under sub. (3) and the prevailing hours of labor shall be physically incorporated into  
9 and made a part of the contract or subcontract. For a minor subcontract, as  
10 determined by the department, the department shall prescribe by rule the method  
11 of notifying the minor subcontractor of the prevailing wage rates and prevailing  
12 hours of labor applicable to the minor subcontract. The prevailing wage rates and  
13 prevailing hours of labor applicable to a contract or subcontract may not be changed  
14 during the time that the contract or subcontract is in force.

15 **(2m) COVERED EMPLOYEES.** (a) Subject to par. (b), any person subject to this  
16 section shall pay all of the following employees the prevailing wage rate determined  
17 under sub. (3) and may not allow such employees to work a greater number of hours  
18 per day or per week than the prevailing hours of labor, unless the person pays for all  
19 hours worked in excess of the prevailing hours of labor at a rate of at least 1.5 times  
20 the employees' hourly basic rate of pay:

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

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



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1 exclusively, or nearly so, to a project of public works that is subject to this section by  
2 a contractor, subcontractor, agent, or other person performing any work on the site  
3 of the project.

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

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

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

21 (c) A person that is subject to this section shall pay a truck driver who is an  
22 owner-operator of a truck separately for his or her work and for the use of his or her  
23 truck.

24 **(3) INVESTIGATION; DETERMINATION.** (a) Before a state agency issues a request  
25 for bids for any work to which this section applies, the state agency having the

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

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

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

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1       which case the department may use data from projects that are subject to this  
2       section, s. 66.0903, 103.50, or 229.8275, or 40 USC 3142. In determining prevailing  
3       wage rates under par. (a) or (am), the department may not use data from any  
4       construction work performed by a state agency or a local governmental unit, as  
5       defined in s. 66.0903 (1) (d).

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

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

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1 department in issuing its most recent compilation under par. (am). The department  
2 shall affirm or modify the determination within 15 days after the date on which the  
3 department receives the request for review.

4 **(3g) NONAPPLICABILITY.** This section does not apply to any of the following:

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

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

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

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

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

18 (h) A road, street, bridge, sanitary sewer, or water main project that is a part  
19 of a development in which not less than 90 percent of the lots contain or will contain  
20 2 dwelling units or less, as determined by the local governmental unit at the time of  
21 approval of the development, and that, on completion, is acquired by, or dedicated to,  
22 the state for ownership or maintenance by the state.

23 **(4r) COMPLIANCE.** (a) When the department finds that a state agency has not  
24 requested a determination under sub. (3) (a) or that a state agency, contractor, or  
25 subcontractor has not physically incorporated a determination into a contract or

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1 subcontract as required under sub. (2) or has not notified a minor subcontractor of  
2 a determination in the manner prescribed by the department by rule promulgated  
3 under sub. (2), the department shall notify the state agency, contractor, or  
4 subcontractor of the noncompliance and shall file the determination with the state  
5 agency, contractor, or subcontractor within 30 days after the notice.

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

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

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1           **(5) RECORDS; INSPECTION; ENFORCEMENT.** (a) Each contractor, subcontractor, or  
2 contractor's or subcontractor's agent that performs work on a project of public works  
3 that is subject to this section shall keep full and accurate records clearly indicating  
4 the name and trade or occupation of every individual performing the work described  
5 in sub. (2m) and an accurate record of the number of hours worked by each of those  
6 individuals and the actual wages paid for the hours worked.

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

18           (c) If requested by any person, the department shall inspect the payroll records  
19 of any contractor, subcontractor, or agent performing work on a project of public  
20 works that is subject to this section as provided in this paragraph to ensure  
21 compliance with this section. On receipt of such a request, the department shall  
22 request that the contractor, subcontractor, or agent submit to the department a  
23 certified record of the information specified in par. (a), other than personally  
24 identifiable information relating to an employee of the contractor, subcontractor, or  
25 agent, for no longer than a 4-week period. The department may request a contractor,

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1 subcontractor, or agent to submit those records no more than once per calendar  
2 quarter for each project of public works on which the contractor, subcontractor, or  
3 agent is performing work. The department may not charge a requester a fee for  
4 obtaining that information. Certified records submitted to the department under  
5 this paragraph are open for public inspection and copying under s. 19.35 (1).

6 **(6m)** LIABILITY AND PENALTIES. (ag) 1. A contractor, subcontractor, or  
7 contractor's or subcontractor's agent who fails to pay the prevailing wage rate  
8 determined by the department under sub. (3) or who pays 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 is liable to any affected employee in the amount of his or her unpaid wages or his or  
11 her unpaid overtime compensation and in an additional amount as liquidated  
12 damages as provided in subd. 2. or 3., whichever is applicable.

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

22 3. In addition to or in lieu of recovering the liability specified in subd. 1. as  
23 provided in subd. 2., any employee for and on behalf of that employee and other  
24 employees similarly situated may commence an action to recover that liability in any  
25 court of competent jurisdiction. If the court finds that a contractor, subcontractor,

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

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

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

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



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1 (c) Any individual who is employed on a project of public works that is subject  
2 to this section who knowingly allows 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 individual works both on a project of public works that is subject to this section  
9 and on a project that is not subject to this section, is guilty of an offense under s.  
10 946.15 (2).

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

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

23 (f) Paragraph (am) 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) (a) or (am).

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

13           (b) The department may not include in a notification under par. (a) the name  
14 of any person on the basis of having subcontracted a contract for a project of public  
15 works to a person that the department has found to have failed to pay the prevailing  
16 wage rate determined under sub. (3) or has found to have paid less than 1.5 times  
17 the hourly basic rate of pay for all hours worked in excess of the prevailing hours of  
18 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 on a project of public works that is subject to  
24 this section shall, on the date the person submits the bid, identify any construction  
25 business in which the person, or a shareholder, officer, or partner of the person if the

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

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

8 **SECTION 15.** 103.50 of the statutes is created to read:

9 **103.50 Highway contracts. (1) DEFINITIONS.** In this section:

10 (a) "Area" means the county in which a proposed project that is subject to this  
11 section is located or, if the department determines that there is insufficient wage  
12 data in that county, "area" means those counties that are contiguous to that county  
13 or, if the department determines that there is insufficient wage data in those  
14 counties, "area" means those counties that are contiguous to those counties or, if the  
15 department determines that there is insufficient wage data in those counties, "area"  
16 means the entire state.

17 (b) "Hourly basic rate of pay" has the meaning given in s. 103.49 (1) (b).

18 (bg) "Insufficient wage data" has the meaning given in s. 103.49 (1) (bg).

19 (c) "Prevailing hours of labor" has the meaning given in s. 103.49 (1) (c).

20 (d) 1. Except as provided in subd. 2., "prevailing wage rate" for any trade or  
21 occupation in any area means the hourly basic rate of pay, plus the hourly  
22 contribution for health insurance benefits, vacation benefits, pension benefits, and  
23 any other bona fide economic benefit, paid directly or indirectly, for a majority of the  
24 hours worked in the trade or occupation in the area.

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1           2. If there is no rate at which a majority of the hours worked in the trade or  
2 occupation in the area is paid, “prevailing wage rate” means the average hourly basic  
3 rate of pay, weighted by the number of hours worked, plus the average hourly  
4 contribution, weighted by the number of hours worked, for health insurance benefits,  
5 vacation benefits, pension benefits, and any other bona fide economic benefit, paid  
6 directly or indirectly for all hours worked at the hourly basic rate of pay of the  
7 highest-paid 51 percent of hours worked in that trade or occupation in that area.

8           (e) “Truck driver” has the meaning given in s. 103.49 (1) (g).

9           **(2) PREVAILING WAGE RATES AND HOURS OF LABOR.** No contractor, subcontractor,  
10 agent, or other person performing any work on a project under a contract based on  
11 bids as provided in s. 84.06 (2) to which the state is a party for the construction or  
12 improvement of any highway may do any of the following:

13           (a) Pay an individual performing the work described in sub. (2m) less than the  
14 prevailing wage rate in the area in which the work is to be done determined under  
15 sub. (3).

16           (b) Allow an individual performing the work described in sub. (2m) to work a  
17 greater number of hours per day or per week than the prevailing hours of labor,  
18 unless the contractor, subcontractor, or contractor’s or subcontractor’s agent pays  
19 the individual for all hours worked in excess of the prevailing hours of labor at a rate  
20 of at least 1.5 times the individual’s hourly basic rate of pay.

21           **(2g) NONAPPLICABILITY.** This section does not apply to a single-trade project of  
22 public works, as defined in s. 103.49 (1) (em), for which the estimated project cost of  
23 completion is less than \$48,000 or a multiple-trade project of public works, as  
24 defined in s. 103.49 (1) (br), for which the estimated project cost of completion is less  
25 than \$100,000.

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1           **(2m)** COVERED EMPLOYEES. (a) Subject to par. (b), any person subject to this  
2 section shall pay all of the following employees the prevailing wage rate determined  
3 under sub. (3) and may not allow such employees to work a greater number of hours  
4 per day or per week than the prevailing hours of labor, unless the person pays for all  
5 hours worked in excess of the prevailing hours of labor at a rate of at least 1.5 times  
6 the employees' hourly basic rate of pay:

7           1. All laborers, workers, mechanics, and truck drivers employed on the site of  
8 a project that is subject to this section.

9           2. All laborers, workers, mechanics, and truck drivers employed in the  
10 manufacturing or furnishing of materials, articles, supplies, or equipment on the site  
11 of a project that is subject to this section or from a facility dedicated exclusively, or  
12 nearly so, to a project that is subject to this section by a contractor, subcontractor,  
13 agent, or other person performing any work on the site of the project.

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

22           1. The laborer, worker, mechanic, or truck driver is employed to go to the source  
23 of mineral aggregate such as sand, gravel, or stone and deliver that mineral  
24 aggregate to the site of a project that is subject to this section by depositing the

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1 material directly in final place, from the transporting vehicle or through spreaders  
2 from the transporting vehicle.

3 2. The laborer, worker, mechanic, or truck driver is employed to go to the site  
4 of a project that is subject to this section, pick up excavated material or spoil from  
5 the site of the project, and transport that excavated material or spoil away from the  
6 site of the project and return to the site of the project.

7 (c) A contractor, subcontractor, agent, or other person performing work on a  
8 project subject to this section shall pay a truck driver who is an owner-operator of  
9 a truck separately for his or her work and for the use of his or her truck.

10 **(3) INVESTIGATIONS; DETERMINATIONS.** The department shall conduct  
11 investigations and hold public hearings necessary to define the trades or occupations  
12 that are commonly employed in the highway construction industry and to inform the  
13 department of the prevailing wage rates in all areas of the state for those trades or  
14 occupations, in order to ascertain and determine the prevailing wage rates  
15 accordingly.

16 **(4) CERTIFICATION OF PREVAILING WAGE RATES.** The department of workforce  
17 development shall, by May 1 of each year, certify to the department of transportation  
18 the prevailing wage rates in each area for all trades or occupations commonly  
19 employed in the highway construction industry. The certification shall, in addition  
20 to the current prevailing wage rates, include future prevailing wage rates when such  
21 prevailing wage rates can be determined for any such trade or occupation in any area  
22 and shall specify the effective date of those future prevailing wage rates. The  
23 certification shall also include wage rates for work performed on Sundays or the  
24 holidays specified in s. 103.49 (1) (c) and shift differentials based on the time of day  
25 or night when work is performed. If a construction project extends into more than

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1 one area, the department shall determine only one standard of prevailing wage rates  
2 for the entire project.

3 **(4m) WAGE RATE DATA.** In determining prevailing wage rates for projects that  
4 are subject to this section, the department shall use data from projects that are  
5 subject to this section, s. 66.0903 or 103.49, or 40 USC 3142. In determining  
6 prevailing wage rates for those projects, the department may not use data from any  
7 construction work that is performed by a state agency or a local governmental unit,  
8 as defined in s. 66.0903 (1) (d).

9 **(5) APPEALS TO GOVERNOR.** If the department of transportation considers any  
10 determination of the department of workforce development of the prevailing wage  
11 rates in an area to be incorrect, it may appeal to the governor, whose determination  
12 is final.

13 **(6) CONTENTS OF CONTRACTS.** The department of transportation shall include  
14 a reference to the prevailing wage rates determined under sub. (3) and the prevailing  
15 hours of labor in the notice published for the purpose of securing bids for a project.  
16 Except as otherwise provided in this subsection, if any contract or subcontract for a  
17 project that is subject to this section is entered into, the prevailing wage rates  
18 determined under sub. (3) and the prevailing hours of labor shall be physically  
19 incorporated into and made a part of the contract or subcontract. For a minor  
20 subcontract, as determined by the department of workforce development, that  
21 department shall prescribe by rule the method of notifying the minor subcontractor  
22 of the prevailing wage rates and prevailing hours of labor applicable to the minor  
23 subcontract. The prevailing wage rates and prevailing hours of labor applicable to  
24 a contract or subcontract may not be changed during the time that the contract or  
25 subcontract is in force. The department of transportation shall post the prevailing

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1 wage rates determined by the department, the prevailing hours of labor, and the  
2 provisions of subs. (2) and (7) in at least one conspicuous place that is easily  
3 accessible to the employees on the site of the project.

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

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

16 (c) Any individual employed on a project that is subject to this section who  
17 knowingly allows a contractor, subcontractor, or contractor's or subcontractor's  
18 agent to pay him or her less than the prevailing wage rate set forth in the contract  
19 governing the project, who gives up, waives, or returns any part of the compensation  
20 to which he or she is entitled under the contract, or who gives up, waives, or returns  
21 any part of the compensation to which he or she is normally entitled for work on a  
22 project that is not subject to this section during a week in which the individual works  
23 both on a project that is subject to this section and on a project that is not subject to  
24 this section, is guilty of an offense under s. 946.15 (2).



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1 (d) Whoever induces any individual who seeks to be or is employed on any  
2 project that is subject to this section to allow any part of the wages to which the  
3 individual is entitled under the contract governing the project to be deducted from  
4 the individual's pay is guilty of an offense under s. 946.15 (3), unless the deduction  
5 would be allowed under 29 CFR 3.5 or 3.6 from an individual who is working on a  
6 project that is subject to 40 USC 3142.

7 (e) Any individual employed on a project that is subject to this section who  
8 knowingly allows any part of the wages to which he or she is entitled under the  
9 contract governing the project to be deducted from his or her pay is guilty of an  
10 offense under s. 946.15 (4), unless the deduction would be allowed under 29 CFR 3.5  
11 or 3.6 from an individual who is working on a project that is subject to 40 USC 3142.

12 (f) Paragraph (a) does not apply to any individual who fails to provide any  
13 information to the department to assist the department in determining prevailing  
14 wage rates under sub. (3) or (4).

15 **(8) ENFORCEMENT AND PROSECUTION.** The department of transportation shall  
16 require adherence to subs. (2), (2m), and (6). The department of transportation may  
17 demand and examine, and every contractor, subcontractor, and contractor's or  
18 subcontractor's agent shall keep and furnish upon request by the department of  
19 transportation, copies of payrolls and other records and information relating to  
20 compliance with this section. Upon request of the department of transportation or  
21 upon complaint of alleged violation, the district attorney of the county in which the  
22 work is located shall investigate as necessary and prosecute violations in a court of  
23 competent jurisdiction. Section 111.322 (2m) applies to discharge and other  
24 discriminatory acts arising in connection with any proceeding under this section.

25 **SECTION 16.** 103.503 (1) (a) of the statutes is amended to read:

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1           103.503 (1) (a) “Accident” means an incident caused, contributed to, or  
2 otherwise involving an employee that resulted or could have resulted in death,  
3 personal injury, or property damage and that occurred while the employee was  
4 performing the work described in s. 66.0903 (4), ~~2013 stats.~~, or s. ~~16.856~~ 103.49 (2m),  
5 ~~2015 stats.~~, on a project of public works or while the employee was performing work  
6 on a public utility project.

7           **SECTION 17.** 103.503 (1) (e) of the statutes is amended to read:

8           103.503 (1) (e) “Employee” means a laborer, worker, mechanic, or truck driver  
9 who performs the work described in s. 66.0903 (4), ~~2013 stats.~~, or s. ~~16.856~~ 103.49  
10 (2m), ~~2015 stats.~~, on a project of public works or on a public utility project.

11           **SECTION 18.** 103.503 (1) (g) of the statutes is repealed and recreated to read:

12           103.503 (1) (g) “Project of public works” means a project of public works that  
13 is subject to s. 66.0903 or 103.49.

14           **SECTION 19.** 103.503 (2) of the statutes is amended to read:

15           103.503 (2) **SUBSTANCE ABUSE PROHIBITED.** No employee may use, possess,  
16 attempt to possess, distribute, deliver, or be under the influence of a drug, or use or  
17 be under the influence of alcohol, while performing the work described in s. 66.0903  
18 (4), ~~2013 stats.~~, or s. ~~16.856~~ 103.49 (2m), ~~2015 stats.~~, on a project of public works or  
19 while performing work on a public utility project. An employee is considered to be  
20 under the influence of alcohol for purposes of this subsection if he or she has an  
21 alcohol concentration that is equal to or greater than the amount specified in s.  
22 885.235 (1g) (d).

23           **SECTION 20.** 103.503 (3) (a) 2. of the statutes 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

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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 21.** 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 22.** 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 website, together with a detailed explanation for granting the exception or  
21 modification.

22 **SECTION 23.** 109.09 (1) of the statutes is amended to read:

23 109.09 (1) The department shall investigate and attempt equitably to adjust  
24 controversies between employers and employees as to regarding alleged wage  
25 claims. The department may receive and investigate any wage claim that is filed

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1 with the department, or received by the department under s. 109.10 (4), no later than  
2 2 years after the date the wages are due. The department may, after receiving a wage  
3 claim, investigate any wages due from the employer against whom the claim is filed  
4 to any employee during the period commencing 2 years before the date the claim is  
5 filed. The department shall enforce this chapter and s. ~~ss. 66.0903, 2013 stats., s.~~  
6 ~~103.49, 2013 stats., s. 229.8275, 2013 stats., and s. 16.856, 2015 stats., and ss. 103.02,~~  
7 103.49, 103.82, and 104.12, and 229.8275. In pursuance of this duty, the department  
8 may sue the employer on behalf of the employee to collect any wage claim or wage  
9 deficiency and ss. 109.03 (6) and 109.11 (2) and (3) shall apply to such actions. Except  
10 for actions under s. 109.10, the department may refer such an action to the district  
11 attorney of the county in which the violation occurs for prosecution and collection and  
12 the district attorney shall commence an action in the circuit court having appropriate  
13 jurisdiction. Any number of wage claims or wage deficiencies against the same  
14 employer may be joined in a single proceeding, but the court may order separate  
15 trials or hearings. In actions that are referred to a district attorney under this  
16 subsection, any taxable costs recovered by the district attorney shall be paid into the  
17 general fund of the county in which the violation occurs and used by that county to  
18 meet its financial responsibility under s. 978.13 (2) (b) for the operation of the office  
19 of the district attorney who prosecuted the action.

20 **SECTION 24.** 111.322 (2m) (a) of the statutes is amended to read:

21 111.322 **(2m)** (a) The individual files a complaint or attempts to enforce any  
22 right under s. 103.02, 103.10, 103.11, 103.13, 103.28, 103.32, 103.34, 103.455,  
23 103.50, 104.12, 109.03, 109.07, 109.075, 146.997, or 995.55, or ss. 101.58 to 101.599  
24 or 103.64 to 103.82.

25 **SECTION 25.** 111.322 (2m) (b) of the statutes is amended to read:

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1           111.322 **(2m)** (b) The individual testifies or assists in any action or proceeding  
2 held under or to enforce any right under s. 103.02, 103.10, 103.11, 103.13, 103.28,  
3 103.32, 103.34, 103.455, 103.50, 104.12, 109.03, 109.07, 109.075, 146.997, or 995.55,  
4 or ss. 101.58 to 101.599 or 103.64 to 103.82.

5           **SECTION 26.** 111.322 (2m) (c) of the statutes is created to read:

6           111.322 **(2m)** (c) The individual files a complaint or attempts to enforce a right  
7 under s. 66.0903, 103.49, or 229.8275 or testifies or assists in any action or  
8 proceeding under s. 66.0903, 103.49, or 229.8275.

9           **SECTION 27.** 227.01 (13) (t) of the statutes is created to read:

10           227.01 **(13)** (t) Ascertains and determines prevailing wage rates under ss.  
11 66.0903, 103.49, 103.50, and 229.8275, except that any action or inaction which  
12 ascertains and determines prevailing wage rates under ss. 66.0903, 103.49, 103.50,  
13 and 229.8275 is subject to judicial review under s. 227.40.

14           **SECTION 28.** 229.682 (2) of the statutes is created to read:

15           229.682 **(2)** PREVAILING WAGE. The construction of a baseball park facility that  
16 is financed in whole or in part by a district is subject to s. 66.0903.

17           **SECTION 29.** 229.8275 of the statutes is created to read:

18           **229.8275 Prevailing wage.** A district may not enter into a contract under s.  
19 229.827 with a professional football team, as described in s. 229.823, or a related  
20 party that requires the team or related party to acquire and construct or renovate  
21 football stadium facilities that are part of any facilities that are leased by the district  
22 to the team or to a related party unless the professional football team or related party  
23 agrees to all of the following:

24           **(1)** Not to allow any employee working on the football stadium facilities who  
25 would be entitled to receive the prevailing wage rate under s. 66.0903 and who would

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1 not be required or allowed to work more than the prevailing hours of labor, if the  
2 football stadium facilities were a project of public works subject to s. 66.0903, to be  
3 paid less than the prevailing wage rate or to be required or allowed to work more than  
4 the prevailing hours of labor, except as allowed under s. 66.0903 (4) (a).

5 (2) To require any contractor, subcontractor, or agent of a contractor or  
6 subcontractor performing work on the football stadium facilities to keep and allow  
7 inspection of records in the same manner as a contractor, subcontractor, or agent of  
8 a contractor or subcontractor performing work on a project of public works that is  
9 subject to s. 66.0903 is required to keep and allow inspection of records under s.  
10 66.0903 (10).

11 (3) To comply with s. 66.0903 in the same manner as a local governmental unit  
12 contracting for the erection, construction, remodeling, repairing, or demolition of a  
13 project of public works is required to comply with s. 66.0903 and to require any  
14 contractor, subcontractor, or agent of a contractor or subcontractor performing work  
15 on the football stadium facilities to comply with s. 66.0903 in the same manner as  
16 a contractor, subcontractor, or agent of a contractor or subcontractor performing  
17 work on a project of public works that is subject to s. 66.0903 is required to comply  
18 with s. 66.0903.

19 **SECTION 30.** 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 individual 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

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1 part of the compensation to which that individual 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 individual employed pursuant to a public contract, as defined in s.  
10 66.0901 (1) (c), or employed on a project on which a prevailing wage rate  
11 determination has been issued by the department of workforce development under  
12 s. 66.0903 (3), 103.49 (3), 103.50 (3), or 229.8275 (3) who gives up, waives, or returns  
13 to the employer or agent of the employer any part of the compensation to which the  
14 employee is entitled under his or her contract of employment or under the prevailing  
15 wage determination issued by the department, or who gives up any part of the  
16 compensation to which he or she is normally entitled for work on a project on which  
17 a prevailing wage rate determination has not been issued under s. 66.0903 (3),  
18 103.49 (3), 103.50 (3), or 229.8275 (3) during a week in which the individual works  
19 part-time on a project on which a prevailing wage rate determination has been  
20 issued and part-time on a project on which a prevailing wage rate determination has  
21 not been issued, is guilty 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 individual 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

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1 (3), or 229.8275 (3) to allow any part of the wages to which that individual is entitled  
2 under the prevailing wage rate determination issued by the department or local  
3 governmental unit to be deducted from the individual's pay is guilty of a Class I  
4 felony, unless the deduction would be allowed under 29 CFR 3.5 or 3.6 from an  
5 individual who is working on a project that is subject to 40 USC 3142.

6 (4) Any individual 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 allows any part of the wages  
9 to which that individual 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 allowed under  
12 29 CFR 3.5 or 3.6 from an individual who is working on a project that is subject to  
13 40 USC 3142.

14 **SECTION 31.** 978.05 (6) (a) of the statutes is amended to read:

15 978.05 (6) (a) Institute, commence, or appear in all civil actions or special  
16 proceedings under and perform the duties set forth for the district attorney under ch.  
17 980 and ss. 17.14, 30.03 (2), 48.09 (5), 59.55 (1), 59.64 (1), 70.36, 89.08, 103.50 (8),  
18 103.92 (4), 109.09, 343.305 (9) (a), 806.05, 938.09, 938.18, 938.355 (6) (b) and (6g) (a),  
19 946.86, 946.87, 961.55 (5), 971.14 and 973.075 to 973.077, perform any duties in  
20 connection with court proceedings in a court assigned to exercise jurisdiction under  
21 chs. 48 and 938 as the judge may request and perform all appropriate duties and  
22 appear if the district attorney is designated in specific statutes, including matters  
23 within chs. 782, 976 and 979 and ss. 51.81 to 51.85. Nothing in this paragraph limits  
24 the authority of the county board to designate, under s. 48.09 (5), that the corporation  
25 counsel provide representation as specified in s. 48.09 (5) or to designate, under s.



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1 48.09 (6) or 938.09 (6), the district attorney as an appropriate person to represent the  
2 interests of the public under s. 48.14 or 938.14.

3 **SECTION 32. Initial applicability.**

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

9 (2) DISCRIMINATION. The treatment of ss. 66.0903 (10) (d), 111.322 (2m) (c), and  
10 229.8275 first applies to acts of discrimination that occur on the effective date of this  
11 subsection.

12 (END)