

**1999 DRAFTING REQUEST**

**Assembly Amendment (AA-AB133)**

Received: **06/5/99**

Received By: **kuesejt**

Wanted: **Soon**

Identical to LRB:

For: **Legislative Fiscal Bureau 6-3013**

By/Representing: **Runde (DL)**

This file may be shown to any legislator: **NO**

Drafter: **kuesejt**

May Contact:

Alt. Drafters:

Subject: **State Government - state bldg pr**

Extra Copies:

**Pre Topic:**

LFB:.....Runde (DL) -

**Topic:**

Purchase of department of revenue building

**Instructions:**

Per LFB paper # 253, alternatives 1, 2 3 (a, b & c) and 4.

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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FE Sent For:			MRC 6/21	MRC/JF 6/21 <END>			

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FE Sent For:

**<END>**

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FE Sent For:

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## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

June 3, 1999

Joint Committee on Finance

Paper #253

### **Purchase of Department of Revenue Building (Building Program)**

[LFB 1999-01 Budget Summary: Page 122-1, #1(part)]

#### **CURRENT LAW**

Building program projects with a cost exceeding \$500,000 are required to be enumerated in the authorized state building program. To enumerate a project, the Legislature lists the project title and budget in a nonstatutory provision enacted as part of the biennial budget bill. In addition, the Legislature must authorize any new bonding or other monies needed to fund the project.

#### **BUILDING COMMISSION**

Enumerate the purchase of the Department of Revenue (DOR) building currently under construction in Madison at \$30.1 million. Provide \$30.1 million in program revenue supported borrowing to fund the costs of the purchase of the facility and the parking area.

#### **DISCUSSION POINTS**

##### **Enumeration Requirement**

1. Each biennium, the Building Commission, with assistance from the Department of Administration-Division of Facilities Development (DFD), reviews agency capital budget requests. After that review, the Building Commission and staff make recommendations for capital improvements and construction under the biennial state building program. The Legislature may modify those recommendations in approving the state building program for the biennium. Those projects enumerated within the state building program have legislative approval to be constructed as described in the enumeration.

2. The Building Commission has general authority to acquire leasehold interests for the

state in land and buildings. Also, the Commission may authorize the lease, lease purchase or acquisition of facilities that are constructed in the manner authorized by the Building Commission. The Commission may also authorize the lease, lease purchase or acquisition of existing facilities in lieu of state construction of any project enumerated in the authorized state building program.

3. On February 11, 1999, the Building Commission approved a 20-year lease for approximately 240,000 rentable square feet of office and parking space on Rimrock Road in Madison to be occupied by the DOR. The land on which the building will be constructed is considered a brownfield site. The lease contained an option to purchase the facility within the first three years of occupancy for \$26.5 million for the building and \$2.6 million for the parking areas. The remaining \$1.0 million in costs associated with the purchase of the facility is primarily associated with DFD project management costs.

4. The \$30.1 million in program revenue bonding would be paid off from rent payments paid to DOA from all agencies. All building costs are pooled in establishing state rental rates. These rent payments are generally split-funded based on the percentage of GPR, PR and SEG funding sources provided the agency. DOR is expected to first occupy the building in November, 2000.

5. The \$500,000 statutory enumeration requirement, which applies to state construction projects, provides the Legislature oversight over the expenditure of funds for new state facilities and major renovation or upgrade projects. Requiring that state building projects be enumerated also allows the Legislature to be involved in determining the need for such projects in conjunction with establishing the overall priorities for state facility expansion and improvements. Further, it allows for legislative input into the siting of state facilities and staff.

6. The Building Commission's authority to enter into leasehold arrangements was established to allow the state to lease additional space in the event that an agency needs additional office space due to expansion of existing programs or the consolidation a larger number of programs within one agency. It is unclear whether this authority was intended to allow the Building Commission and DOA to enter into a lease-purchase agreement for the construction of a new state facility that would house an entire agency.

7. The lease-purchase option has been used in recent years for the construction of state office space in Madison. The DOA and DATCP buildings were, and the state Justice/Law office building will be, built under a lease-purchase agreement. DOA indicates that using the lease-purchase option, as opposed to enumerating the facility through legislation, allows the state to take more timely advantage of market opportunities that occur.

8. In general, state construction projects are enumerated by the Legislature in the state building program and the Building Commission and DOA contract for, and oversee the construction of, those projects. Under a lease purchase arrangement, prior to legislative approval, DOA enters into a contractual obligation with a developer to site and construct a facility, with the state agreeing to a long-term lease for the facility. Also, contained in that lease is an option to purchase the facility, which cannot be exercised without legislative approval. Under the enumeration requirement, the

Legislature has oversight in determining the need and siting of facilities to be constructed. Under the lease-purchase arrangement, DOA and the Building Commission make these decisions, with the Legislature making the decision to purchase the facility. Because the Legislature must enumerate a facility to purchase and provide bonding authority or other monies to fund the purchase, there is legislative oversight. However, because it is nearly always more cost-effective for the state to purchase a facility the size of the proposed DOR building, rather than continue to lease the facility, the Legislature's decision is effectively already made.

9. Some concerns have been raised that using the lease-purchase option for the construction of state facilities diminishes the degree of legislative oversight of state facility construction. That is, while DOA and the Building Commission are within their authority to contract for the leasing of office space, it is argued that the lease-purchase option for projects that are to be constructed solely to house state agencies effectively circumvents the statutory enumeration requirement. If the degree of legislative oversight related to these facilities is a concern, the Committee could consider requiring that the construction of such facilities under lease-purchase agreements that involve initial occupancy by the state must be enumerated prior to the state entering into a the lease-purchase agreement.

10. Conversely, it could be argued that the Legislature does provide oversight of state building projects in that legislative representatives are on the Building Commission. The Building Commission consists of eight members: the Governor, six legislators and a private member appointed by the Governor.

11. The idea of a new state office facility for DOR that would consolidate staff into one central location has been discussed for several years. Further, DOA issued a request for proposal for the DOR facility in February, 1998, and the lease was approved by the Building Commission in February, 1999. Based on this timeline, it appears that sufficient time was available to request legislative approval for the facility, prior to the state entering into the current lease-purchase obligation for the facility.

12. If the Finance Committee does not approve the purchase of the DOR facility, the state would continue to be under the obligation to lease the facility for 20 years. DOA indicates that the purchase of the facility would be significantly more cost-effective than leasing the facility for 20 years.

### **Contracting Requirements**

13. State construction projects have to meet certain contracting requirements, such as the competitive bidding process, minority contracting provisions and prevailing wage requirements. Under lease-purchase arrangements, although the state is overseeing the construction of the project, the project is not a state-constructed facility and therefore, the contracting requirements associated with state construction projects do not apply.

14. The lease-purchase arrangement does not require the same competitive bidding process that is required for state construction projects. DOA uses the request for proposal (RFP)



process in selecting the site and contractor for the facility, with the most cost-effective proposal that meets the state's needs being selected. DOA issued an RFP for the DOR building in February, 1998, that described the size, dimensions, specifications and other requirements for the proposed facility. DOA officials indicate that the RFP process for the facility was very competitive, with seven developers submitting proposals.

15. DOA indicates that construction of a facility under a lease-purchase differs from state-contracted construction projects. Under lease-purchase agreements, the state enters into a lease with a developer, with an option to purchase at a certain price, but does not get involved in the direct bidding of contracts for the construction of the facility. DFD staff monitor the project so that the construction is completed to the required state standards. Under state-contracted construction of a facility, the state has some involvement in the contracting of each component or phase of the construction process.

16. Under current law, DOA is required to either solicit sealed bids or proposals for the procurement of materials, supplies, equipment and contractual services for the state. Because the lease-purchase agreement often involves the eventual procurement of a building that is being built for the purpose of initial occupancy by the state, the Finance Committee could consider applying these sealed bid or proposal requirements to lease-purchase agreements.

17. The RFP for the DOR building contains a clause that the developer must make every effort to award work to minority businesses enterprises and requires the developer to submit a report indicating the type and value of the work conducted by minority contractors. Further, a term of the lease agreement is that the lessor, in connection with the performance of work under the lease, agrees not to discriminate against any employee or applicant for employment. Under state contracts for construction, DOA must attempt to ensure that 5% of the total amount expended on state construction in each fiscal year be awarded to minority business contractors.

18. Under current law, for state construction projects, contractors may not authorize final payment to each subcontractor until an affidavit of compliance with prevailing wage laws is submitted to the contractor. Further, the state may not authorize final payment until the contractor submits the compliance affidavit to the state. The lease-purchase agreement for the DOR building does not contain any prevailing wage requirements on the part of contractors or subcontractors. DOA officials indicate that, due to the construction labor market in Madison, prevailing wage is not an issue associated with the DOR building.

19. Because, as with the current DOR building request, it is often the intention of the state to exercise the purchase option on lease agreements for lease-purchase construction projects, the Finance Committee could consider applying some of the contracting requirements for state construction projects to the construction of lease-purchase facilities.

#### **ALTERNATIVES TO BASE**

✓ 1. Approve the Building Commission's recommendation to enumerate the purchase of the Department of Revenue (DOR) building currently under construction in Madison at \$30.1

million. Provide \$30.1 million in program revenue supported borrowing to fund the costs of the purchase of the facility and the parking area.

<u>Alternative 1</u>	<u>BR</u>
1999-01 FUNDING (Change to Base)	\$30,100,000
[Change to Bill]	\$30,100,000]

2. Require that the state may not enter into a future lease agreement, with an option to purchase a building constructed for purposes of initial occupancy by the state, unless the construction and purchase of the facility is enumerated in a state building program prior to entering into the lease-purchase agreement.

3. Require that any lease or contract that involves the construction of a building for the purposes of initial occupancy by the state, and that contains an option for the state to purchase the building or facility, be subject to the following:

a. current law competitive sealed bids or proposals requirements associated with the state procurement activities;

b. an agreement by the contractor constructing the facility to ensure that 5% of the total amount expended on the construction of the facility be awarded to minority business contractors, which would be subject to DOA enforcement;

c. that the contractor constructing the facility agrees, in the contract, to pay prevailing wages to those providing labor for the project, including subcontractor labor.

4. Direct DOA, to the extent practicable, to ensure that the DOR facility is constructed in a manner consistent with the minority contracting and prevailing wage requirements for state-constructed facilities.

5. Maintain current law, where the DOR facility would be leased and the state would not exercise its purchase option.

Prepared by: Al Runde

1999

Date (time) needed

SOON

LRB b

0533, 1

LFB BUDGET AMENDMENT  
[ONLY FOR LFB]

JTR #6411  
Kmg, Jg

See form AMENDMENTS — COMPONENTS & ITEMS.

LFB AMENDMENT  
TO 1999 ASSEMBLY BILL 133 AND 1999 SENATE BILL 45

>>FOR JT. FIN. SUB. — NOT FOR INTRODUCTION<<

At the locations indicated, amend the bill as follows:

✓ #. Page 122, line 2: after that line insert:

INSA ✓

✓ #. Page 122, line 10: after that line insert:

INSB ✓

✓ #. Page 481, line 8: after that line insert:

INSC ✓

~~#. Page 1398, line 24: after that line insert:~~

~~INSD~~

~~#. Page 1447, line 17: after that line insert:~~

~~INSE~~

#. Page ..., line ...:

✓ # Page 972, line 3: after that line insert:

Ins. CD ✓

✓ # Page 979, line 6: after that line insert:

Ins. CG ✓

✓ # Page 980, line 7: after that line insert:

✓ Ins. CM

✓ # Page 1102, line 15: after that line insert:

Ins. CP ✓

✓ # Page 1353, line 18: after that line insert:

Ins. CR ✓

✓ # Page 1398, line 24: after that line insert:

Ins. D ✓

✓ # Page 1447, line 17: after that line insert:

Ins. E ✓

(End)

11  
2000 (L)

FWSA ✓

Section #. 13.48 (15) of the statutes is amended to read:

to  
Subject to the requirements of  
S. 20.924 (1) (i)

13.48 (15) ACQUISITION OF LEASEHOLD INTERESTS. ~~The~~ building commission shall have the author-  
ity to acquire leasehold interests in land and buildings where such authority is not otherwise provided  
to an agency by law. "

and  
(j)  
the

History: 1971 c. 125; 1973 c. 90; 1973 c. 243 s. 82; 1973 c. 335 s. 13; 1975 c. 39, 40, 198, 199; 1977 c. 26; 1977 c.  
29 ss. 7, 8; 1654 (8) (c); 1977 c. 325; 1977 c. 418 ss. 5, 5m, 924 (18) (c); 1979 c. 34, 221, 350; 1981 c. 341; 1983 a.  
27 ss. 11 to 12n, 2202 (5); 1983 a. 36 ss. 18 to 20, 96 (3); 1983 a. 207; 1985 a. 29, 120; 1987 a. 27, 186, 395, 399; 1989  
a. 31, 366; 1991 a. 39, 269, 315; 1993 a. 16, 288, 414; 1995 a. 27, 216, 225, 227; 1997 a. 5, 27, 35, 237.

31 (F) FWSB:1 ✓

Section #. 13.48 (19) of the statutes is amended to read:

13.48 (19) ALTERNATIVES TO STATE CONSTRUCTION. Whenever the building commission determines that the use of innovative types of design and construction processes will make better use of the resources and technology available in the building industry, the building commission may waive any or all of s. 16.855 if such action is in the best interest of the state and if the waiver is accomplished through formal action of the building commission. Subject to the requirements of s. 20.924 (1) ~~The~~ building commission may authorize the lease, lease purchase or acquisition of such facilities constructed in the manner authorized by the building commission. The building commission may also authorize the lease, lease purchase or acquisition of existing facilities in lieu of state construction of any project enumerated in the authorized state building program. (i) and (j), the

History: 1971 c. 125; 1973 c. 90; 1973 c. 243 s. 82; 1973 c. 335 s. 13; 1975 c. 39, 40, 198, 199; 1977 c. 26; 1977 c. 29 ss. 7, 8r, 1654 (8) (c); 1977 c. 325; 1977 c. 418 ss. 5, 5m, 924 (18) (c); 1979 c. 34, 221, 350; 1981 c. 34f; 1983 a. 27 ss. 11 to 12n, 2202 (5); 1983 a. 36 ss. 18 to 20, 96 (3); 1983 a. 207; 1985 a. 29, 120; 1987 a. 27, 186, 395, 399; 1989 a. 31, 366; 1991 a. 39, 269, 315; 1993 a. 16, 288, 414; 1995 a. 27, 216, 225, 227; 1997 a. 5, 27, 35, 237.

3i

TUSB:2

20.924

Section 13.48 (27) of the statutes is amended to read:

13.48 (27) LEASE OF CORRECTIONAL FACILITIES. ~~The~~ <sup>Subject to the requirements of s. 20.924 (1)</sup> building commission may lease any facility (i) for use of the department of corrections as a part of the authorized state building program, with an <sup>and</sup> option to purchase the facility by the state. Any lease shall provide for the facility to be <sup>constructed</sup> in accordance (j), with requirements and specifications approved by the department of administration and shall permit <sup>the</sup> inspection of the site and facility by agents of the department. (1).

History: 1971 c. 125; 1973 c. 90; 1973 c. 243 s. 82; 1973 c. 335 s. 13; 1975 c. 39, 40, 198, 199; 1977 c. 26; 1977 c. 29 ss. 7, 8r, 1654 (8) (c); 1977 c. 325; 1977 c. 418 ss. 5, 5m, 924 (18) (c); 1979 c. 34, 221, 350; 1981 c. 341; 1983 a. 27 ss. 11 to 12n, 2202 (5); 1983 a. 36 ss. 18 to 20, 96 (3); 1983 a. 207; 1985 a. 29, 120; 1987 a. 27, 186, 395, 399; 1989 a. 31, 366; 1991 a. 39, 269, 315; 1993 a. 16, 288, 414; 1995 a. 27, 216, 225, 227; 1997 a. 5, 27, 35, 237.

1999-2000 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRBb0533/1ins  
JTK & GMM.....

*TWS C*

*that provides*

SECTION 649m. 20.924 (1) (i) of the statutes is created to read:

20.924 (1) (i) Shall not enter into any lease or other contract ~~provided~~ for the construction of any building, structure or facility, or portion thereof, for initial occupancy by the state and that contains an option for the state to purchase the building, structure or facility unless the construction and purchase of the building, structure or facility is enumerated in the authorized state building program prior to entering into the lease or other contract.

*that provides*

SECTION 649n. 20.924 (1) (j) of the statutes is created to read:

20.924 (1) (j) Shall not enter into any lease or other contract ~~provided~~ for the construction of any building, structure or facility, or portion thereof, for initial occupancy by the state and that contains an option for the state to purchase the building, structure or facility unless the seller or lessor agrees to the following requirements:

*all of*

1. Bids or competitive sealed proposals will be submitted to the seller or lessor in accordance with the procedure for soliciting and submitting bids or competitive sealed proposals to the department of administration for contracts entered into by the state.

2. The contractor or contractors who construct the building, structure or facility will ensure that at least 5% of the total amount expended for construction of the building, structure or facility is awarded to contractors or subcontractors who are minority businesses, as defined ~~under~~ <sup>in</sup> s. 16.75 (3m) (a), and that the department of administration is empowered to enforce this requirement.

3. ~~GMM INSERT~~ → The seller or lessor will comply with s. 103.493. "



2005g

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1 ~~20.924 (1) (i) Shall not authorize the acquisition or leasing of any building,~~  
 2 ~~structure or facility, or portion thereof, for initial occupancy by the department of~~  
 3 ~~corrections for the purpose of confining persons serving a sentence of imprisonment~~  
 4 ~~to the Wisconsin state prisons under ch. 973 unless the seller or lessor agrees to~~  
 5 ~~comply with s. 103.495.~~

3

state buildings

6 " SECTION 4. 103.49 of the statutes is created to read:

3

7 **103.49 Wage rate on ~~correctional facilities~~ constructed by private**

developers

8 **persons.** (1) DEFINITIONS. In this section:

9 (a) "Area" means the county in which a proposed project that is subject to this  
 10 section is located or, if the department determines that there is insufficient wage  
 11 data in that county, "area" means those counties that are contiguous to that county  
 12 or, if the department determines that there is insufficient wage data in those  
 13 counties, "area" means those counties that are contiguous to those counties or, if the  
 14 department determines that there is insufficient wage data in those counties, "area"  
 15 means the entire state or, if the department is requested to review a determination  
 16 under sub. (4) (e), "area" means the city, village or town in which a proposed project  
 17 that is subject to this section is located.

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

19 (bg) "Insufficient wage data" means less than 500 hours of work performed in  
 20 a particular trade or occupation on projects that are similar to a proposed project that  
 21 is subject to this section.

22 (bm) "Multiple-trade project" means a project that is subject to this section and  
 23 in which no single trade accounts for 85% or more of the total labor cost of the project.

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

↓

Insert CD

Both commas are needed.

Buildings, structure or facility, or portion thereof, that is subject to 4. 20.924 (1) (1) and (5)

(use time)  
(use 3 times)

developer

1 (d) "Prevailing wage rate" for any trade or occupation engaged in the  
 2 construction of any ~~correctional facility, or in the conversion of any existing building,~~  
 3 ~~structure or facility into a correctional facility, under s. 301.19 (2)~~ in any area means  
 4 the hourly basic rate of pay, plus the hourly contribution for health insurance  
 5 benefits, vacation benefits, pension benefits and any other bona fide economic  
 6 benefit, paid directly or indirectly for a majority of the hours worked in the trade or  
 7 occupation on projects in the area, ~~or if there is no rate at which a majority of the~~  
 8 ~~hours worked in the trade or occupation on projects in the area is paid,~~ then the  
 9 prevailing wage rate for any trade or occupation engaged in the construction of any  
 10 ~~correctional facility, or in the conversion of any existing building, structure or facility~~  
 11 ~~into a correctional facility, under s. 301.19 (2)~~ in any area shall be the average hourly  
 12 basic rate of pay, weighted by the number of hours worked, plus the average hourly  
 13 contribution, weighted by the number of hours worked, for health insurance benefits,  
 14 vacation benefits, pension benefits and any other bona fide economic benefit, paid  
 15 directly or indirectly for all hours worked at the hourly basic rate of pay of the  
 16 highest-paid 51% of hours worked in that trade or occupation.

17 (e) "Single-trade public works project" means a project that is subject to this  
 18 section in which a single trade accounts for 85% or more of the total labor cost of the  
 19 project.

20 (f) "Truck driver" includes an owner-operator of a truck.

21 (2) PREVAILING WAGE RATES AND HOURS OF LABOR. Any private person ~~who enters~~  
 22 into a contract for the construction of any ~~correctional facility, or for the conversion~~  
 23 ~~of any existing building, structure or facility into a correctional facility, under s.~~  
 24 ~~301.19 (2)~~ shall include in the contract a stipulation that no person described in sub.

25 (3) may be permitted to work a greater number of hours per day or per week than the

Insert CD

1 prevailing hours of labor, except that any such person may be permitted or required  
2 to work more than such prevailing hours of labor per day and per week if he or she  
3 is paid for all hours worked in excess of the prevailing hours of labor at a rate of at  
4 least 1.5 times his or her hourly basic rate of pay; nor may he or she be paid less than  
5 the prevailing wage rate determined under sub. (4) in the same or most similar trade  
6 or occupation in the area in which the project is situated. A reference to the  
7 prevailing wage rates determined under sub. (4) and the prevailing hours of labor  
8 shall be published in any notice issued for the purpose of securing bids for the project.

9 If any contract or subcontract for a project that is subject to this section is entered  
10 into, the prevailing wage rates determined under sub. (4) and the prevailing hours  
11 of labor shall be physically incorporated into and made a part of the contract or  
12 subcontract, except that for a minor subcontract, as determined by the department,  
13 the department shall prescribe by rule the method of notifying the minor  
14 subcontractor of the prevailing wage rates and prevailing hours of labor applicable  
15 to the minor subcontract. The prevailing wage rates and prevailing hours of labor  
16 applicable to a contract or subcontract may not be changed during the time that the  
17 contract or subcontract is in force.

18 (3) COVERED EMPLOYEES. (a) Subject to par. (b), all of the following employees shall  
19 be paid the prevailing wage rate determined under sub. (4) and may not be permitted  
20 to work a greater number of hours per day or per week than the prevailing hours of  
21 labor, unless they are paid for all hours worked in excess of the prevailing hours of  
22 labor at a rate of at least 1.5 times their hourly basic rate of pay:

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

Insert CD

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

6           (b) Notwithstanding par. (a) 1., a laborer, worker, mechanic or truck driver who  
7 is regularly employed to process, manufacture, pick up or deliver materials or  
8 products from a commercial establishment that has a fixed place of business from  
9 which the establishment regularly supplies processed or manufactured materials or  
10 products is not entitled to receive the prevailing wage rate determined under sub.  
11 (4) or to receive at least 1.5 times his or her hourly basic rate of pay for all hours  
12 worked in excess of the prevailing hours of labor unless any of the following applies:

13           1. The laborer, worker, mechanic or truck driver is employed to deliver mineral  
14 aggregate such as sand, gravel or stone that is immediately incorporated into the  
15 work, and not stockpiled or further transported by truck, to or from the site of a  
16 project that is subject to this section by depositing the material substantially in  
17 place, directly or through spreaders from the transporting vehicle.

18           2. The laborer, worker, mechanic or truck driver is employed to transport  
19 excavated material or spoil from or return to the site of a project that is subject to this  
20 section.

21           (c) A truck driver who is an owner-operator of a truck shall be paid separately  
22 for his or her work and for the use of his or her truck.

developer

23           (4) INVESTIGATION; DETERMINATION. (a) Before a private ~~person~~  
24 contract or solicits bids on a contract for the performance of any work to which this  
25 section applies, the private ~~person~~ shall apply to the department to determine the

developer

Insert (D)

1 prevailing wage rate for each trade or occupation required in the work under  
2 contemplation in the area in which the work is to be done. The department shall  
3 make such investigations and hold such public hearings as may be necessary to  
4 define the trades or occupations that are commonly employed on projects that are  
5 subject to this section and to inform itself as to the prevailing wage rates in all areas  
6 of the state for those trades or occupations in order to determine the prevailing wage  
7 rate for each such trade or occupation. The department shall issue its determination  
8 within 30 days after receiving the request and shall file the same with the private  
9 ~~person~~ <sup>developer</sup> applying for the determination. For the information of the employees working  
10 on the project, the prevailing wage rates determined by the department, the  
11 prevailing hours of labor and the provisions of subs. (2) and (8) shall be kept posted  
12 by the private ~~person~~ <sup>developer</sup> in at least one conspicuous and easily accessible place on the  
13 site of the project.

14 (b) The department shall, by January 1 of each year, compile the prevailing  
15 wage rates for each trade or occupation in each area. The compilation shall, in  
16 addition to the current prevailing wage rates, include future prevailing wage rates  
17 when those prevailing wage rates can be determined for any trade or occupation in  
18 any area and shall specify the effective date of those future prevailing wage rates.  
19 If a construction project that is subject to this section extends into more than one  
20 area, there shall be but one standard of prevailing wage rates for the entire project.

21 (c) In determining prevailing wage rates under par. (a) or (b) for building  
22 projects, the department may not use data from projects that are subject to this  
23 section, s. 66.293, 103.49 or 103.50 or 40 USC 276a. In determining prevailing wage  
24 rates for heavy projects, the department may use data from projects that are subject  
25 to this section, s. 66.293, 103.49 or 103.50 or 40 USC 276a.

Insert (D)

1 (d) Any person may request a recalculation of any portion of an initial  
 2 determination within 30 days after the initial determination date if the person  
 3 submits evidence with the request showing that the prevailing wage rate for any  
 4 given trade or occupation included in the initial determination does not represent the  
 5 prevailing wage rate for that trade or occupation in the area. Such evidence shall  
 6 include wage rate information for work performed in the contested trade or  
 7 occupation in the area within the previous 12 months. The department shall affirm  
 8 or modify the initial determination within 15 days after the date on which the  
 9 department receives the request for recalculation.

10 (e) In addition to the recalculation under par. (d), the private ~~person~~ <sup>developer</sup> that  
 11 requested the determination under this subsection may request a review of any  
 12 portion of the determination within 30 days after the date of issuance of the  
 13 determination if the private ~~person~~ <sup>developer</sup> submits evidence with the request showing that  
 14 the prevailing wage rate for any given trade or occupation included in the  
 15 determination does not represent the prevailing wage rate for that trade or  
 16 occupation in the city, village or town in which the proposed project is located. That  
 17 evidence shall include wage rate information for the contested trade or occupation  
 18 on at least 3 similar projects located in the city, village or town where the proposed  
 19 project is located on which some work has been performed during the current survey  
 20 period and which were considered by the department in issuing its most recent  
 21 compilation under par. (b). The department shall affirm or modify the determination  
 22 within 15 days after the date on which the department receives the request for  
 23 review.

24 (5) NONAPPLICABILITY. This section does not apply to any single-trade project  
 25 for which the estimated cost of completion is less than \$30,000 or an amount

(use 7 times)

Insert CD

developer

1 determined by the department under s. 66.293 (5) or to any multiple-trade project  
2 for which the estimated cost of completion is less than \$150,000 or an amount  
3 determined by the department under s. 66.293 (5)

4 (6) COMPLIANCE. (a) When the department finds that a private person has not  
5 requested a determination under sub. (4) (a) or that a private person, contractor or  
6 subcontractor has not physically incorporated a determination into a contract or  
7 subcontract as required under sub. (2) or has not notified a minor subcontractor of  
8 a determination in the manner prescribed by the department by rule promulgated  
9 under sub. (2), the department shall notify the private person, contractor or  
10 subcontractor of such noncompliance and shall file the determination with the  
11 private person, contractor or subcontractor within 30 days after such notice.

12 (b) Upon completion of a project that is subject to this section and before  
13 receiving final payment for his or her work on the project, each agent or  
14 subcontractor shall furnish the contractor with an affidavit stating that the agent  
15 or subcontractor has complied fully with the requirements of this section. A  
16 contractor may not authorize final payment until such an affidavit is filed in proper  
17 form and order.

18 (c) Upon completion of a project that is subject to this section and before  
19 receiving final payment for his or her work on the project, each contractor shall file  
20 with the private person contracting for the work an affidavit stating that the  
21 contractor has complied fully with the requirements of this section and that the  
22 contractor has received an affidavit under par. (b) from each of the contractor's  
23 agents and subcontractors. A private person may not authorize a final payment until  
24 such an affidavit is filed in proper form and order. If a private person authorizes a  
25 final payment before such an affidavit is filed in proper form and order or if the

developer

Insert CD

developer

1 department determines, based on the greater weight of the credible evidence, that  
 2 any person performing the work specified in sub. (3) has been or may have been paid  
 3 less than the prevailing wage rate or less than 1.5 times the hourly basic rate of pay  
 4 for all hours worked in excess of the prevailing hours of labor and requests that the  
 5 private ~~person~~ withhold all or part of the final payment, but the private ~~person~~ fails  
 6 to do so, the private ~~person~~ is liable for all back wages payable up to the amount of  
 7 the final payment.

8 (7) RECORDS; INSPECTION; ENFORCEMENT. (a) Each contractor, subcontractor or  
 9 agent thereof performing work on a project that is subject to this section shall keep  
 10 full and accurate records clearly indicating the name and trade or occupation of every  
 11 person performing the work described in sub. (3) and an accurate record of the  
 12 number of hours worked by each of those persons and the actual wages paid for those  
 13 hours worked. If requested by any person, a contractor, subcontractor or agent  
 14 thereof performing work on a project that is subject to this section shall permit the  
 15 person to inspect and copy any of those records to the same extent as the department  
 16 would be required to permit inspection and copying of those records under ss. 19.31  
 17 to 19.39 if those records were in the custody of the department.

18 (b) It shall be the duty of the department to enforce this section. To this end  
 19 the department may demand and examine, and it shall be the duty of every  
 20 contractor, subcontractor and agent thereof to keep and furnish to the department,  
 21 copies of payrolls and other records and information relating to the wages paid to  
 22 persons performing the work described in sub. (3) for work to which this section  
 23 applies. The department may inspect records in the manner provided in this chapter.  
 24 Every contractor, subcontractor or agent performing work on a project that is subject  
 25 to this section is subject to the requirements of this chapter relating to the



Insert CD

1 examination of records. Section 111.322 (2m) applies to discharge and other  
2 discriminatory acts arising in connection with any proceeding under this section.

3 (c) If requested by any person, the department shall inspect the payroll records  
4 of any contractor, subcontractor or agent performing work on a project that is subject  
5 to this section to ensure compliance with this section. If the contractor, subcontractor  
6 or agent subject to the inspection is found to be in compliance and if the person  
7 making the request is a person performing the work specified in sub. (3), the  
8 department shall charge the person making the request the actual cost of the  
9 inspection. If the contractor, subcontractor or agent subject to the inspection is found  
10 to be in compliance and if the person making the request is not a person performing  
11 the work specified in sub. (3), the department shall charge the person making the  
12 request \$250 or the actual cost of the inspection, whichever is greater.

13 **(8) LIABILITY AND PENALTIES.** (a) Except as provided in pars. (b), (d) and (f), any  
14 contractor, subcontractor or agent thereof 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 any such violation continues shall be considered a separate offense.

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

Insert CD

1 (c) Any person employed on a project that is subject to this section who  
2 knowingly permits a contractor, subcontractor or agent thereof to pay him or her less  
3 than the prevailing wage rate set forth in the contract governing such project, who  
4 gives up, waives or returns any part of the compensation to which he or she is entitled  
5 under the contract, or who gives up, waives or returns any part of the compensation  
6 to which he or she is normally entitled for work on a project that is not subject to this  
7 section during a week in which the person works both on a project that is subject to  
8 this section and on a project that is not subject to this section, is guilty of an offense  
9 under s. 946.15 (2).

10 (d) Whoever induces any person who seeks to be or is employed on any project  
11 that is subject to this section to permit any part of the wages to which the person is  
12 entitled under the contract governing such project to be deducted from the person's  
13 pay is guilty of an offense under s. 946.15 (3), unless the deduction would be  
14 permitted under 29 CFR 3.5 or 3.6 from a person who is working on a project that is  
15 subject to 40 USC 276c.

16 (e) Any person employed on a project that is subject to this section who  
17 knowingly permits any part of the wages to which he or she is entitled under the  
18 contract governing such project to be deducted from his or her pay is guilty of an  
19 offense under s. 946.15 (4), unless the deduction would be permitted under 29 CFR  
20 3.5 or 3.6 from a person who is working on a project that is subject to 40 USC 276c.

21 (f) Paragraph (a) does not apply to any person who fails to provide any  
22 information to the department to assist the department in determining prevailing  
23 wage rates and prevailing hours of labor under sub. (4) (a) or (b).

24 (9) DEPARTMENT. (a) Except as provided under pars. (b) and (c), the department  
25 shall notify any private person applying for a determination under sub. (4) a list of

developer

Insert CD developer

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

12 (b) The department may not include in a notification under par. (a) the name  
 13 of any person on the basis of having let work to a person whom the department has  
 14 found to have failed to pay the prevailing wage rate determined under sub. (4) or has  
 15 found to have paid less than 1.5 times the hourly basic rate of pay for all hours worked  
 16 in excess of the prevailing hours of labor.

17 (c) This subsection does not apply to any contractor, subcontractor or agent that  
 18 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 that has not exhausted or waived all appeals.

21 (d) Any person submitting a bid on a project that is subject to this section shall  
 22 be required, on the date on which the person submits the bid, to identify any  
 23 construction business in which the person, or a shareholder, officer or partner of the  
 24 person, if the person is a business, owns, or has owned at least a 25% interest on the  
 25 date on which the person submits the bid or at any other time within 3 years

Insert CD

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

5 (e) The department shall promulgate rules to administer this subsection. " ✓

6 SECTION 2. ~~109.09 (1) of the statutes is amended to read:~~

7 ~~109.09 (1) The department shall investigate and attempt equitably to adjust  
8 controversies between employers and employes as to alleged wage claims. The  
9 department may receive and investigate any wage claim which is filed with the  
10 department, or received by the department under s. 109.10 (4), no later than 2 years  
11 after the date the wages are due. The department may, after receiving a wage claim,  
12 investigate any wages due from the employer against whom the claim is filed to any  
13 employe during the period commencing 2 years before the date the claim is filed. The  
14 department shall enforce this chapter and ss. 66.293, 103.02, 103.49, 103.495, 103.82  
15 and 104.12. In pursuance of this duty, the department may sue the employer on  
16 behalf of the employe to collect any wage claim or wage deficiency and ss. 109.03 (6)  
17 and 109.11 (2) and (3) shall apply to such actions. Except for actions under s. 109.10,  
18 the department may refer such an action to the district attorney of the county in  
19 which the violation occurs for prosecution and collection and the district attorney  
20 shall commence an action in the circuit court having appropriate jurisdiction. Any  
21 number of wage claims or wage deficiencies against the same employer may be joined  
22 in a single proceeding, but the court may order separate trials or hearings. In actions  
23 that are referred to a district attorney under this subsection, any taxable costs  
24 recovered by the district attorney shall be paid into the general fund of the county  
25 in which the violation occurs and used by that county to meet its financial~~

(end of insert)

2030m

[Insert CG]

preceding the date on which the person submits the bid, if the business has been found to have failed to pay the prevailing wage rate determined under sub. (4) or to have paid less than 1.5 times the hourly basic rate of pay for all hours worked in excess of the prevailing hours of labor.

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

SECTION 2. 109.09 (1) of the statutes is amended to read:

109.09 (1) The department shall investigate and attempt equitably to adjust controversies between employers and employes as to alleged wage claims. The department may receive and investigate any wage claim which is filed with the department, or received by the department under s. 109.10 (4), no later than 2 years after the date the wages are due. The department may, after receiving a wage claim, investigate any wages due from the employer against whom the claim is filed to any employe during the period commencing 2 years before the date the claim is filed. The

103.493

department shall enforce this chapter and ss. 66.293, 103.02, 103.49, ~~103.495~~, 103.82 and 104.12. In pursuance of this duty, the department may sue the employer on behalf of the employe to collect any wage claim or wage deficiency and ss. 109.03 (6) and 109.11 (2) and (3) shall apply to such actions. Except for actions under s. 109.10, the department may refer such an action to the district attorney of the county in which the violation occurs for prosecution and collection and the district attorney shall commence an action in the circuit court having appropriate jurisdiction. Any number of wage claims or wage deficiencies against the same employer may be joined in a single proceeding, but the court may order separate trials or hearings. In actions that are referred to a district attorney under this subsection, any taxable costs recovered by the district attorney shall be paid into the general fund of the county in which the violation occurs and used by that county to meet its financial



Insert CG

1 responsibility under s. 978.13 (2) for the operation of the office of the district attorney  
2 who prosecuted the action. " ✓

3 ~~SECTION 6. 111.322 (2m) (c) of the statutes is amended to read:~~

4 ~~111.322 (2m) (c) The individual files a complaint or attempts to enforce a right  
5 under s. 66.293 or 103.49 or 103.495 or testifies or assists in any action or proceeding  
6 under s. 66.293 or 103.49 or 103.495.~~

7 ~~SECTION 7. 227.01 (13) (t) of the statutes is amended to read:~~

8 ~~227.01 (13) (t) Ascertains and determines prevailing wage rates and prevailing  
9 hours of labor under ss. s. 66.293, 103.49 and 103.495 or 103.50, except that any  
10 action or inaction which ascertains and determines prevailing wage rates and  
11 prevailing hours of labor under ss. s. 66.293, 103.49 and 103.495 or 103.50 is subject  
12 to judicial review under s. 227.40.~~

13 ~~SECTION 8. 301.18 (1g) of the statutes is created to read:~~

14 ~~301.18 (1g) The department of administration may acquire or lease  
15 correctional facilities under 1999 Wisconsin Act .... (this act), section 15 (1) (b).~~

16 ~~SECTION 9. 301.19 of the statutes is created to read:~~

17 ~~**301.19 Construction of correctional facilities by private persons. (1)**~~

18 ~~In this section:~~

19 ~~(a) "Authorized jurisdiction" means a county, a group of counties acting under  
20 s. 302.44, the United States or a federally recognized American Indian tribe or band  
21 in this state.~~

22 ~~(b) "Correctional facility" means a prison, jail, house of correction or lockup  
23 facility but does not include an institution or facility or a portion of an institution or  
24 facility that is used solely to confine juveniles alleged or found to be delinquent under  
25 ch. 48, 1993 stats., or ch. 938.~~

(end of insert)

2033m

Insert CM ✓

1 responsibility under s. 978.13 (2) for the operation of the office of the district attorney  
2 who prosecuted the action.

3 " SECTION 6. 111.322 (2m) (c) of the statutes is amended to read: 103.493 ✓

4 111.322 (2m) (c) The individual files a complaint or attempts to enforce a right  
5 under s. 66.293 or, 103.49 or 103.495 or testifies or assists in any action or proceeding  
6 under s. 66.293 or, 103.49 or 103.495. "

7 SECTION 7. 227.01 (13) (t) of the statutes is amended to read:

8 227.01 (13) (t) Ascertains and determines prevailing wage rates and prevailing  
9 hours of labor under ss. s. 66.293, 103.49 and, 103.495 or 103.50, except that any  
10 action or inaction which ascertains and determines prevailing wage rates and  
11 prevailing hours of labor under ss. s. 66.293, 103.49 and, 103.495 or 103.50 is subject  
12 to judicial review under s. 227.40.

13 SECTION 8. 301.18 (1g) of the statutes is created to read:

14 301.18 (1g) The department of administration may acquire or lease  
15 correctional facilities under 1999 Wisconsin Act.... (this act), section 15 (1) (b).

16 SECTION 9. 301.19 of the statutes is created to read:

17 301.19 Construction of correctional facilities by private persons. (1)

18 In this section:

19 (a) "Authorized jurisdiction" means a county, a group of counties acting under  
20 s. 302.44, the United States or a federally recognized American Indian tribe or band  
21 in this state.

22 (b) "Correctional facility" means a prison, jail, house of correction or lockup  
23 facility but does not include an institution or facility or a portion of an institution or  
24 facility that is used solely to confine juveniles alleged or found to be delinquent under  
25 ch. 48, 1993 stats., or ch. 938.

(end of insert)

2353m

Insert CP

1 responsibility under s. 978.13 (2) for the operation of the office of the district attorney  
2 who prosecuted the action.

3 SECTION 6. 111.322 (2m) (c) of the statutes is amended to read:  
4 111.322 (2m) (c) The individual files a complaint or attempts to enforce a right  
5 under s. 66.293 or, 103.49 or 103.495 or testifies or assists in any action or proceeding  
6 under s. 66.293 or, 103.49 or 103.495.

7 SECTION 7. 227.01 (13) (t) of the statutes is amended to read: 103,493  
8 227.01 (13) (t) Ascertains and determines prevailing wage rates and prevailing  
9 hours of labor under ss. s. 66.293, 103.49 and, 103.495 or 103.50, except that any  
10 action or inaction which ascertains and determines prevailing wage rates and  
11 prevailing hours of labor under ss. s. 66.293, 103.49 and, 103.495 or 103.50 is subject  
12 to judicial review under s. 227.40. "

13 SECTION 8. 301.18 (1g) of the statutes is created to read:  
14 301.18 (1g) The department of administration may acquire or lease  
15 correctional facilities under 1999 Wisconsin Act .... (this act), section 15 (1) (b).

16 SECTION 9. 301.19 of the statutes is created to read:  
17 301.19 Construction of correctional facilities by private persons. (1)  
18 In this section:  
19 (a) "Authorized jurisdiction" means a county, a group of counties acting under  
20 s. 302.44, the United States or a federally recognized American Indian tribe or band  
21 in this state.  
22 (b) "Correctional facility" means a prison, jail, house of correction or lockup  
23 facility but does not include an institution or facility or a portion of an institution or  
24 facility that is used solely to confine juveniles alleged or found to be delinquent under  
25 ch. 48, 1993 stats., or ch. 938.

(led & mact)



Insert CR ✓

1 (2) No private person may commence construction of a correctional facility or  
2 commence conversion of an existing building, structure or facility into a correctional  
3 facility unless all of the following requirements are met:

4 (a) The building commission has authorized the lease or acquisition of the  
5 building, structure or facility by the state upon the completion of the construction or  
6 conversion.

7 (b) The building, structure or facility is enumerated in the authorized state  
8 building program.

9 (c) The private person complies with s. 103.495.

10 (3) Subsection (2) does not apply to buildings, structures or facilities that are  
11 constructed or converted under a contract with and for use by an authorized  
12 jurisdiction.

13 SECTION 10 301.235 (2) (e) of the statutes is amended to read:

14 301.235 (2) (e) All laws, except s. 20.924 (1) (i) and ch. 150, conflicting with this  
15 section are, insofar as they conflict with this section and no further, superseded by  
16 this section

3191d

103.493 ✓

17 SECTION 11. 946.15 (1) of the statutes is amended to read:

18 946.15 (1) Any employer, or any agent or employe of an employer, who induces  
19 any person who seeks to be or is employed pursuant to a public contract as defined  
20 in s. 66.29 (1) (c) or who seeks to be or is employed on a project on which a prevailing  
21 wage rate determination has been issued by the department of workforce  
22 development under s. 66.293 (3), 103.49 (3), ~~103.495 (4)~~ or 103.50 (3) or by a local  
23 governmental unit, as defined in s. 66.293 (1) (d), under s. 66.293 (6) to give up, waive  
24 or return any part of the compensation to which that person is entitled under his or  
25 her contract of employment or under the prevailing wage rate determination issued



3191e

Insert CR ✓

103,493 ✓

1 by the department or local governmental unit, or who reduces the hourly basic rate  
2 of pay normally paid to an employe for work on a project on which a prevailing wage  
3 rate determination has not been issued under s. 66.293 (3) or (6), 103.49 (3), ~~103.495~~  
4 (4) or 103.50 (3) during a week in which the employe works both on a project on which  
5 a prevailing wage rate determination has been issued and on a project on which a  
6 prevailing wage rate determination has not been issued, is guilty of a Class E felony.

7 SECTION 12. 946.15 (2) of the statutes is amended to read: 103,493 ✓

8 946.15 (2) Any person employed pursuant to a public contract as defined in s.  
9 66.29 (1) (c) or employed on a project on which a prevailing wage rate determination  
10 has been issued by the department of workforce development under s. 66.293 (3),  
11 103.49 (3), ~~103.495~~ (4) or 103.50 (3) or by a local governmental unit, as defined in s.  
12 66.293 (1) (d), under s. 66.293 (6) who gives up, waives or returns to the employer or  
13 agent of the employer any part of the compensation to which the employe is entitled  
14 under his or her contract of employment or under the prevailing wage determination  
15 issued by the department or local governmental unit, 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. 66.293 (3) or (6),  
18 103.49 (3), ~~103.495~~ (4) or 103.50 (3) during a week in which the person 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.

103,493 ✓

3191f

22 SECTION 13. 946.15 (3) of the statutes is amended to read:

23 946.15 (3) Any employer or labor organization, or any agent or employe of an  
24 employer or labor organization, who induces any person who seeks to be or is  
25 employed on a project on which a prevailing wage rate determination has been issued



3191g

Insert CR ✓

103.493 ✓

103.493 ✓

1 by the department of workforce development under s. 66.293 (3), 103.49 (3), ~~103.494~~  
2 ~~(4)~~ or 103.50 (3) or by a local governmental unit, as defined in s. 66.293 (1) (d), under  
3 s. 66.293 (6) to permit any part of the wages to which that person is entitled under  
4 the prevailing wage rate determination issued by the department or local  
5 governmental unit to be deducted from the person's pay is guilty of a Class E felony,  
6 unless the deduction would be permitted under 29 CFR 3.5 or 3.6 from a person who  
7 is working on a project that is subject to 40 USC 276c.

8 SECTION 14. 946.15 (4) of the statutes is amended to read:

9 946.15 (4) Any person employed on a project on which a prevailing wage rate  
10 determination has been issued by the department of workforce development under  
11 s. 66.293 (3), 103.49 (3), ~~103.497 (4)~~ or 103.50 (3) or by a local governmental unit, as  
12 defined in s. 66.293 (1) (d), under s. 66.293 (6) who permits any part of the wages to  
13 which that person is entitled under the prevailing wage rate determination issued  
14 by the department or local governmental unit to be deducted from his or her pay is  
15 guilty of a Class C misdemeanor, unless the deduction would be permitted under 29  
16 CFR 3.5 or 3.6 from a person who is working on a project that is subject to 40 USC  
17 276c. " ✓

18 SECTION 15. Nonstatutory provisions.

19 (1) PRIVATE CORRECTIONAL FACILITIES.

20 (a) *Definition.* In this subsection, "private correctional facility" means, along  
21 with the land on which it is situated, a building, structure or facility meeting all of  
22 the following requirements:

- 23 1. The building, structure or facility has been or is being constructed on the  
24 effective date of this subdivision.

(end of insert)

1       2. The building, structure or facility has been or is being constructed for the  
2 confinement of one or more individuals who, as a result of a court order from any  
3 jurisdiction, are in custody for the commission or alleged commission of a crime and  
4 who would be classified as medium or maximum security under the department of  
5 corrections' security classification system.

6       3. The building, structure or facility has not been and is not being constructed  
7 under a contract with the department of administration, a county, a group of counties  
8 acting under section 302.44 of the statutes, the department of corrections and any  
9 county or group of counties acting under section 302.45 of the statutes, the United  
10 States or a federally recognized American Indian tribe or band in this state.

11       (b) *Acquisition or lease of private correctional facilities.* The department of  
12 administration shall, no later than the 30th day after the effective date of this  
13 paragraph, commence efforts to negotiate with the owner of each private correctional  
14 facility located in this state to purchase the facility or to lease the facility. If the  
15 department reaches an agreement to purchase or lease the facility, the purchase or  
16 lease is subject to approval of the building commission and the joint committee on  
17 finance. If the department is unable to reach an agreement with the owner, the  
18 building commission may, notwithstanding section 13.48 (16) of the statutes, acquire  
19 the private correctional facility by condemnation under section 32.06 of the statutes,  
20 except that this paragraph constitutes the determination of the necessity of taking  
21 for the purposes of section 32.06 (1) of the statutes. Section 13.48 (19) (b) of the  
22 statutes, as created by this act, does not apply to the lease or acquisition of a private  
23 correctional facility under this paragraph.

24       (c) *Returning prisoners from out-of-state facilities.* The department of  
25 corrections shall use the increase in beds resulting from any lease or acquisition of

FNS D

" (18) DEPARTMENT OF REVENUE BUILDING CONSTRUCTION REQUIREMENTS. The department of administration shall, to the extent practicable, ensure that the Department of Revenue building enumerated under SECTION 9107 (1) (a) of this act is constructed in a manner that is consistent with the requirements imposed under section 20.924 (1) (j) 2. and 3. of the statutes, as created by this act. "

Insert E

slash  
SECTION 15  
LEASE/PURCHASE OF STATE BUILDINGS

Init. App.

1 private correctional facilities under paragraph (b) to reduce its reliance on contracts  
2 for the transfer and confinement of Wisconsin prisoners in other states under section  
3 301.21 of the statutes and to return to correctional facilities in Wisconsin prisoners  
4 who are confined in other states under those contracts.

5 (d) *Inapplicability to juvenile facilities.* This subsection does not apply to a  
6 building, structure or facility that has been or is being constructed solely to confine  
7 juveniles alleged or found to be delinquent.

8 **SECTION 16. Initial applicability.**

9 ~~(1) CONSTRUCTION OF CORRECTIONAL FACILITIES BY PRIVATE PERSONS~~ The  
10 treatment of sections 20.924 (1) (i), ~~103.495~~ and 301.19 of the statutes first applies  
11 to contracts for the construction of a correctional facility, or for the conversion of an  
12 existing building, structure or facility into a correctional facility entered into, or  
13 extended, modified or renewed, on the effective date of this subsection. "

end of Insert)

and (j), 103.493, 109.09 (1), 111.322 (2m) (2),  
227.01 (13) (x) and 946.15 (1), (2), (3) and (4)

any building, structure or facility, or portion thereof,  
for initial occupancy by the state that contain  
an option for the state to purchase the building,  
structure or facility



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRBb0533/f  
JTK&GMM:kmg&jlg:jf



Today

LFB:.....Runde (DL) – Purchase of department of revenue building

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

**LFB AMENDMENT**

**TO 1999 ASSEMBLY BILL 133 AND 1999 SENATE BILL 45**

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 122, line 2: after that line insert:

3 “SECTION 2t. 13.48 (15) of the statutes is amended to read:

4 13.48 (15) ACQUISITION OF LEASEHOLD INTERESTS. The Subject to the  
5 requirements of s. 20.924 (1) (i) and (j), the building commission shall have the  
6 authority to acquire leasehold interests in land and buildings where such authority  
7 is not otherwise provided to an agency by law.”

8 **2.** Page 122, line 10: after that line insert:

9 “SECTION 3f. 13.48 (19) of the statutes is amended to read:

10 13.48 (19) ALTERNATIVES TO STATE CONSTRUCTION. Whenever the building  
11 commission determines that the use of innovative types of design and construction

1 processes will make better use of the resources and technology available in the  
2 building industry, the building commission may waive any or all of s. 16.855 if such  
3 action is in the best interest of the state and if the waiver is accomplished through  
4 formal action of the building commission. The building commission may authorize  
5 the lease, lease purchase or acquisition of such facilities constructed in the manner  
6 authorized by the building commission. The Subject to the requirements of s. 20.924  
7 (1) (i) and (j), the building commission may also authorize the lease, lease purchase  
8 or acquisition of existing facilities in lieu of state construction of any project  
9 enumerated in the authorized state building program.

10 **SECTION 3i.** 13.48 (27) of the statutes is amended to read:

11 13.48 (27) LEASE OF CORRECTIONAL FACILITIES. The Subject to the requirements  
12 of s. 20.924 (1) (i) and (j), the building commission may lease any facility for use of  
13 the department of corrections as a part of the authorized state building program,  
14 with an option to purchase the facility by the state. Any lease shall provide for the  
15 facility to be constructed in accordance with requirements and specifications  
16 approved by the department of administration and shall permit inspection of the site  
17 and facility by agents of the department.”.

18 **3.** Page 481, line 8: after that line insert:

19 “**SECTION 649m.** 20.924 (1) (i) of the statutes is created to read:

20 20.924 (1) (i) Shall not enter into any lease or other contract that provides for  
21 the construction of any building, structure or facility, or portion thereof, for initial  
22 occupancy by the state and that contains an option for the state to purchase the  
23 building, structure or facility unless the construction and purchase of the building,



1 structure or facility is enumerated in the authorized state building program prior to  
2 entering into the lease or other contract.

3 **SECTION 649n.** 20.924 (1) (j) of the statutes is created to read:

4 20.924 (1) (j) Shall not enter into any lease or other contract that provides for  
5 the construction of any building, structure or facility, or portion thereof, for initial  
6 occupancy by the state and that contains an option for the state to purchase the  
7 building, structure or facility unless the seller or lessor agrees to all of the following  
8 requirements:

9 1. Bids or competitive sealed proposals will be submitted to the seller or lessor  
10 in accordance with the procedure for soliciting and submitting bids or competitive  
11 sealed proposals to the department of administration for contracts entered into by  
12 the state.

13 2. The contractor or contractors who construct the building, structure or facility  
14 will ensure that at least 5% of the total amount expended for construction of the  
15 building, structure or facility is awarded to contractors or subcontractors who are  
16 minority businesses, as defined in s. 16.75 (3m) (a), and that the department of  
17 administration is empowered to enforce this requirement.

18 ~~3. The seller or lessor will comply with s. 103.493."~~

Insert  
3-18

19 **4.** Page 972, line 3: after that line insert:

20 "SECTION 2005g. 103.493 of the statutes is created to read:

21 **103.493 Wage rate on state buildings constructed by private**  
22 **developers.** (1) DEFINITIONS. In this section:

23 (a) "Area" means the county in which a proposed project that is subject to this  
24 section is located or, if the department determines that there is insufficient wage

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

8 (b) “Hourly basic rate of pay” has the meaning given in s. 103.49 (1) (b).

9 (bg) “Insufficient wage data” means less than 500 hours of work performed in  
10 a particular trade or occupation on projects that are similar to a proposed project that  
11 is subject to this section.

12 (bm) “Multiple-trade project” means a project that is subject to this section and  
13 in which no single trade accounts for 85% or more of the total labor cost of the project.

14 (c) “Prevailing hours of labor” has the meaning given in s. 103.49 (1) (c).

15 (d) “Prevailing wage rate” for any trade or occupation engaged in the  
16 construction of any building, structure or facility, or portion thereof, that is subject  
17 to s. 20.294 (1) (i) and (j) in any area means the hourly basic rate of pay, plus the  
18 hourly contribution for health insurance benefits, vacation benefits, pension benefits  
19 and any other bona fide economic benefit, paid directly or indirectly for a majority  
20 of the hours worked in the trade or occupation on projects in the area, or if there is  
21 no rate at which a majority of the hours worked in the trade or occupation on projects  
22 in the area is paid, then the prevailing wage rate for any trade or occupation engaged  
23 in the construction of any building, structure or facility, or portion thereof, that is  
24 subject to s. 20.294 (1) (i) and (j) in any area shall be the average hourly basic rate  
25 of pay, weighted by the number of hours worked, plus the average hourly

1 contribution, weighted by the number of hours worked, for health insurance benefits,  
2 vacation benefits, pension benefits and any other bona fide economic benefit, paid  
3 directly or indirectly for all hours worked at the hourly basic rate of pay of the  
4 highest-paid 51% of hours worked in that trade or occupation.

5 (e) "Single-trade public works project" means a project that is subject to this  
6 section in which a single trade accounts for 85% or more of the total labor cost of the  
7 project.

8 (f) "Truck driver" includes an owner-operator of a truck.

9 (2) PREVAILING WAGE RATES AND HOURS OF LABOR. Any private developer who  
10 enters into a contract for the construction of any building, structure or facility, or  
11 portion thereof, that is subject to s. 20.294 (1) (i) and (j) shall include in the contract  
12 a stipulation that no person described in sub. (3) may be permitted to work a greater  
13 number of hours per day or per week than the prevailing hours of labor, except that  
14 any such person may be permitted or required to work more than such prevailing  
15 hours of labor per day and per week if he or she is paid for all hours worked in excess  
16 of the prevailing hours of labor at a rate of at least 1.5 times his or her hourly basic  
17 rate of pay; nor may he or she be paid less than the prevailing wage rate determined  
18 under sub. (4) in the same or most similar trade or occupation in the area in which  
19 the project is situated. A reference to the prevailing wage rates determined under  
20 sub. (4) and the prevailing hours of labor shall be published in any notice issued for  
21 the purpose of securing bids for the project. If any contract or subcontract for a  
22 project that is subject to this section is entered into, the prevailing wage rates  
23 determined under sub. (4) and the prevailing hours of labor shall be physically  
24 incorporated into and made a part of the contract or subcontract, except that for a  
25 minor subcontract, as determined by the department, the department shall

1 prescribe by rule the method of notifying the minor subcontractor of the prevailing  
2 wage rates and prevailing hours of labor applicable to the minor subcontract. The  
3 prevailing wage rates and prevailing hours of labor applicable to a contract or  
4 subcontract may not be changed during the time that the contract or subcontract is  
5 in force.

6 (3) COVERED EMPLOYEES. (a) Subject to par. (b), all of the following employes shall  
7 be paid the prevailing wage rate determined under sub. (4) and may not be permitted  
8 to work a greater number of hours per day or per week than the prevailing hours of  
9 labor, unless they are paid for all hours worked in excess of the prevailing hours of  
10 labor at a rate of at least 1.5 times their hourly basic rate of pay:

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

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

18 (b) Notwithstanding par. (a) 1., a laborer, worker, mechanic or truck driver who  
19 is regularly employed to process, manufacture, pick up or deliver materials or  
20 products from a commercial establishment that has a fixed place of business from  
21 which the establishment regularly supplies processed or manufactured materials or  
22 products is not entitled to receive the prevailing wage rate determined under sub.  
23 (4) or to receive at least 1.5 times his or her hourly basic rate of pay for all hours  
24 worked in excess of the prevailing hours of labor unless any of the following applies:

1           1. The laborer, worker, mechanic or truck driver is employed to deliver mineral  
2 aggregate such as sand, gravel or stone that is immediately incorporated into the  
3 work, and not stockpiled or further transported by truck, to or from the site of a  
4 project that is subject to this section by depositing the material substantially in  
5 place, directly or through spreaders from the transporting vehicle.

6           2. The laborer, worker, mechanic or truck driver is employed to transport  
7 excavated material or spoil from or return to the site of a project that is subject to this  
8 section.

9           (c) A truck driver who is an owner-operator of a truck shall be paid separately  
10 for his or her work and for the use of his or her truck.

11           (4) INVESTIGATION; DETERMINATION. (a) Before a private developer enters into  
12 a contract or solicits bids on a contract for the performance of any work to which this  
13 section applies, the private developer shall apply to the department to determine the  
14 prevailing wage rate for each trade or occupation required in the work under  
15 contemplation in the area in which the work is to be done. The department shall  
16 make such investigations and hold such public hearings as may be necessary to  
17 define the trades or occupations that are commonly employed on projects that are  
18 subject to this section and to inform itself as to the prevailing wage rates in all areas  
19 of the state for those trades or occupations in order to determine the prevailing wage  
20 rate for each such trade or occupation. The department shall issue its determination  
21 within 30 days after receiving the request and shall file the same with the private  
22 developer applying for the determination. For the information of the employees  
23 working on the project, the prevailing wage rates determined by the department, the  
24 prevailing hours of labor and the provisions of subs. (2) and (8) shall be kept posted

1 by the private developer in at least one conspicuous and easily accessible place on the  
2 site of the project.

3 (b) The department shall, by January 1 of each year, compile the prevailing  
4 wage rates for each trade or occupation in each area. The compilation shall, in  
5 addition to the current prevailing wage rates, include future prevailing wage rates  
6 when those prevailing wage rates can be determined for any trade or occupation in  
7 any area and shall specify the effective date of those future prevailing wage rates.  
8 If a construction project that is subject to this section extends into more than one  
9 area, there shall be but one standard of prevailing wage rates for the entire project.

10 (c) In determining prevailing wage rates under par. (a) or (b) for building  
11 projects, the department may not use data from projects that are subject to this  
12 section, s. 66.293, 103.49 or 103.50 or 40 USC 276a. In determining prevailing wage  
13 rates for heavy projects, the department may use data from projects that are subject  
14 to this section, s. 66.293, 103.49 or 103.50 or 40 USC 276a.

15 (d) Any person may request a recalculation of any portion of an initial  
16 determination within 30 days after the initial determination date if the person  
17 submits evidence with the request showing that the prevailing wage rate for any  
18 given trade or occupation included in the initial determination does not represent the  
19 prevailing wage rate for that trade or occupation in the area. Such evidence shall  
20 include wage rate information for work performed in the contested trade or  
21 occupation in the area within the previous 12 months. The department shall affirm  
22 or modify the initial determination within 15 days after the date on which the  
23 department receives the request for recalculation.

24 (e) In addition to the recalculation under par. (d), the private developer that  
25 requested the determination under this subsection may request a review of any

1 portion of the determination within 30 days after the date of issuance of the  
2 determination if the private developer submits evidence with the request showing  
3 that the prevailing wage rate for any given trade or occupation included in the  
4 determination does not represent the prevailing wage rate for that trade or  
5 occupation in the city, village or town in which the proposed project is located. That  
6 evidence shall include wage rate information for the contested trade or occupation  
7 on at least 3 similar projects located in the city, village or town where the proposed  
8 project is located on which some work has been performed during the current survey  
9 period and which were considered by the department in issuing its most recent  
10 compilation under par. (b). The department shall affirm or modify the determination  
11 within 15 days after the date on which the department receives the request for  
12 review.

13 (5) NONAPPLICABILITY. This section does not apply to any single-trade project  
14 for which the estimated cost of completion is less than \$30,000 or an amount  
15 determined by the department under s. 66.293 (5) or to any multiple-trade project  
16 for which the estimated cost of completion is less than \$150,000 or an amount  
17 determined by the department under s. 66.293 (5).

18 (6) COMPLIANCE. (a) When the department finds that a private developer has  
19 not requested a determination under sub. (4) (a) or that a private developer,  
20 contractor or subcontractor has not physically incorporated a determination into a  
21 contract or subcontract as required under sub. (2) or has not notified a minor  
22 subcontractor of a determination in the manner prescribed by the department by  
23 rule promulgated under sub. (2), the department shall notify the private developer,  
24 contractor or subcontractor of such noncompliance and shall file the determination

1 with the private developer, contractor or subcontractor within 30 days after such  
2 notice.

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

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

24 (7) RECORDS; INSPECTION; ENFORCEMENT. (a) Each contractor, subcontractor or  
25 agent thereof performing work on a project that is subject to this section shall keep



1 full and accurate records clearly indicating the name and trade or occupation of every  
2 person performing the work described in sub. (3) and an accurate record of the  
3 number of hours worked by each of those persons and the actual wages paid for those  
4 hours worked. If requested by any person, a contractor, subcontractor or agent  
5 thereof performing work on a project that is subject to this section shall permit the  
6 person to inspect and copy any of those records to the same extent as the department  
7 would be required to permit inspection and copying of those records under ss. 19.31  
8 to 19.39 if those records were in the custody of the department.

9 (b) It shall be the duty of the department to enforce this section. To this end  
10 the department may demand and examine, and it shall be the duty of every  
11 contractor, subcontractor and agent thereof to keep and furnish to the department,  
12 copies of payrolls and other records and information relating to the wages paid to  
13 persons performing the work described in sub. (3) for work to which this section  
14 applies. The department may inspect records in the manner provided in this chapter.  
15 Every contractor, subcontractor or agent performing work on a project that is subject  
16 to this section is subject to the requirements of this chapter relating to the  
17 examination of records. Section 111.322 (2m) applies to discharge and other  
18 discriminatory acts arising in connection with any proceeding under this section.

19 (c) If requested by any person, the department shall inspect the payroll records  
20 of any contractor, subcontractor or agent performing work on a project that is subject  
21 to this section to ensure compliance with this section. If the contractor, subcontractor  
22 or agent subject to the inspection is found to be in compliance and if the person  
23 making the request is a person performing the work specified in sub. (3), the  
24 department shall charge the person making the request the actual cost of the  
25 inspection. If the contractor, subcontractor or agent subject to the inspection is found

1 to be in compliance and if the person making the request is not a person performing  
2 the work specified in sub. (3), the department shall charge the person making the  
3 request \$250 or the actual cost of the inspection, whichever is greater.

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

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

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

1 (d) Whoever induces any person who seeks to be or is employed on any project  
2 that is subject to this section to permit any part of the wages to which the person is  
3 entitled under the contract governing such project to be deducted from the person's  
4 pay is guilty of an offense under s. 946.15 (3), unless the deduction would be  
5 permitted under 29 CFR 3.5 or 3.6 from a person who is working on a project that is  
6 subject to 40 USC 276c.

7 (e) Any person employed on a project that is subject to this section who  
8 knowingly permits any part of the wages to which he or she is entitled under the  
9 contract governing such 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 permitted under 29 CFR  
11 3.5 or 3.6 from a person who is working on a project that is subject to 40 USC 276c.

12 (f) Paragraph (a) does not apply to any person who fails to provide any  
13 information to the department to assist the department in determining prevailing  
14 wage rates and prevailing hours of labor under sub. (4) (a) or (b).

15 (9) DEPARTMENT. (a) Except as provided under pars. (b) and (c), the department  
16 shall notify any private developer applying for a determination under sub. (4) a list  
17 of the names of all persons whom the department has found to have failed to pay the  
18 prevailing wage rate determined under sub. (4) or has found to have paid less than  
19 1.5 times the hourly basic rate of pay for all hours worked in excess of the prevailing  
20 hours of labor at any time in the preceding 3 years. The department shall include  
21 with any such name the address of such person and shall specify when such person  
22 failed to pay the prevailing wage rate and when such person paid less than 1.5 times  
23 the hourly basic rate of pay for all hours worked in excess of the prevailing hours of  
24 labor. A private developer may not award any contract to such person unless  
25 otherwise recommended by the department or unless 3 years have elapsed from the

1 date on which the department issued its findings or date of final determination by  
2 a court of competent jurisdiction, whichever is later.

3 (b) The department may not include in a notification under par. (a) the name  
4 of any person on the basis of having let work to a person whom the department has  
5 found to have failed to pay the prevailing wage rate determined under sub. (4) or has  
6 found to have paid less than 1.5 times the hourly basic rate of pay for all hours worked  
7 in excess of the prevailing hours of labor.

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

12 (d) Any person submitting a bid on a project that is subject to this section shall  
13 be required, on the date on which the person submits the bid, to identify any  
14 construction business in which the person, or a shareholder, officer or partner of the  
15 person, if the person is a business, owns, or has owned at least a 25% interest on the  
16 date on which the person submits the bid or at any other time within 3 years  
17 preceding the date on which the person submits the bid, if the business has been  
18 found to have failed to pay the prevailing wage rate determined under sub. (4) or to  
19 have paid less than 1.5 times the hourly basic rate of pay for all hours worked in  
20 excess of the prevailing hours of labor.

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

22 **5.** Page 979, line 6: after that line insert:

23 **"SECTION 2030m.** 109.09 (1) of the statutes is amended to read:

20.924 (1)(j)3.,

1           109.09 (1) The department shall investigate and attempt equitably to adjust  
2 controversies between employers and employes as to alleged wage claims. The  
3 department may receive and investigate any wage claim which is filed with the  
4 department, or received by the department under s. 109.10 (4), no later than 2 years  
5 after the date the wages are due. The department may, after receiving a wage claim,  
6 investigate any wages due from the employer against whom the claim is filed to any  
7 employe during the period commencing 2 years before the date the claim is filed. The  
8 department shall enforce this chapter and ss. 66.293, 103.02, 103.49, ~~103.03~~, 103.82  
9 and 104.12. In pursuance of this duty, the department may sue the employer on  
10 behalf of the employe to collect any wage claim or wage deficiency and ss. 109.03 (6)  
11 and 109.11 (2) and (3) shall apply to such actions. Except for actions under s. 109.10,  
12 the department may refer such an action to the district attorney of the county in  
13 which the violation occurs for prosecution and collection and the district attorney  
14 shall commence an action in the circuit court having appropriate jurisdiction. Any  
15 number of wage claims or wage deficiencies against the same employer may be joined  
16 in a single proceeding, but the court may order separate trials or hearings. In actions  
17 that are referred to a district attorney under this subsection, any taxable costs  
18 recovered by the district attorney shall be paid into the general fund of the county  
19 in which the violation occurs and used by that county to meet its financial  
20 responsibility under s. 978.13 (2) for the operation of the office of the district attorney  
21 who prosecuted the action.”.

22           **6.** Page 980, line 7: after that line insert:

23           **“SECTION 2033m.** 111.322 (2m) (c) of the statutes is amended to read:

20.924 (1)(j) 3.

1 111322 (2m) (c) The individual files a complaint or attempts to enforce a right  
2 under s. 66.293 or 103.49 or ~~103.493~~ or testifies or assists in any action or proceeding  
3 under s. 66.293 or 103.49 ~~or 103.493~~.”

20.924 (1)(j) 3. c.

7. Page 1102, line 15: after that line insert:

“SECTION 2353m. 227.01 (13) (t) of the statutes is amended to read:

227.01 (13) (t) Ascertains and determines prevailing wage rates and prevailing  
7 hours of labor under ss. s. 66.293, 103.49 and ~~103.493~~ or 103.50, except that any  
8 action or inaction which ascertains and determines prevailing wage rates and  
9 prevailing hours of labor under ss. s. 66.293, 103.49 and ~~103.493~~ or 103.50 is subject  
10 to judicial review under s. 227.40.”

8. Page 1353, line 18: after that line insert:

20.924 (1)(j) 3. c.

“SECTION 3191d. 946.15 (1) of the statutes is amended to read:

946.15 (1) Any employer, or any agent or employe of an employer, who induces  
14 any person who seeks to be or is employed pursuant to a public contract as defined  
15 in s. 66.29 (1) (c) or who seeks to be or is employed on a project on which a prevailing  
16 wage rate determination has been issued by the department of workforce  
17 development under s. 66.293 (3), 103.49 (3) ~~or 103.493 (4)~~ or 103.50 (3) or by a local  
18 governmental unit, as defined in s. 66.293 (1) (d), under s. 66.293 (6) to give up, waive  
19 or return any part of the compensation to which that person is entitled under his or  
20 her contract of employment or under the prevailing wage rate determination issued  
21 by the department or local governmental unit, or who reduces the hourly basic rate  
22 of pay normally paid to an employe for work on a project on which a prevailing wage  
23 rate determination has not been issued under s. 66.293 (3) or (6), 103.49 (3) ~~or 103.493~~  
24 ~~or~~ 103.50 (3) during a week in which the employe works both on a project on which

20.924(1)(j) 3.c.

1 a prevailing wage rate determination has been issued and on a project on which a  
2 prevailing wage rate determination has not been issued, is guilty of a Class E felony.

3 **SECTION 3191e.** 946.15 (2) of the statutes is amended to read:

4 946.15 (2) Any person employed pursuant to a public contract as defined in s.  
5 66.29 (1) (c) or employed on a project on which a prevailing wage rate determination  
6 has been issued by the department of workforce development under s. 66.293 (3),  
7 103.49 (3), ~~103.493 (4)~~ or 103.50 (3) or by a local governmental unit, as defined in s.  
8 66.293 (1) (d), under s. 66.293 (6) who gives up, waives or returns to the employer or  
9 agent of the employer any part of the compensation to which the employe is entitled  
10 under his or her contract of employment or under the prevailing wage determination  
11 issued by the department or local governmental unit, or who gives up any part of the  
12 compensation to which he or she is normally entitled for work on a project on which  
13 a prevailing wage rate determination has not been issued under s. 66.293 (3) or (6),  
14 103.49 (3), ~~103.493 (4)~~ or 103.50 (3) during a week in which the person works  
15 part-time on a project on which a prevailing wage rate determination has been  
16 issued and part-time on a project on which a prevailing wage rate determination has  
17 not been issued, is guilty of a Class C misdemeanor.

18 **SECTION 3191f.** 946.15 (3) of the statutes is amended to read:

19 946.15 (3) Any employer or labor organization, or any agent or employe of an  
20 employer or labor organization, who induces any person who seeks to be or is  
21 employed on a project on which a prevailing wage rate determination has been issued  
22 by the department of workforce development under s. 66.293 (3), 103.49 (3), ~~103.493~~  
23 ~~(4)~~ or 103.50 (3) or by a local governmental unit, as defined in s. 66.293 (1) (d), under  
24 s. 66.293 (6) to permit any part of the wages to which that person is entitled under  
25 the prevailing wage rate determination issued by the department or local

20.924 (1)(j) 3. c.

1 governmental unit to be deducted from the person's pay is guilty of a Class E felony,  
2 unless the deduction would be permitted under 29 CFR 3.5 or 3.6 from a person who  
3 is working on a project that is subject to 40 USC 276c.

4 **SECTION 3191g.** 946.15 (4) of the statutes is amended to read:

5 946.15 (4) Any person employed on a project on which a prevailing wage rate  
6 determination has been issued by the department of workforce development under  
7 s. 66.293 (3), 103.49 (3), ~~103.493 (4)~~ or 103.50 (3) or by a local governmental unit, as  
8 defined in s. 66.293 (1) (d), under s. 66.293 (6) who permits any part of the wages to  
9 which that person is entitled under the prevailing wage rate determination issued  
10 by the department or local governmental unit to be deducted from his or her pay is  
11 guilty of a Class C misdemeanor, unless the deduction would be permitted under 29  
12 CFR 3.5 or 3.6 from a person who is working on a project that is subject to 40 USC  
13 276c.”

14 **9.** Page 1398, line 24: after that line insert:

15 “(18v) DEPARTMENT OF REVENUE BUILDING CONSTRUCTION REQUIREMENTS. The  
16 department of administration shall, to the extent practicable, ensure that the  
17 department of revenue building enumerated under SECTION 9107 (1) (a) of this act  
18 is constructed in a manner that is consistent with the requirements imposed under  
19 section 20.924 (1) (j) 2. and 3. of the statutes, as created by this act.”

20 **10.** Page 1447, line 17: after that line insert:

21 “(1x) LEASE/PURCHASE OF STATE BUILDINGS. The treatment of sections 13.48 (15),  
22 (19) and (27), 20.924 (1) (i) and (j), ~~103.493~~, 109.09 (1), 111.322 (2m) (c), 227.01 (13)  
23 (t) and 946.15 (1), (2), (3) and (4) of the statutes first applies to contracts for the  
24 construction of any building, structure or facility, or portion thereof, for initial



1 occupancy by the state that contain an option for the state to purchase the building,  
2 structure or facility entered into, or extended, modified or renewed, on the effective  
3 date of this subsection.”

4 (END)

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(INSERT 3-18)

✓ 3. The seller or lessor will do all of the following:

a. Not permit any employee working on the building, structure or facility, or portion thereof, who would be entitled to receive the prevailing wage rate under s. 103.49 and who would not be required or permitted to work more than the prevailing hours of labor, if the building, structure or facility, or portion thereof, were a project of public works subject to s. 103.49, to be paid less than the prevailing wage rate or to be required or permitted to work more than the prevailing hours of labor, except as permitted under s. 103.49 (2).

b. Require any contractor, subcontractor or agent thereof performing work on the building, structure or facility, or portion thereof, to keep and permit inspection of records in the same manner as a contractor, subcontractor or agent thereof performing work on a project of public works that is subject to s. 103.49 is required to keep and permit inspection of records under s. 103.49 (5).

c. Otherwise comply with s. 103.49 in the same manner as a state agency contracting for the erection, construction, remodeling, repairing or demolition of a project of public works is required to comply with s. 103.49 and require any contractor, subcontractor or agent thereof performing work on the building, structure or facility, or portion thereof, to comply with s. 103.49 in the same manner as a contractor, subcontractor or agent thereof performing work on a project of public works that is subject to s. 103.49 is required to comply with s. 103.49.”

(END OF INSERT)