

# 1999 ASSEMBLY BILL 950

March 30, 2000 – Introduced by Representative GROTHMAN. Referred to Committee on Labor and Employment.

1     **AN ACT to renumber and amend** 104.08 (1), 104.08 (2) and 104.08 (3); **to amend**  
2             104.01 (intro.), 104.03, 104.04, 104.10 and 104.11; and **to create** 104.001 and  
3             104.08 (1) (b) of the statutes; **relating to:** preemption of county, city, village or  
4             town living-wage ordinances.

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### ***Analysis by the Legislative Reference Bureau***

Under current law, a city or village, or a town that has authorized its board to exercise village powers, may determine its own local affairs, and a county may exercise any organizational or administrative power, subject only to the Wisconsin Constitution and to any enactment of the legislature that is of statewide concern and that affects every county, city, village or town with uniformity.

This bill requires that the state minimum wage law, under which an employer may not pay an employe less than a living-wage, be construed as an enactment of statewide concern for the purpose of providing a living-wage that is uniform throughout the state. As such, the bill permits a county, city, village or town to enact an ordinance establishing a living-wage only if the ordinance strictly conforms to the state minimum wage law.

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

5             **SECTION 1.** 104.001 of the statutes is created to read:

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1           **104.001 Statewide concern; uniformity.** (1) This chapter shall be  
2 construed as an enactment of statewide concern for the purpose of providing a  
3 living-wage that is uniform throughout the state.

4           (2) A county, city, village or town may enact and administer an ordinance  
5 establishing a living-wage only if the ordinance strictly conforms to this chapter and  
6 any rules promulgated under this chapter. Except as provided in sub. (3), a county,  
7 city, village or town may not administer an ordinance establishing a living-wage  
8 unless that ordinance strictly conforms to this chapter and any rules promulgated  
9 under this chapter.

10           (3) A county, city, village or town that has a living-wage ordinance in effect on  
11 the effective date of this subsection .... [revisor inserts date], may maintain and  
12 administer that ordinance if the department reviews the ordinance and determines  
13 that the ordinance strictly conforms to this chapter and any rules promulgated under  
14 this chapter. If the department determines that any part of the existing ordinance  
15 does not strictly conform to this chapter and any rules promulgated under this  
16 chapter, the county, city, village or town may amend the ordinance and submit the  
17 amended ordinance to the department for a determination of whether the amended  
18 ordinance strictly conforms to this chapter and any rules promulgated under this  
19 chapter. A county, city, village or town may not amend a living-wage ordinance  
20 except to maintain strict conformity with this chapter and any rules promulgated  
21 under this chapter.

22           (4) A county ordinance enacted under this section does not apply within any  
23 city, village or town that has enacted or enacts an ordinance under this section.

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1           **(5)** This section does not affect the requirement that employes employed on a  
2 public works project contracted for by a county, city, village or town be paid at the  
3 prevailing wage rate, as defined in s. 66.293 (1) (g), as required under s. 66.293.

4           **SECTION 2.** 104.01 (intro.) of the statutes is amended to read:

5           **104.01 Definitions.** (intro.) The following terms as used in ~~ss. 104.01 to~~  
6 ~~104.12~~ this chapter shall be construed as follows:

7           **SECTION 3.** 104.03 of the statutes is amended to read:

8           **104.03 Unlawful wages.** Any employer paying, offering to pay, or agreeing  
9 to pay any employe a wage lower or less in value than a living–wage is guilty of a  
10 violation of ~~ss. 104.01 to 104.12~~ this chapter.

11           **SECTION 4.** 104.04 of the statutes is amended to read:

12           **104.04 Classifications; department’s authority.** The department shall  
13 investigate, ascertain, determine and fix such reasonable classifications, and shall  
14 impose general or special orders, determining the living–wage, and shall carry out  
15 the purposes of ~~ss. 104.01 to 104.12~~ this chapter. Such investigations, classifications  
16 and orders shall be made as provided under s. 103.005, and the penalties specified  
17 in s. 103.005 (12) shall apply to and be imposed for any violation of ~~ss. 104.01 to~~  
18 ~~104.12~~ this chapter. In determining the living–wage, the department may consider  
19 the effect that an increase in the living–wage might have on the economy of the state,  
20 including the effect of a living–wage increase on job creation, retention and  
21 expansion, on the availability of entry–level jobs and on regional economic conditions  
22 within the state. The department may not establish a different minimum wage for  
23 men and women. Said orders shall be subject to review in the manner provided in  
24 ch. 227.

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1           **SECTION 5.** 104.08 (1) of the statutes is renumbered 104.08 (2) and amended  
2 to read:

3           104.08 (2) ~~All persons~~ Any person working in an ~~occupation~~ trade industry  
4 for which a living-wage has been established for minors, and who ~~shall have~~ has no  
5 trade, ~~shall, if employed in an occupation which is a trade industry,~~ be indentured  
6 under the ~~provisions of~~ s. 106.01.

7           **SECTION 6.** 104.08 (1) (b) of the statutes is created to read:

8           104.08 (1) (b) “Trade industry” means an industry involving physical labor and  
9 characterized by mechanical skill and training such as render a period of instruction  
10 reasonably necessary.

11           **SECTION 7.** 104.08 (2) of the statutes is renumbered 104.08 (1) (intro.) and  
12 amended to read:

13           104.08 (1) (intro.) ~~A “trade” or a “trade industry” within the meaning of ss.~~  
14 ~~104.01 to 104.12 shall be a trade or~~ In this section:

15           (a) “Trade” means an industry occupation involving physical labor and  
16 characterized by mechanical skill and training such as render a period of instruction  
17 reasonably necessary.

18           (3) (a) The department shall investigate, determine and declare what  
19 occupations and industries are included within ~~the phrase~~ a “trade” or a “trade  
20 industry”.

21           **SECTION 8.** 104.08 (3) of the statutes is renumbered 104.08 (3) (b) and amended  
22 to read:

23           104.08 (3) (b) The department may make exceptions to the operation of ~~subs.~~  
24 ~~(1) and sub.~~ (2) where conditions make ~~their~~ its application unreasonable.

25           **SECTION 9.** 104.10 of the statutes is amended to read:

