

1997-98 SESSION  
COMMITTEE HEARING  
RECORDS

Committee Name:

Joint Committee For  
Review of Administrative  
Rules (JCR-AR)

Sample:

Record of Comm. Proceedings ... RCP

- 05hrAC-EdR\_RCP\_pt01a
- 05hrAC-EdR\_RCP\_pt01b
- 05hrAC-EdR\_RCP\_pt02

➤ Appointments ... Appt

➤ \*\*

➤ Clearinghouse Rules ... CRule

➤ 97hrJCR-AR\_Crule\_98-032

➤ Committee Hearings ... CH

➤ \*\*

➤ Committee Reports ... CR

➤ \*\*

➤ Executive Sessions ... ES

➤ \*\*

➤ Hearing Records ... HR

➤ \*\*

➤ Miscellaneous ... Misc

➤ \*\*

➤ Record of Comm. Proceedings ... RCP

➤ \*\*

48-032 PWD - REUNIONING  
WAGE RATES

Tommy G. Thompson  
Governor

Linda Stewart  
Secretary



State of Wisconsin

Department of Workforce Development

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May 22, 1998

Senate Chief Clerk  
Room 402  
1 East Main Street  
Madison, Wisconsin 53703

Assembly Chief Clerk  
Room 402  
1 East Main Street  
Madison, Wisconsin 53703

TRANSMITTAL IN FINAL DRAFT FORM OF ADMINISTRATIVE  
RULES AND REPORTS

CLEARINGHOUSE RULE NO.: 98-032

RULE NO.: DWD 290.15 and 290.155

RELATING TO: Minimum Estimated Project Costs Relating to  
Prevailing Wage Rates for State or Local Public  
Works Projects

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Pursuant to section 227.19, Stats., agencies are required to submit, in triplicate, copies of the proposed administrative rules in final draft form together with a rule report and an analysis. The recommendations received from the Legislative Council are also to be submitted.

At this time, this material, together with cover letters to the President of the Senate and the Speaker of the Assembly, is being transmitted for referral to the standing committees for legislative review.

Respectfully submitted,

A handwritten signature in cursive script that reads "Linda Stewart".

Linda Stewart  
Secretary



Tommy G. Thompson  
Governor

Linda Stewart  
Secretary



State of Wisconsin

Department of Workforce Development

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May 22, 1998

Senator Brian Rude  
President of the Senate  
119 MLK Blvd. Rm 102  
Madison, Wisconsin 53702

Representative Scott Jensen  
Speaker of the Assembly  
211 West, State Capitol  
Madison, Wisconsin 53702

Dear Senator Rude and Representative Jensen:

**NOTICE OF ADMINISTRATIVE RULES IN FINAL DRAFT FORM**

CLEARINGHOUSE RULE NO.: 98-032

RULE NO.: DWD 290.15 and 290.155

RELATING TO: Minimum Estimated Project Costs Relating to  
Prevailing Wage Rates for State or Local Public  
Works Projects

Section 227.19, Stats., requires agencies to submit proposed rules in final draft form to the presiding officer of each house for referral to the appropriate legislative standing committees.

The following information, as required by law, is being submitted to you.

1. Rules in final draft form (in triplicate).
2. Report consisting of:
  - a) DWD Rule Report.
  - b) Public Hearing Attendance Record.
  - c) Public Hearing Comment and Agency Response Form.
  - d) Legislative Council Rules Clearinghouse Report.
  - e) DWD Response to Legislative Council Rules Clearinghouse Report.
  - f) Fiscal Estimate.
  - g) Final Regulatory Flexibility Analysis.

Also included is a waiver of authority letter. If the respective standing committees have no objections to the rules, we respectfully request that their chairpersons sign the letter and return it as soon as possible.

If you have any questions regarding this matter, please do not hesitate to contact us.

Respectfully submitted,

A handwritten signature in black ink that reads "Linda Stewart". The signature is written in a cursive, flowing style.

Linda Stewart  
Secretary



# FINAL REGULATORY FLEXIBILITY ANALYSIS

## Department of Workforce Development

CLEARINGHOUSE RULE NO. : 98-032  
RULE NO.: DWD 290.15 and 290.155  
RELATING TO: Minimum Estimated Project Costs Relating to Prevailing  
Wage Rates for State or Local Public works Projects

Final regulatory flexibility analysis not required. (Statement of determination required.)

Small businesses are affected by this rule change only to the extent that it raises the minimum cost threshold for the application of the prevailing wage law to public works projects. There will either be no change in the regulatory impact on small businesses (if a particular project is still covered after the rule change) or there will be a positive change (if a particular project is not covered).

1. Reason for including or failing to include the following methods for reducing impact of the rule on small businesses: Less stringent compliance or reporting requirements; less stringent schedules or deadlines for compliance or reporting requirements; simplification of compliance or reporting requirements; establishment of performance standards to replace design or operational standards; exemption from any or all requirements.
2. Issues raised by small businesses during hearings, changes in proposed rules as a result of comments by small businesses and reasons for rejecting any alternatives suggested by small businesses.
3. Nature and estimated cost of preparation of any reports by small businesses.

4. Nature and estimated cost of other measures and investments required of small businesses.
  
5. Additional cost to agency of administering or enforcing a rule which includes any of the methods in 1. for reducing impact on small business.
  
6. Impact on public health, safety and welfare caused by including any of the methods in 1. for reducing impact on small businesses.



State of Wisconsin \ Department of Workforce Development

# RULES in FINAL DRAFT FORM

**Rule No.:**

DWD 290.15 and 290.155

**Relating to:**

Minimum Estimated Project Costs Relating to Prevailing Wage  
Rates for State or Local Public Works Projects

**Date:**

May 22, 1998

# State of Wisconsin

## Department of Workforce Development

### MINIMUM ESTIMATED PROJECT COSTS RELATING TO PREVAILING WAGE RATES FOR STATE OR LOCAL PUBLIC WORKS PROJECTS

The Wisconsin Department of Workforce Development proposes an order to repeal ch. DWD 292, amend DWD 290.155, and repeal and recreate DWD 290.15, relating to the adjustment of the minimum estimated project costs for the application of the requirement to obtain a determination of prevailing wage rates for workers employed on state or local public works projects and the repeal of obsolete rules.

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#### Analysis

**Authority for rule.** secs. 66.293(5) and 103.49(3g), Stats.

**Statutes interpreted.** secs. 66.293(5) and 103.49(3g), Stats.

The state prevailing wage laws require that, when a state agency or local governmental unit constructs a public works project, it must obtain a prevailing wage rate determination from the Department of Workforce Development and require that the contractors and subcontractors on the project pay their employees in accordance with those wage rates. Under secs. 66.293(5) and 103.49(3g), Stats., as affected by 1995 Wisconsin Act 215, the state prevailing wage laws do not apply to any "single-trade public works project" (a project involving the employment of only one trade) whose estimated cost is below \$30,000, and it does not apply to any "multi-trade public works project" whose estimated cost is below \$150,000.

Also under secs. 66.293(5) and 103.49(3g), Stats., the department is required to adjust the dollar amounts of the nonapplicability limits each year, in proportion to any change in construction costs since the limits were last determined.

Under this proposed rule, the department would use the construction cost index published in the Engineering News-Record, a weekly national publication, to determine the annual adjustment, if any, to the nonapplicability limits. In addition, the proposed rule changes the nonapplicability limits to \$32,000 for single-trade projects and \$160,000 for multi-trade projects, based on a 6.4% increase in the Construction Cost Index between April 1996 and November 1997.

This rule also repeals ch. 292, Wis. Adm. Code, which was rendered obsolete by amendments to ch. 290, Wis. Adm. Code, in 1997.

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SECTION 1. DWD 290.15 is repealed and recreated to read:

**DWD 290.15 ADJUSTING MINIMUM ESTIMATED PROJECT COST OF**

**COMPLETION.** Every year, the department shall adjust the minimum estimated project cost of completion figures for both single-trade and multi-trade public works projects on the basis of the change in the construction cost index as published in the engineering news-record.

**NOTE: The Engineering News-Record is a weekly publication of the McGraw-Hill Companies, 1221 Avenue of the Americas, New York, NY 10020. A construction cost index is published in the "Construction Economics" section of each issue.**

**[This note replaces the note in the current provision.]**

SECTION 2. DWD 290.155 is amended to read:

**DWD 290.155**(title) **MINIMUM ESTIMATED PROJECT COSTS.** This chapter does not apply to any single-trade public works project for which the estimated cost of completion is below ~~\$30,000~~ \$32,000, and any multi-trade public works project for which the estimated cost of completion is below ~~\$150,000~~ \$160,000.

SECTION 3. Chapter DWD 292 is repealed.

**EFFECTIVE DATE.** This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s.227.22(2)(intro.), Stats.

(End)

# RULE REPORT

## Department of Workforce Development

Rule No.: DWD 290

Relating to: Minimum Estimated Project Costs Relating to Prevailing Wage Rates for State or Local Public Works Projects

*Agency contact person for substantive questions.*

Name Gary Shealy

Title Construction Wage Standards Section Chief

Phone Number (608) 266-3193

*Agency contact person for internal processing.*

Name Lynn Hendrickson

Title Administrative Assistant, ERD

Phone Number (608) 266-7560

1. Agency statutory authority under which the agency intends to promulgate the rule(s).  
Sections 66.293(5) and 103.49(3g), Stats.
2. Citation of federal regulations which require adoption or which are relevant to the proposed rule(s).  
N/A
3. Citation of court decisions which are applicable to the proposed rule(s).  
N/A
4. Description of the proposed rule(s).  
**Please see the analysis at the beginning of the rule text.**
5. Reason for the proposed rule(s).  
**Please see the analysis at the beginning of the rule text.**

FISCAL ESTIMATE  
DOA-2048 E (R 07/97)

- ORIGINAL       UPDATED  
 CORRECTED       SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.  
DWD 290.15 and 290.155

Amendment No. if Applicable

Subject  
Prevailing Wage - Minimum Project Costs

Fiscal Effect

State:  No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget  Yes  No

- Increase Existing Appropriation       Increase Existing Revenues  
 Decrease Existing Appropriation       Decrease Existing Revenues  
 Create New Appropriation

Decrease Costs

Local:  No local government costs

1.  Increase Costs  
 Permissive       Mandatory  
 Decrease Costs  
 Permissive       Mandatory

3.  Increase Revenues  
 Permissive       Mandatory  
 Decrease Revenues  
 Permissive       Mandatory

5. Types of Local Governmental Units Affected:

- Towns       Villages       Cities  
 Counties       Others \_\_\_\_\_  
 School Districts       WTCS Districts

Fund Sources Affected

- GPR    FED    PRO    PRS    SEG    SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

Currently, a public works project which costs more than \$30,000 (for a single-trade project) or \$150,000 (for a multi-trade project) must obtain a prevailing wage rate determination from DWD and pay wages at those rates. This rule raises the limits to \$32,000 and \$160,000 to reflect the increase in construction costs since April of 1996. Under this rule, a local government with a public works project that costs more than \$30,000 but less than \$32,000 (for a single trade project) or more than \$150,000 but less than \$160,000 (for a multi-trade project) will now not be covered by the prevailing wage requirement and will therefore probably experience lower wage costs on the project than it would have.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)  
Howard Bernstein 266-9427

Authorized Signature/Telephone No.

*Howard Bernstein*  
Howard Bernstein 266-9427

Date

2/4/98

**FISCAL ESTIMATE WORKSHEET**

1997 Session

Detailed Estimate of Annual Fiscal Effect  
DOA-2047 (R 07/97)

ORIGINAL     UPDATED  
 CORRECTED     SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.  
DWD 290.15, 290.155

Amendment No.

Subject  
Prevailing Wage - Minimum Project Costs

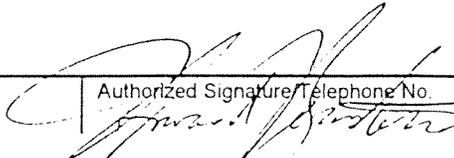
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):  
\$0

II. Annualized Costs:		Annualized Fiscal impact on State funds from:	
A. State Costs by Category		Increased Costs	Decreased Costs
State Operations - Salaries and Fringes		\$	\$ -
(FTE Position Changes)		( FTE)	(- FTE)
State Operations - Other Costs			-
Local Assistance			-
Aids to Individuals or Organizations			-
TOTAL State Costs by Category		\$0	\$ -0
B. State Costs by Source of Funds		Increased Costs	Decreased Costs
GPR		\$	\$ -
FED			-
PRO/PRS			-
SEG/SEG-S			-
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)		Increased Rev.	Decreased Rev.
GPR Taxes		\$	\$ -
GPR Earned			-
FED			-
PRO/PRS			-
SEG/SEG-S			-
TOTAL State Revenues		\$0	\$ -0

**NET ANNUALIZED FISCAL IMPACT**

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	\$0	\$see narrative
NET CHANGE IN REVENUES	\$0	\$0

Agency/Prepared by: (Name & Phone No.)  
DWD/ER Howard Bernstein 266-9427

Authorized Signature/Telephone No.  
 266-9427

Date  
2/4/98





# WISCONSIN LEGISLATIVE COUNCIL STAFF

## RULES CLEARINGHOUSE

**Ronald Sklansky**  
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(608) 266-1946

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## CLEARINGHOUSE RULE 98-032

### Comments

**[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]**

### 2. Form, Style and Placement in Administrative Code

Because s. DWD 290.15 is being repealed and recreated in its entirety, SECTIONS 1 and 2 of the rule-making order could be combined as SECTION 1. This comment applies also to SECTIONS 3 and 4.

***RULES CLEARINGHOUSE***

**Ronald Sklansky**  
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(608) 266-1946

**Richard Sweet**  
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**CLEARINGHOUSE REPORT TO AGENCY**

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[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

**CLEARINGHOUSE RULE 98-032**

AN ORDER to repeal chapter DWD 292; to amend DWD 290.15 (title), 290.155 (title) and 290.155; and to repeal and recreate DWD 290.15, relating to the adjustment of the minimum estimated project costs for the application of the requirement to obtain a determination of prevailing wage rates for workers employed on state or local public works projects and the repeal of obsolete rules.

Submitted by **DEPARTMENT OF WORKFORCE DEVELOPMENT**

02-27-98 RECEIVED BY LEGISLATIVE COUNCIL.

03-20-98 REPORT SENT TO AGENCY.

RNS:DF:kjf:jt

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached      YES       NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached      YES       NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached      YES       NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached      YES       NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached      YES       NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached      YES       NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached      YES       NO

# RESPONSE TO LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT

## Department of Workforce Development

CLEARINGHOUSE RULE NO.: 98-032

RULE NO.: DWD 290.15 and 290.155

RELATING TO: Minimum Estimated Project Costs Relating to Prevailing  
Wage Rates for State or Local Public Works Projects

Agency contact person for substantive questions.

Name: Gary Shealy

Title: Construction Wage Standards Section Chief

Telephone No. (608) 266-3193

Legislative Council report recommendations accepted in whole.

Yes       No

1. Review of statutory authority (s.227.15(2)(a))
  - a.  Accepted
  - b.  Accepted in part
  - c.  Rejected
  - d.  Comments attached
  
2. Review of rules for form, style and placement in administrative code (s.227.15(2)(c))
  - a.  Accepted
  - b.  Accepted in part
  - c.  Rejected
  - d.  Comments attached

3. Review rules for conflict with or duplication of existing rules (s.227.15(2)(d))
  - a.  Accepted
  - b.  Accepted in part
  - c.  Rejected
  - d.  Comments attached
  
4. Review rules for adequate references to related statutes, rules and forms (s.227.15(2)(e))
  - a.  Accepted
  - b.  Accepted in part
  - c.  Rejected
  - d.  Comments attached
  
5. Review language of rules for clarity, grammar, punctuation and plainness (s.227.15(2)(f))
  - a.  Accepted
  - b.  Accepted in part
  - c.  Rejected
  - d.  Comments attached
  
6. Review rules for potential conflicts with, and comparability to, related federal regulations (s.227.15(2)(g))
  - a.  Accepted
  - b.  Accepted in part
  - c.  Rejected
  - d.  Comments attached
  
7. Review rules for permit action deadline (s.227.15(2)(h))
  - a.  Accepted
  - b.  Accepted in part
  - c.  Rejected
  - d.  Comments attached