

1999 DRAFTING REQUEST

Bill

Received: 03/30/99

Received By: malaigm

Wanted: As time permits

Identical to LRB:

For: Charles Chvala (608) 266-9170

By/Representing: Doug Burnett

This file may be shown to any legislator: NO

Drafter: malaigm

May Contact:

Alt. Drafters:

Subject: **Employ Priv - minimum wage**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Minimum wage

Instructions:

Redraft 1997 SB 95

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Required</u>
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FE Sent For: 6/15/99

<END>

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1/?	malaigm	1 3/4/99	6/4/8	6/4/8			

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Equal Rights Division

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Minimum Wage

Effective September 1, 1997 Wisconsin's minimum wage rate for most employees is \$5.15 per hour.

An employer may pay workers under 20 years of age an "**opportunity wage**" of \$4.25 per hour during their initial 90 calendar days of employment. After the initial 90 days of employment, these workers would be entitled to receive \$5.15 per hour for all work performed.

An employer may pay tipped workers under 20 years of age an "**opportunity tipped wage**" of \$2.13 per hour during their initial 90 calendar days of employment. After the initial 90 days of employment, these workers would be entitled to receive \$2.33 per hour tipped wage for all work performed. In a pay period where the worker receives insufficient tips to raise their wages to at least the full minimum wage, the employer must pay the employee the amount of the tip deficiency.

An employer may pay agricultural adult employees \$4.05 per hour and agricultural employees under 18 years of age \$3.70 per hour for all work performed.

[Click here for information on special minimum wage for people with disabilities](#)

[Click here for information on how to contact the Equal Rights Division for additional information.](#)

State of Wisconsin Department of Workforce Development



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State of Wisconsin
1997-1998 LEGISLATURE

2648/1

LRB-2027A
GMM:MA:jlb

Draft

1999 BILL

1997 SENATE BILL 95

JLg

WPO-
PROOF
draft
w/stats.

February 25, 1997 - Introduced by Senators WINEKE, DECKER and CLAUSING, cosponsored by Representatives FILEY, BLACK, R. YOUNG, NOTESTEIN, BALDWIN, VANDER LOOP, CARPENTER, WILLIAMS, L. YOUNG, BOYLE, SPRINGER and KREUSER. Referred to Committee on Labor, Transportation and Financial Institutions

Regen

Regenerate

1 AN ACT to renumber 104.08 (3); to renumber and amend 104.045, 104.08 (1)
2 and 104.08 (2); to amend 49.141 (1) (g), 104.01 (intro.), 104.01 (5), 104.01 (8),
3 104.02, 104.03, 104.04, 104.05, 104.06, 104.07 (1) and (2), 104.10, 104.11,
4 104.12, 234.94 (5), 234.94 (8), 800.09 (1) (b), 800.095 (4) (b) 3. and 895.035 (2m)
5 (c); and to create 104.01 (5m), 104.01 (5p), 104.01 (7m), 104.035, 104.045 (2)
6 and (3) and 104.08 (1) (b) of the statutes; relating to: a state minimum wage,
7 providing an exemption from emergency rule procedures, providing an
8 exemption from rule-making procedures, granting rule-making authority and
9 providing a penalty.

(DWD) ✓

hourly ✓

Analysis by the Legislative Reference Bureau

Currently, the state minimum wage law requires that employers pay a living wage to their employees. Under that law, the department of industry, labor and job development ~~DATA~~ has provided, by rule, minimum wages for various classes of employment as follows:

workforce

~~(1) Opportunity Employees (2) Non-probationary Employees~~
Employees Generally
Probationary After Probationary

SENATE BILL 95

Students employed at independent colleges and universities,

employed in bona fide school training programs

Adults 18 years of age and over	\$3.95	\$4.25
Minors under 18 years of age	\$3.60	\$3.90

Tipped Employees

Adults 18 years of age and over	Probation \$2.20	After Probation \$2.33
Minors under 18 years of age	\$2	\$2.13

such as baby sitting or lawn mowing,

Agricultural Employees

Adults 18 years of age and over	Minimum Wage \$4.05
Minors under 18 years of age	\$3.70

Also under current law, DILJ has provided, by rule, separate minimum wage rates for counselors at seasonal recreational or educational camps for minors, for employees who perform less than 15 hours a week of casual employment, in and around an employer's home, for employees hired as personal companions for disabled individuals, for golf caddies, for student learners and for individuals who because of a handicap are unable to earn the standard minimum wages because of a disability

elderly or

Under this bill, DILJ will continue to provide, by rule, separate minimum wage rates for camp counselors, persons in casual employment, personal companions, golf caddies, student learners, and those who are unable to earn the standard minimum wages. For other employees, however, including agricultural employees, employees under 18 years of age and employees who receive tips, the bill provides the method by which DILJ must calculate the minimum wage.

and tipped employees

Specifically, for employees generally, that is, employees who are not agricultural employees, who are not under 18 years of age, who are not tipped employees, who are not ~~probationary~~ employees or who are not employees for whom DILJ provides a separate minimum wage, the bill directs DILJ to calculate the minimum hourly wage by dividing the federal poverty line for a family of three (federal poverty line) (currently \$12,099 per year), by 2,080 (52 weeks in a year times 40 hours per week), and rounding the quotient to the nearest multiple of five cents. Accordingly, at the current federal poverty line, this bill raises the minimum wage for employees generally to \$6.25 per hour.

\$13,650

\$6.55

For other employees, the bill directs DILJ to calculate the minimum hourly wage by multiplying the result obtained under the previous paragraph as follows:

\$6.10

1. For probationary employees 18 years of age or over, by 92.9% and rounding the product to the nearest multiple of five cents, resulting in a minimum wage of \$5.80 per hour when calculated based on the current federal poverty line.

\$6.00

2. For employees under 18 years of age who are not probationary employees, by 91.7% and rounding the product to the nearest multiple of 5 cents, resulting in a minimum wage of \$5.75 per hour when calculated based on the current poverty line.

\$5.50

3. For employees under 18 years of age who are probationary employees, by 84.7% and rounding the product to the nearest multiple of 5 cents, resulting in a minimum wage of \$5.20 per hour when calculated based on the current poverty line.

Under 20 years of age

(defined in the bill as employees who have been employed for a cumulative total of 30 calendar days or less within the preceding three-year period)

SENATE BILL 95

- 2. For tipped employees ~~18 years of age or over~~ who are not ~~probationary~~ employees, by 54.8% and rounding the product to the nearest multiple of ~~5~~ cents, resulting in a minimum wage of ~~\$3.45~~ per hour when calculated based on the current poverty line. opportunity five
- 3. For tipped employees ~~18 years of age or over~~ who are ~~probationary~~ employees, by 51.7% and rounding the product to the nearest multiple of ~~5~~ cents, resulting in a minimum wage of ~~\$3.25~~ per hour when calculated based on the current poverty line. opportunity five
- 6. For tipped employees under 18 years of age who are not probationary employees, by 50.1% and rounding the product to the nearest multiple of 5 cents, resulting in a minimum wage of ~~\$3.15~~ per hour when calculated based on the current poverty line.
- 4. 7. For tipped employees under 18 years of age who are probationary employees, by 47.0% and rounding the product to the nearest multiple of 5 cents, resulting in a minimum wage of ~~\$2.95~~ per hour when calculated based on the current poverty line.
- 5. For agricultural employees 18 years of age or over, by 95.3% and rounding the product to the nearest multiple of ~~5~~ cents, resulting in a minimum wage of ~~\$5.95~~ per hour when calculated based on the current poverty line. \$6.25
- For agricultural employees under 18 years of age, by 87.0% and rounding the product to the nearest multiple of ~~5~~ cents, resulting in a minimum wage of ~~\$5.45~~ per hour when calculated based on the current poverty line. \$5.70

The bill further requires ~~DHJD~~ ^{DWD} to revise the minimum wages specified above annually within 30 days after the federal department of ~~labor~~ ^{health and human services} publishes its annual revision of the poverty line.

Finally, current law requires ~~DHJD~~ ^{DWD}, in determining the living wage, to consider the effect that an increase in the living wage might have on the economy of this state, including the effect of such an increase on job creation, retention and expansion, on the availability of entry level jobs and on regional economic conditions within this state. This bill eliminates that requirement.

For further information see the *state and local* 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:

PROOF W/STATS.

- 1 SECTION 1. 49.141 (1) (g) of the statutes is amended to read:
- 2 49.141 (1) (g) "Minimum wage" means the state minimum hourly wage under
- 3 ch. 104 s. 104.035 (2) or the federal minimum hourly wage under 29 USC 206 (a) (1),
- 4 whichever is applicable.
- 5 SECTION 2. 104.01 (intro.) of the statutes is amended to read:

SENATE BILL 95

1 104.01 Definitions. (intro.) ~~The following terms as used in ss. 104.01 to~~
2 ~~104.12 shall be construed as follows~~ In this chapter:

3 SECTION 3. 104.01 (5) of the statutes is amended to read:

4 104.01 (5) ~~The term "living wage" shall mean~~ "Living wage" means
5 compensation for labor paid, whether by time, piecework or otherwise, sufficient to
6 enable the employe receiving it to maintain himself or herself under conditions
7 consistent with his or her welfare.

health and human services
(Sp)

guidelines
a family unit of 3 persons living in

8 SECTION 4. 104.01 ~~(5m)~~ of the statutes is created to read:

9 104.01 ~~(5m)~~ "Poverty line" means the ~~nonfarm federal~~ poverty ~~line~~ for the
10 continental United States, as ~~defined and~~ revised annually by the federal
11 department of ~~labor~~ under 42 USC 9902 (2).

12 SECTION 5. 104.01 ~~(5p)~~ of the statutes is created to read:

13 104.01 ~~(5p)~~ "Probationary employe" means a person, who has been employed
14 for a cumulative total of 30 calendar days or less within the preceding 3-year period.

under 20 years of age

15 SECTION 6. 104.01 (7m) of the statutes is created to read:

16 104.01 (7m) "Tipped employe" means an employe who in the course of
17 employment customarily and regularly receives money or other gratuities from
18 persons other than the employe's employer.

19 SECTION 7. 104.01 (8) of the statutes is amended to read:

20 104.01 (8) ~~The term "wage" and the term "wages" shall each mean~~ "Wage"
21 means any compensation for labor measured by time, piece or otherwise.

22 SECTION 8. 104.02 of the statutes is amended to read:

23 104.02 ~~Living wage prescribed~~ Living wage required. Every wage
24 paid or agreed to be paid by any employer to any employe, except as otherwise
25 provided in s. 104.07, shall be not less than a ~~living wage~~ living wage.

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1 SECTION 9. 104.03 of the statutes is amended to read:

2 104.03 Unlawful wages. Any employer paying, offering to pay, or agreeing
3 to pay any employe a wage lower or less in value than a ~~living wage~~ living wage is
4 guilty of a violation of ss. ~~104.01 to 104.12~~ this chapter.

5 SECTION 10. 104.035 of the statutes is created to read:

6 104.035 Minimum wage. (1) DEPARTMENT TO PROMULGATE RULES. The
7 department shall promulgate rules providing minimum hourly wages for the
8 employes specified in subs. (2) to ~~7~~ ⁽⁵⁾. The department shall calculate those minimum
9 hourly wages according to the methods specified in subs. (2) to ~~7~~ ⁽⁵⁾. Annually, within
10 30 days after the federal department of ~~labor~~ ^{health and human services} publishes its annual revision of the
11 poverty line, the department, using the procedure under s. 227.24 and the methods
12 specified in subs. (2) to ~~7~~ ⁽⁵⁾, shall promulgate rules revising the minimum hourly
13 wages provided under subs. (2) to ~~7~~ ⁽⁵⁾. Notwithstanding s. 227.24 (1) (a) and (2) (b),
14 the department ~~need~~ ^{is required to} not provide evidence of the necessity of ~~preservation~~ ^{preserving} of the
15 public peace, health, safety or welfare in promulgating rules revising the minimum
16 wages provided under subs. (2) to ~~7~~ ⁽⁵⁾. A revised minimum wage provided under subs.
17 (2) to ~~7~~ ⁽⁵⁾ shall first apply to wages earned beginning on the first day of the first month
18 beginning after the date on which that minimum wage is revised.

19 (2) EMPLOYES GENERALLY. Subject to the minimum wages provided under subs.
20 (3) to ~~7~~ ⁽⁵⁾, the department shall calculate the minimum hourly wage for employes
21 generally by dividing the poverty line ^(step) ~~for a family of 3 persons~~ by 2,080 and rounding
22 the quotient to the nearest multiple of 5 cents.

23 (3) ~~PROBATIONARY EMPLOYEES~~ ^{(3) OPPORTUNITY} EMPLOYEES ~~WORKING~~ ⁽⁴⁾. Notwithstanding the minimum wage
24 provided under sub. (2), ⁽⁷⁾ but subject to the minimum wages provided under subs. ~~7~~
25 to ~~7~~ ⁽⁷⁾, the department shall calculate the minimum wage for ~~probationary~~ ^{opportunity} employes

SENATE BILL 95

1 ~~18 years of age or over~~ by multiplying the result obtained under sub. (2) by 92.9% and
2 rounding the product to the nearest multiple of 5 cents.

3 ~~(4) EMPLOYES UNDER 18. Notwithstanding the minimum wage provided under~~
4 ~~sub. (2), but subject to the minimum wages provided under subs. (5) to (8), the~~
5 ~~department shall calculate the minimum wage for persons under 18 years of age who~~
6 ~~are not probationary employees by multiplying the result obtained under sub. (2) by~~
7 ~~91.7% and rounding the product to the nearest multiple of 5 cents and shall calculate~~
8 ~~the minimum wage for persons under 18 years of age who are probationary employees~~
9 ~~by multiplying the result obtained under sub. (2) by 84.7% and rounding the product~~
10 ~~to the nearest multiple of 5 cents.~~

11 ~~(4)~~ ^{(5) to (7)} (4) TIPPED EMPLOYEES. (a) Notwithstanding the minimum wages provided under
12 subs. (2) ~~to (4)~~ ^{and (3)}, but subject to the minimum wages provided under subs. ~~(5) to (8)~~, the
13 department shall calculate the minimum wage for tipped employees as follows:

14 1. For persons ~~18 years of age or over~~ ^{opportunity} who are not ~~probationary~~ employees, by
15 multiplying the result obtained under sub. (2) by 54.8% and rounding the product to
16 the nearest multiple of 5 cents, ~~and for persons 18 years of age or over~~ ^{§ 2. For} who are
17 ~~probationary~~ ^{opportunity} employees, by multiplying the result obtained under sub. (2) by 51.7%
18 and rounding the product to the nearest multiple of 5 cents.

19 ~~2. For persons under 18 years of age who are not probationary employees, by~~
20 ~~multiplying the result obtained under sub. (2) by 50.1% and rounding the product to~~
21 ~~the nearest multiple of 5 cents, and for persons under 18 years of age who are~~
22 ~~probationary employees, by multiplying the result obtained under sub. (2) by 47.0%~~
23 ~~and rounding the product to the nearest multiple of 5 cents.~~

24 (b) An employer may pay the minimum wages specified in par. (a) only if the
25 employer establishes by ~~his or her~~ ^{the employer's} payroll records that, when adding the tips received

SENATE BILL 95

1 by an employe to the wages under par. (a) paid to that employe, the employe receives
2 not less than the minimum wage specified in sub. (2) (3) [✓] ~~or (4)~~, whichever is
3 applicable.

4 ⁽³⁾ ~~(5)~~ ⁽⁴⁾ AGRICULTURAL EMPLOYES. Notwithstanding the minimum wages provided
5 under subs. (2) to ~~(4)~~, but subject to the minimum wages provided under subs. ⁽⁶⁾ ~~(7)~~ and
6 ~~(8)~~, the department shall calculate the minimum wage for persons 18 years of age or
7 over who are agricultural employes by multiplying the result obtained under sub. (2)
8 by 95.3% and rounding the product to the nearest multiple of 5 cents and shall
9 calculate the minimum wage for persons under [✓] 18 years of age who are agricultural
10 employes by multiplying the result obtained under sub. (2) by 87.0% and rounding
11 the product to the nearest multiple of 5 cents.

12 ⁽⁶⁾ ~~(6)~~ ~~(7)~~ MINIMUM WAGE ESTABLISHED BY DEPARTMENT. The department shall
13 promulgate rules providing the minimum wage for all of the following:

14 (a) A counselor employed at a seasonal recreational or educational camp,
15 including a day camp, for campers under the age of 18 ^{years of age} [✓]

16 (b) A person engaged in casual employment in and around an employer's home
17 on an irregular or intermittent basis for not more than 15 hours per week.

18 ~~(c) A person who lives with someone who has a physical or mental disability, and
19 who provides companionship, general household work and care, not including
20 practical or professional nursing ⁽¹⁾ (as defined in s. 441.11 (3) and (4), for that disabled
21 person. ^{the employer}~~

22 (d) A caddy on a golf course.

23 (e) An employe or ~~handicapped~~ ^{with a disability} worker covered under a license under s. 104.07.

24 (f) A student who is enrolled in a bona fide vocational training program ^{learner}

(g) A student employed by an independent college or university.

to advanced age of casual employment for own needs

*✓
LAW
7-21*

SENATE BILL 95

(17) ← (3)

(5) ✓

1

~~§§~~ DEPARTMENT MAY REVISE. The department may promulgate rules to increase a minimum wage provided under subs. (2) to ~~(4)~~.

2

3

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

4

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

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SECTION 12. 104.045 of the statutes is renumbered 104.045 (intro.) and amended to read:

18

19

104.045 ~~XXXXXX~~ Tipped employees Tips, meals and lodging, and hours worked. (intro.) The department shall ~~by rule determine what amount of~~ promulgate rules governing all of the following:

20

21

22

(1) The counting of tips or similar gratuities may be counted toward fulfillment of the employer's obligation under this chapter.

22

23

24

SECTION 13. 104.045 (2) and (3) of the statutes are created to read:

SENATE BILL 95

1 104.045 (2) The deduction of meals or lodging provided by an employer to an
2 employe from the employer's obligations under this chapter.

3 (3) The determination of hours worked by an employe during which the
4 employe is entitled to a living wage under this chapter.

5 **SECTION 14.** 104.05 of the statutes is amended to read:

6 **104.05 Complaints; investigation.** The department shall, within 20 days
7 after the filing of a verified complaint of any person ~~setting forth~~ ^{alleging} that the
8 wages paid to any employe ~~in any occupation~~ are not sufficient to enable the employe
9 to maintain himself or herself under conditions consistent with his or her welfare,
10 investigate and determine whether there is reasonable cause to believe that the wage
11 paid to ~~any~~ the employe is not a ~~living wage~~ living wage.

12 **SECTION 15.** 104.06 of the statutes is amended to read:

13 **104.06 Wage council; determination.** If, upon investigation, the
14 department finds that there is reasonable cause to believe that the wages paid to any
15 employe are not a ~~living wage~~ living wage, ~~it~~ shall appoint a wage council, selected
16 so as fairly to represent employers, employes and the public, to assist in its
17 investigations and determinations. The living wage department may use the
18 results of an investigation under this section to establish a living wage. A living wage
19 so determined upon shall be the living wage living wage for all employes within the
20 same class as established by the classification of the department under s. 104.04.

21 **SECTION 16.** ~~104.07 (1) and (2) of the statutes are amended to read:~~

22 ~~104.07 (1) The department shall make promulgate rules and grant licenses, to~~
23 ~~any employer who employs any employe who is unable to earn the living wage~~
24 ~~therefore determined upon, permitting such person to a living wage so that the~~
25 ~~employe may work for a wage which shall be that is commensurate with the~~

SENATE BILL 95

1 ~~employee's ability, and each license so granted shall establish a wage for the licensee~~
2 ~~employee.~~

3 (2) The department shall ~~make promulgate~~ rules and grant licenses to any
4 ~~sheltered workshops to permit the employment of workshop that employs any~~
5 ~~handicapped workers worker who is unable to earn the living wage theretofore~~
6 ~~determined upon permitting such persons to a living wage so that the handicapped~~
7 ~~worker may work for a wage which shall be that is commensurate with his or her~~
8 ability and productivity. A license granted to a sheltered workshop, under this
9 section, may be issued for the ~~entire workshop or a department thereof.~~

✓
Insert
10-9

10 SECTION 17. 104.08 (1) of the statutes is renumbered 104.08 (2) and amended
11 to read:

12 104.08 (2) ~~All persons~~ Any person working in an ~~occupation a trade industry~~
13 for which a ~~living wage~~ living wage has been established for minors, and who shall
14 have has no trade, shall, ~~if employed in an occupation which is a trade industry,~~ be
15 indentured under ~~the provisions of s. 106.01.~~

16 SECTION 18. 104.08 (1) (b) of the statutes is created to read:

17 (17) 104.08 (1) (b) "Trade industry" means an industry involving physical labor and
18 characterized by mechanical skill and training such as render a period of instruction
19 reasonably necessary.

20 SECTION 19. 104.08 (2) of the statutes is renumbered 104.08 (1) (intro.) and
21 amended to read:

22 104.08 (1) (intro.) A ~~"trade" or a "trade industry" within the meaning of ss.~~
23 104.01 to 104.12 shall be a trade or In this section:

SENATE BILL 95

1 (a) "Trade" means an industry occupation involving physical labor and
2 characterized by mechanical skill and training such as render a period of instruction
3 reasonably necessary.

4 (3) (a) The department shall investigate, determine and declare what
5 occupations and industries are included within the phrase a "trade" or a "trade
6 industry".

7 SECTION 20. 104.08 (3) of the statutes is renumbered 104.08 (3) (b)

8 SECTION 21. 104.10 of the statutes is amended to read:

9 **104.10 Penalty for intimidating witness.** Any employer who discharges or
10 threatens to discharge, or ^{who} in any way discriminates, or threatens to discriminate,
11 against any employe because the employe has testified or is about to testify, or
12 because the employer believes that the employe may testify, in any investigation or
13 proceeding relative to the enforcement of ss. 104.01 to 104.12 ~~the person~~ is guilty
14 ~~of a misdemeanor, and upon conviction thereof shall be punished by a fine of \$25, \$500~~
15 for each offense.

16 SECTION 22. 104.11 of the statutes is amended to read:

17 **104.11 Definition of violation.** Each day during which any an employer
18 ~~shall employ~~ employs a person for whom a ~~living wage~~ living wage has been fixed
19 ~~established~~ at a wage less than the ~~living wage fixed~~ established living wage shall
20 constitute a separate and distinct violation of ss. 104.01 to 104.12 this chapter.

21 SECTION 23. 104.12 of the statutes is amended to read:

22 **104.12 Complaints.** Any person may register with the department a
23 complaint that the wages paid to employes for whom a ~~living wage~~ living wage has
24 been established are less than that rate, and the department shall investigate the
25 matter and take all proceedings necessary to enforce the payment of a wage not less

this chapter
may be fined

scribbles

↓

SENATE BILL 95

1 than ~~the living wage~~ a living wage. Section 111.322 (2m) applies to discharge and
2 other discriminatory acts arising in connection with any proceeding under this
3 section.

4 **SECTION 24.** 234.94 (5) of the statutes is amended to read:

5 234.94 (5) “Primary employment” means work which pays at least the
6 minimum wage as established under ~~ch. 104 s. 104.035 (2)~~ [✓] or under federal law,
7 whichever is greater, offers adequate fringe benefits, including health insurance,
8 and is not seasonal or part time.

9 **SECTION 25.** 234.94 (8) of the statutes is amended to read:

10 234.94 (8) “Target group” means a population group for which the
11 unemployment level is at least 25% higher than the statewide unemployment level,
12 or a population group for which the average wage received is less than 1.2 times the
13 minimum wage as established under ~~ch. 104 s. 104.035 (2)~~ [✓] or under federal law,
14 whichever is greater. No population group is required to be located within a
15 contiguous geographic area to be considered a target group.

16 **SECTION 26.** 800.09 (1) (b) of the statutes is amended to read:

17 800.09 (1) (b) If the defendant agrees to perform community service work in
18 lieu of making restitution or paying the forfeiture, assessments and costs, or both,
19 the court may order that the defendant perform community service work for a public
20 agency or a nonprofit charitable organization that is designated by the court.
21 Community service work may be in lieu of restitution only if also agreed to by the
22 public agency or nonprofit charitable organization and by the person to whom
23 restitution is owed. The court may utilize any available resources, including any
24 community service work program, in ordering the defendant to perform community
25 service work. The number of hours of community service work required may not

SENATE BILL 95

1 exceed the number determined by dividing the amount owed on the forfeiture by the
2 minimum wage established under ~~ch. 104 for adults in nonagriculture, nontipped~~
3 ~~employment s. 104.035 (2)~~.[✓] The court shall ensure that the defendant is provided a
4 written statement of the terms of the community service order and that the
5 community service order is monitored.

6 **SECTION 27.** 800.095 (4) (b) 3. of the statutes is amended to read:

7 800.095 (4) (b) 3. That the defendant perform community service work for a
8 public agency or a nonprofit charitable organization designated by the court, except
9 that the court may not order the defendant to perform community service work
10 unless the defendant agrees to perform community service work and, if the
11 community service work is in lieu of restitution, unless the person to whom the
12 restitution is owed agrees. The court may utilize any available resources, including
13 any community service work program, in ordering the defendant to perform
14 community service work. The number of hours of community service work required
15 may not exceed the number determined by dividing the amount owed on the
16 forfeiture or restitution, or both, by the minimum wage established under ~~ch. 104 for~~
17 ~~adults in nonagriculture, nontipped employment s. 104.035 (2)~~.[✓] The court shall
18 ensure that the defendant is provided a written statement of the terms of the
19 community service order and that the community service order is monitored.

20 ~~**SECTION 28.** 895.035 (2m) (c) of the statutes is amended to read:~~

21 ~~895.035 (2m) (c) The court assigned to exercise jurisdiction under chs. 48 and~~
22 ~~938 may order that the child perform community service work for a public agency or~~
23 ~~nonprofit charitable organization that is designated by the court in lieu of making~~
24 ~~restitution or paying the forfeiture. If the parent agrees to perform community~~
25 ~~service work in lieu of making restitution or paying the forfeiture, the court may~~

SENATE BILL 95

§. 104.035 (2) ✓

SECTION 28

1 order that the parent perform community service work for a public agency or a
 2 nonprofit charitable organization that is designated by the court. Community
 3 service work may be in lieu of restitution only if also agreed to by the public agency
 4 or nonprofit charitable organization and by the person to whom restitution is owed.
 5 The court may utilize any available resources, including any community service
 6 work program, in ordering the child or parent to perform community service work.
 7 The number of hours of community service work required may not exceed the number
 8 determined by dividing the amount owed on the restitution or forfeiture by the
 9 minimum wage established under ch. 104 s. 104.035 (2) for adults in nonagriculture,
 10 ~~non-tipped employment~~. The court shall ensure that the child or parent is provided
 11 with a written statement of the terms of the community service order and that the
 12 community service order is monitored.

13

(END)

Insert
14-12

① Employees Generally

Opportunity employees \$4.25
(employees under 20 years
of age in their first
90 days of employment
with a particular employer)

Non-opportunity employees \$ 5.15

② Tipped Employees

Opportunity employees \$ 2.13

Non-opportunity employees \$ 2.33

③ Agricultural Employees

Adults \$ 4.05

Minors \$ 3.70

(end of insert)

~~Insert 7-21~~

¶ (c) A person who resides with and who provides companionship, care, not including practical or professional nursing, as defined in s. 44.11(3) and (4), and not more than 15 hours per week of general household work for an employer who, due to advanced age or physical or mental disability, cannot care for his or her own needs.

Card of insert

Insert 109

Section #. 104.07 (1) of the statutes is amended to read:

Each

promulgate

who is

that is

the employee's

104.07 (1) The department shall ~~make~~ rules and, except as provided under subs. (5) and (6), grant licenses to any employer who employs any employee ~~unable to earn the living wage theretofore determined upon, permitting such person to~~ work for a wage which shall be commensurate with ability ~~and each~~ license so granted shall establish a wage for ~~the licensee~~.

History: 1977 c. 29 s. 1651; 1977 c. 273; 1997 a. 112, 191, 237; s. 13.93 (2) (c).

a living wage
so that the
employee may

~~XXXXXXXXXX~~

~~any~~ employees of the licensee
who are unable to earn a
living wage

Insert 10-9
cont

Section #. 104.07 (2) of the statutes is amended to read:

promulgate

104.07 (2) The department shall ~~make~~ ^{promulgate} rules and, except as provided under subs. (5) and (6), grant licenses to sheltered workshops to permit the employment of workers with disabilities who are unable to earn ~~the living wage~~ ^a wage that is commensurate with their ability and productivity. A license granted to a sheltered workshop under this section may be issued for the entire workshop or a department of the workshop.

~~NOTE: Sub. (2) is shown as affected by three acts of the 1997 legislature and as merged by the revisor under s. 13.93 (2) (c).~~

~~History: 1977 c. 29 s. 1651; 1977 c. 273; 1997 a. 112, 191, 237; s. 13.93 (2) (c).~~

a living wage so
that those workers
may work for

(end insert)

Insert 14-12

Section #. 895.035 (2m) (c) of the statutes is amended to read:

s. 104.035 (2) ✓

895.035 (2m) (c) The court assigned to exercise jurisdiction under chs. 48 and 938 may order that the juvenile perform community service work for a public agency or nonprofit charitable organization that is designated by the court in lieu of making restitution or paying the forfeiture or surcharge. If the parent agrees to perform community service work in lieu of making restitution or paying the forfeiture or surcharge, the court may order that the parent perform community service work for a public agency or a nonprofit charitable organization that is designated by the court. Community service work may be in lieu of restitution only if also agreed to by the public agency or nonprofit charitable organization and by the person to whom restitution is owed. The court may utilize any available resources, including any community service work program, in ordering the juvenile or parent to perform community service work. The number of hours of community service work required may not exceed the number determined by dividing the amount owed on the restitution, forfeiture or surcharge by the minimum wage established under ~~ch. 104 for adults in nonagriculture, nontipped employment~~. The court shall ensure that the juvenile or parent is provided with a written statement of the terms of the community service order and that the community service order is monitored.

History: 1985 a. 311; 1987 a. 27; 1993 a. 71; 1995 a. 24, 77, 262, 352; 1997 a. 27, 35, 205, 239, 252; s. 13.93 (2) (c).

(end of insert)

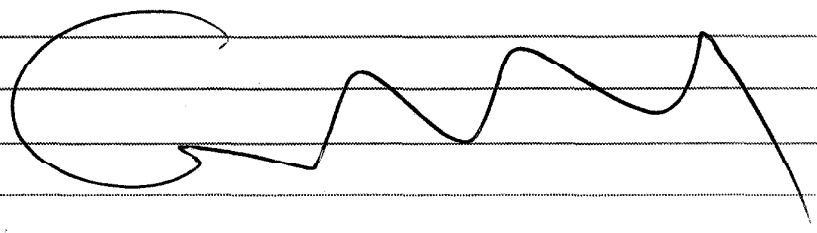
~~For a Summary
to be made 3/30/98~~

D-Note

In the interim since 1997 SB 95 was drafted, DWD has amended ch. DWD 72, Wis. Adm. Code, relating to the minimum wage, by eliminating the subminimum wage for minors, other than minors employed in agriculture, and by replacing the probationary wage with an "opportunity wage" for employees under 20 during their first 90 days of employment with a particular employer. Accordingly, this draft differs from 1997 SB 95 insofar as this draft does not provide for a separate, lower minimum wage for minors, other than minors employed in agriculture. As such, a minor, other than an agricultural worker, is entitled to the same minimum wage as an adult. The draft also differs from 1997 SB 95 in that the draft uses DWD's term, that is, "opportunity wage," rather than "probationary wage" to describe the minimum wage payable to a person under 20 years of age who has been employed

for a cumulative total of 30 calendar days or less
within the preceding 3-year^{ly} ~~or~~ period.

IF you have any questions about this
draft, please do not hesitate to contact me directly.

A handwritten signature in black ink, consisting of a large, stylized initial 'C' followed by a series of connected, wavy lines that form the rest of the name.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2648/1dn
GMM:jlj:jf

April 9, 1999

In the interim since 1997 SB-95 was drafted, DWD has amended ch. DWD 72, Wis. Adm. Code, relating to the minimum wage, by eliminating the subminimum wage for minors, other than minors employed in agriculture, and by replacing the probationary wage with an "opportunity wage" for employes under 20 during their first 90 days of employment with a particular employer. Accordingly, this draft differs from 1997 SB-95 insofar as this draft does not provide for a separate, lower minimum wage for minors, other than minors employed in agriculture. As such, a minor, other than an agricultural worker, is entitled to the same minimum wage as an adult. The draft also differs from 1997 SB-95 in that the draft uses DWD's term, that is, "opportunity wage", rather than "probationary wage" to describe the minimum wage payable to a person under 20 years of age who has been employed for a cumulative total of 30 calendar days or less within the preceding 3-year period.

If you have any questions about this draft, please do not hesitate to contact me directly.

Gordon M. Malaise
Senior Legislative Attorney
Phone: (608) 266-9738
E-mail: Gordon.Malaise@legis.state.wi.us

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 4/9/99

To: Senator Chvala

Relating to LRB drafting number: LRB-2648

Topic

Minimum wage

Subject(s)

Employ Priv - minimum wage

1. **JACKET** the draft for introduction Chuck Chvala

in the **Senate** or the **Assembly** _____ (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Gordon M. Malaise, Senior Legislative Attorney
Telephone: (608) 266-9738