



2005 SENATE BILL 545

February 1, 2006 - Introduced by Senators HANSEN, ERPENBACH and A. LASEE, cosponsored by Representatives VAN AKKEREN, SHERIDAN, ZEPNICK and POPE-ROBERTS. Referred to Committee on Job Creation, Economic Development and Consumer Affairs.

1 **AN ACT to amend** 66.0903 (10) (c) and 103.49 (5) (c) of the statutes; **relating to:**
2 inspection of the payroll records of contractors, subcontractors, and agents
3 performing work on projects that are subject to the prevailing wage law.

Analysis by the Legislative Reference Bureau

Under current law, certain laborers, workers, mechanics, and truck drivers employed on a state or local project of public works must be paid at the rate paid for a majority of the hours worked in the person's trade or occupation in the county in which the project is located (prevailing wage law). Current law requires the Department of Workforce Development (DWD), if requested by any person, to inspect the payroll records of any contractor, subcontractor, or agent performing work on a project that is subject to the prevailing wage law to ensure compliance with that law. If the contractor, subcontractor, or agent is found to be in compliance with that law and if the person making the request is a person performing work that is subject to that law, DWD must charge the person the actual cost of the inspection. If the contractor, subcontractor, or agent is found to be in compliance with that law and if the person making the request is not a person performing work that is subject to that law, DWD must charge the person \$250 or the actual cost of the inspection, whichever is greater.

This bill requires DWD to charge a person making a request for the inspection of the payroll records of a contractor, subcontractor, or agent performing work on a project that is subject to the prevailing wage law only if DWD finds that the contractor, subcontractor, or agent is in compliance with that law and that the

SENATE BILL 545

request is frivolous. In order to find that a request is frivolous, DWD must find that the person making the request made the request in bad faith, solely for the purpose of harassing or maliciously injuring the contractor, subcontractor, or agent, or that the person making the request knew, or should have known, that there was no reasonable basis for believing that a violation of the prevailing wage law had been committed.

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

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

1 **SECTION 1.** 66.0903 (10) (c) of the statutes is amended to read:

2 66.0903 **(10)** (c) If requested by any person, the department shall inspect the
3 payroll records of any contractor, subcontractor, or agent performing work on a
4 project that is subject to this section to ensure compliance with this section. If In the
5 case of a request made by a person performing the work specified in sub. (4), if the
6 department finds that the contractor, subcontractor, or agent subject to the
7 inspection is found to be in compliance and if the person making the request is a
8 ~~person performing the work specified in sub. (4)~~ that the request if frivolous, the
9 department shall charge the person making the request the actual cost of the
10 inspection. If In the case of a request made by a person not performing the work
11 specified in sub. (4), if the department finds that the contractor, subcontractor, or
12 agent subject to the inspection is found to be in compliance and if the person making
13 the request is not a person performing the work specified in sub. (4) that the request
14 is frivolous, the department shall charge the person making the request \$250 or the
15 actual cost of the inspection, whichever is greater. In order to find that a request is
16 frivolous, the department must find that the person making the request made the
17 request in bad faith, solely for the purpose of harassing or maliciously injuring the
18 contractor, subcontractor, or agent subject to the inspection, or that the person

SENATE BILL 545

1 making the request knew, or should have known, that there was no reasonable basis
2 for believing that a violation of this section had been committed.

3 **SECTION 2.** 103.49 (5) (c) of the statutes is amended to read:

4 103.49 (5) (c) If requested by any person, the department shall inspect the
5 payroll records of any contractor, subcontractor, or agent performing work on a
6 project that is subject to this section to ensure compliance with this section. If In the
7 case of a request made by a person performing the work specified in sub. (2m), if the
8 department finds that the contractor, subcontractor, or agent subject to the
9 inspection is found to be in compliance and if the person making the request is a
10 person performing the work specified in sub. (2m) that the request is frivolous, the
11 department shall charge the person making the request the actual cost of the
12 inspection. If In the case of a request made by a person not performing the work
13 specified in sub. (2m), if the department finds that the contractor, subcontractor, or
14 agent subject to the inspection is found to be in compliance and if the person making
15 the request is not a person performing the work specified in sub. (2m) that the
16 request is frivolous, the department shall charge the person making the request \$250
17 or the actual cost of the inspection, whichever is greater. In order to find that a
18 request is frivolous, the department must find that the person making the request
19 made the request in bad faith, solely for the purpose of harassing or maliciously
20 injuring the contractor, subcontractor, or agent subject to the inspection, or that the
21 person making the request knew, or should have known, that there was no
22 reasonable basis for believing that a violation of this section had been committed.

23 **SECTION 3. Initial applicability.**

