

1999 DRAFTING REQUEST

Bill

Received: **04/7/99**

Received By: **malaigm**

Wanted: **As time permits**

Identical to LRB:

For: **Daniel Vrakas (608) 266-3007**

By/Representing: **Gary Shealy, Howard Bernstein**

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

Drafter: **malaigm**

May Contact:

Alt. Drafters:

Subject: **Employ Priv - prevailing wage**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Prevailing wage rates and hours

Instructions:

See Attached--redraft 97-0056/1 with additional changes atached

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>
/?	malaigm 04/9/99	gilfokm 04/29/99		_____			S&L
/1			jfrantze 04/30/99	_____	lrb_docadmin 04/30/99		S&L
/2	malaigm 05/20/99	gilfokm 05/28/99	haugeca 06/1/99	_____	lrb_docadmin 06/1/99	lrb_docadmin 06/1/99	

FE Sent For (06/1/99.)
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/?	malaigm 04/9/99	gilfokm 04/29/99		_____			S&L
/1		12-5-28-99 *mg	jfrantze 04/30/99	_____	lrb_docadmin 04/30/99		

FE Sent For:

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PA's -
Jacket "12"
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for FEV

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1/?	malaigm	1-4-29-99 kmj	4/30	4/30 4/30			

FE Sent For:

<END>

InterOffice Memo

Department of Workforce Development

Date: December 21, 1998

To: Sheehan Donoghue

From: Howard Bernstein 
DWD Legal Counsel (266-9427)

COPY

Subject: **Prevailing Wage Corrective Legislation**

Gary and I have reviewed 1997 LRB 0056/1, and we have determined that we want to offer the same draft as corrective legislation in the 1999 legislation, except for the following revisions to sections 3, 4, 32, 33, 34, 39 and 48:

✓ SECTION 3. 66.293(3)(bm) of the statutes is amended to read:

66.293(3)(bm) Any person may request a recalculation of any portion of a an initial determination within 30 days after the initial determination date if the person submits evidence with the request showing that the prevailing wage rate ~~or prevailing hours of labor~~ for any given trade or occupation included in the initial determination does not represent the prevailing wage rate ~~or prevailing hours of labor~~ for that trade or occupation in the area. Such evidence shall include wage rate ~~and hours of labor~~ information for reflecting work performed in by the contested trade or occupation in the area within during the previous ~~12 months~~ current survey period. The department shall affirm or modify the initial determination within 15 days after the date on which the department receives the request for recalculation.

✓ SECTION 4. 66.293(3)(br) of the statutes is amended to read:

66.293(3)(br) In addition to the recalculation under par. (bm), the local governmental unit that requested the determination under this subsection may request a review of any portion of a determination within 30 days after the date of issuance of the determination if the local governmental unit submits evidence with the request showing that the prevailing wage rate ~~or prevailing hours of labor~~ for any given trade or occupation included in the determination does not represent the prevailing wage rate ~~or prevailing hours of labor~~ for that trade or occupation in the city, village or town in which the proposed project is located. That evidence shall include wage rate ~~and hours of labor~~ information for the contested trade or occupation on at least 3 similar projects located in the city, village or town where the proposed project is located and on which some work has been performed within during the ~~previous 12 months~~ current survey period and which were considered by the department in issuing its most recent compilation under par. (ar). The department shall affirm or modify the determination within 15 days after the date on which the department receives the request for review.

✓ SECTION 32. 103.49(3)(ar) of the statutes is amended to read:

103.49(3)(ar) In determining prevailing wage rates under par. (a) or (am) ~~for building, residential or agricultural projects~~, the department may not use data from projects that are subject to this section, s. 66.293 or 103.50 or 40 USC 276a, unless the department determines that there is insufficient wage data in the area to determine those prevailing wage rates, in which case. ~~In determining prevailing wage rates for projects involving the use of heavy equipment~~, the department may use data from projects that are subject to this section, s. 66.293 or 103.50 or 40 USC 276a.

✓ SECTION 33. 103.49(3)(b) of the statutes is amended to read:

103.49(3)(b) Any person may request a recalculation of any portion of a an initial determination within 30 days after the initial determination date if the person submits evidence with the request showing that

the prevailing wage rate ~~or prevailing hours of labor~~ for any given trade or occupation included in the initial determination does not represent the prevailing wage rate ~~or prevailing hours of labor~~ for that trade or occupation in the area. Such evidence shall include wage rate ~~and hours of labor~~ information for reflecting work performed ~~in by~~ the contested trade or occupation in the area ~~within during~~ the ~~previous 12 months~~ current survey period. The department shall affirm or modify the initial determination within 15 days after the date on which the department receives the request for recalculation.

✓ SECTION 34. 103.49(3)(c) of the statutes is amended to read:

103.49(3)(c) In addition to the recalculation under par. (b), the state agency that requested the determination under this subsection may request a review of any portion of a determination within 30 days after the date of issuance of the determination if the state agency submits evidence with the request showing that the prevailing wage rate ~~or prevailing hours of labor~~ for any given trade or occupation included in the determination does not represent the prevailing wage rate ~~or prevailing hours of labor~~ for that trade or occupation in the city, village or town in which the proposed project is located. That evidence shall include wage rate ~~and hours of labor~~ information for the contested trade or occupation on at least 3 similar projects located in the city, village or town where the proposed project is located on which some work has been performed ~~within during~~ the ~~previous 12 months~~ current survey period and which were considered by the department in issuing its most recent compilation under par. (am). The department shall affirm or modify the determination within 15 days after the date on which the department receives the request for review.

✓ SECTION 39. 103.49(5)(b) of the statutes is amended to read:

103.49(5)(b) (b) It shall be the duty of the department to enforce this section. To this end it may demand and examine, and it shall be the duty of every contractor, subcontractor and agent thereof to keep and furnish to the department, copies of payrolls and other records and information relating to the wages paid to persons performing the work described in sub. (2m) for work to which this section applies. The department may inspect records in the manner provided in this chapter ~~and chs. 104 to 106~~. Every contractor, subcontractor or agent performing work on a project that is subject to this section is subject to the requirements of this chapter ~~and chs. 104 to 106~~ relating to the examination of records. Section 111.322 (2m) applies to discharge and other discriminatory acts arising in connection with any proceeding under this section.

✓ SECTION 48. 103.50(2) of the statutes is amended to read:

103.50(2) (2) PREVAILING WAGE RATES AND HOURS OF LABOR. No person performing the work described in sub. (2m) in the employ of a contractor, subcontractor, agent or other person performing any work on a project under a contract based on bids as provided in s. 84.06 (2) to which the state is a party ~~for the construction or improvement of any highway~~ may be permitted to work a ~~longer~~ greater number of hours per day or per ~~calendar~~ week than the prevailing hours of labor ~~determined under sub. (3)~~; nor may he or she be paid a lesser rate of wages than the prevailing wage rate in the area in which the work is to be done determined under sub. (3); except that any such person may be permitted or required to work more than such prevailing hours of labor per day and per ~~calendar~~ week if he or she is paid for all hours worked in excess of the prevailing hours of labor at a rate of at least 1.5 times his or her hourly basic rate of pay.

cc: Melanie Schmidt
 Connie O'Connell
 Bob Anderson
 ✓ Gary Shealy
 Pat Hewitt

Shealy, Gary

To: Bernstein, Howard
Cc: Anderson, Bob; Hewitt, Patricia A.; Donoghue, Sheehan
Subject: Legislative Changes Regarding Prevailing Wage Rates

COPY

I have carefully reviewed every draft of LRB-0056/1 that I have had in my possession since 1996 and have reviewed your InterOffice Memo to Sheehan dated 12/21/98.

Believe it or not, I think we can wrap up this whole project by combining the LBR draft and your memo to Sheehan.

I did find a few items that slipped through the crack that also need to be addressed in the final draft of the bill. Those items are as follows:

✓ First, in your 12/21/98 memo to Sheehan, the last sentence in SECTION 39 should read "Section 111.322 (2m) applies to discharge or other discriminatory acts arising in connection with any proceeding under this section." *No - change 06.293(10)(d) to and*

Second, ~~in~~ that same memo, the title in SECTION 48 should read "103.50(2) PREVAILING WAGE RATES AND HOURS OF LABOR."

✓ Third, the first sentence in SECTION 22 of the LRB draft should read "Any person submitting a bid or negotiating a contract on a project that is subject to this section shall be required, on the date the person submits the bid or negotiates the contract, to identify"

✓ Fourth, the last sentence in SECTION 61 of the LRB draft should read "Section 111.322(2m) applies to discharge or other discriminatory acts arising in connection with any proceeding under this section."

If we can get Gordon Malaise at the LRB to make the above corrections and the corrections set forth in your 12/21/98 memorandum to Sheehan we should have this project finally wrapped up. Thanks for your assistance.

Shealy, Gary

From: Lepeska, Allyn -DOT
Sent: Wednesday, January 20, 1999 1:36 PM
To: Donoghue, Sheehan
Cc: Bernstein, Howard; Shealy, Gary
Subject: Prevailing Wage Legislation and Rules

COPY

Marilyn Kuick and I attended most of the January 8, 1999 meeting on the above. I have also reviewed Gary's and Howard's on the legislation.

We have the following comments on the proposed legislation:

1. Calendar Week Reference to calendar before week is dropped throughout the bill.

Is the intent to define week as 7 consecutive days as defined in s. 990.01(46) or as a calendar week starting on Sunday and ending on Saturday as defined in s. 108.02(27) or some other definition? I do not think it makes a difference as long as the employer and employee are consistent.

2. Empty Truck Trip In section 9, 66.293(4)(b)1., section 29, 103.49(2m)(b)1 and section 52, 103.50(2m)(b) 1., a sentence could be added that clarifies that delivery includes the initial and subsequent trips to the source of the mineral aggregate that is to be delivered to the site.

3. Empty Truck Trip In section 9, 66.293(4)(b)2, section 29, 103.49(2m)(b)2 and section 52, 103.50(2m)(b)2, "return" may not be as clear as it could be. This could be clarified by dropping "or return" and adding a sentence that clarifies that transport includes the initial and subsequent trips to the site of the project. To a lesser extent, the meaning could be clarified by dropping "or return" and adding after "site of project", "and return to the site of the project."

4. Negotiated Contracts In section 22, Gary proposed some changes but also needs to add "or negotiates a contract" after "bid" in line 9 and 10. *making a k?*

5. Documents required for Enforcement In sections 13, 39 and 61, the enforcement agency should be able to demand and examine documents relating to enforcement of all applicable sections, rather than just the wages paid. This includes hours of work and proper contracts. I would change section 61 to delete the language after "information relating" and substituting "compliance under this section." DWD may wish to change sections 13 and 39. *- No - only in s.k.c 61*

If you have any questions, feel free to contact me.

Allyn Lepeska
WisDOT-OGC
608-266-0253
allyn.lepeska@dot.state.wi.us

286v1

SOON

9

1997 BILL

king

WPO: Proof all amended
stats. w/stats.

Signature

1 AN ACT *to repeal* 103.49 (4); *to renumber and amend* 66.293 (4) (b), 103.49
2 (2m) (b) and 103.50 (2m) (b); *to amend* 66.293 (3) (am), 66.293 (3) (ar), 66.293
3 (3) (bm), 66.293 (3) (br), 66.293 (3) (dm), 66.293 (4) (a) (intro.), 66.293 (4) (a) 1.,
4 66.293 (8), 66.293 (9) (c), 66.293 (10) (a), 66.293 (10) (b), 66.293 (10) (c), 66.293
5 (10) (d), 66.293 (11) (a), 66.293 (11) (b) 2., 66.293 (11) (b) 4., 66.293 (11) (b) 6.,
6 66.293 (12) (a), 66.293 (12) (b), 66.293 (12) (d), 103.49 (1) (c) (intro.), 103.49 (1)
7 (d), 103.49 (2), 103.49 (2m) (a) (intro.), 103.49 (2m) (a) 1., 103.49 (3) (a), 103.49
8 (3) (am), 103.49 (3) (ar), 103.49 (3) (b), 103.49 (3) (c), 103.49 (3g), 103.49 (4r) (c),
9 103.49 (5) (a), 103.49 (5) (b), 103.49 (5) (c), 103.49 (6m) (b), 103.49 (6m) (d),
10 103.49 (6m) (f), 103.49 (7) (a), 103.49 (7) (b), 103.49 (7) (d), 103.50 (1) (a), 103.50
11 (2), 103.50 (2m) (a) (intro.), 103.50 (2m) (a) 1., 103.50 (3), 103.50 (4), 103.50 (5),
12 103.50 (6), 103.50 (7) (b), 103.50 (7) (d), 103.50 (7) (e), 103.50 (7) (f), 103.50 (8)
13 and 227.01 (13) (t); and *to create* 66.293 (4) (b) 1. and 2., 103.49 (2m) (b) 1. and
14 2. and 103.50 (2m) (b) 1. and 2. of the statutes; **relating to:** the coverage of the

BILL

1 prevailing wage and hours of labor law, the definition of prevailing hours of
 2 labor, the determination of prevailing wage rates and granting rule-making
 3 authority.

work force

DWD

Analysis by the Legislative Reference Bureau

Under current law, certain employees performing work on a state or local public works project must be paid the prevailing wage rate and may not be permitted to work a greater number of hours per day and per week than the prevailing hours of labor, unless they are paid overtime pay for all hours worked in excess of the prevailing hours of labor. Current law defines "prevailing hours of labor" as no more than 8 hours per day nor more than 40 hours per week. This bill defines "prevailing hours of labor" as exactly 8 hours per day and 40 hours per week. Because the prevailing hours of labor are fixed by statute, the bill deletes numerous references to the department of industry, labor and job development (DILJD) determining the prevailing hours of labor as was the practice under prior law.

Currently, laborers, workers, mechanics and truck drivers employed on the site of a public works project, employed to deliver mineral aggregate to or from the site of a public works project or employed to transport excavated material from and return to the site of a public works project are covered under the prevailing wage and hours law, except that a laborer, worker, mechanic or truck driver employed in the processing, manufacturing or delivery of materials or products by or for a commercial establishment that has a fixed place of business from which it regularly supplies those materials or products is not covered under the prevailing wage and hours law. This bill provides that a person employed by such a commercial establishment is covered under the prevailing wage and hours law if the person is employed to deliver mineral aggregate to or from the site of a public works project or to transport excavated material from or return to the site of a public works project.

Under current law, DILJD must determine the prevailing wage rates for each trade or occupation in each area of the state. Currently, in determining prevailing wage rates for projects involving the use of heavy equipment, DILJD may use data from federal, state or local public works projects. This bill eliminates the reference to "projects involving the use of heavy equipment" and instead permits DILJD to use data from federal, state or local public works projects in determining the prevailing wage rates for "heavy projects, as defined by DILJD by rule", that is, for large projects such as dams.

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

Insert
A

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

BILL
SEC - RP; 66.293 (1) (h)

1 **SECTION 1.** 66.293 (3) (am) of the statutes is amended to read:

2 66.293 (3) (am) Every local governmental unit, before making a contract by
3 direct negotiation or soliciting bids on a contract, for the erection, construction,
4 remodeling, repairing or demolition of any project of public works, including a
5 highway, street or bridge construction project, shall apply to the department to
6 determine the prevailing wage rate ~~and prevailing hours of labor~~ for each trade or
7 occupation required in the work contemplated. The department shall ~~make~~ conduct
8 such investigations and hold such public hearings as may be necessary to define the
9 trades or occupations that are commonly employed on projects that are subject to this
10 section and to inform itself as to the prevailing wage rates ~~and prevailing hours of~~
11 ~~labor~~ in all areas of the state for those trades or occupations ~~with a view to~~
12 ~~ascertaining in order to determine~~ the prevailing wage rate ~~and prevailing hours of~~
13 ~~labor~~ for each such trade or occupation. The department shall issue its
14 determination within 30 days after receiving the request and shall file the same with
15 the local governmental unit applying therefor.

16 **SECTION 2.** 66.293 (3) (ar) of the statutes is amended to read:

17 66.293 (3) (ar) The department shall, by January 1 of each year, compile the
18 prevailing wage rates ~~and the prevailing hours of labor~~ for each trade or occupation
19 in each area. The compilation shall, in addition to the current prevailing wage rates
20 ~~and prevailing hours of labor~~, include future prevailing wage rates ~~and prevailing~~
21 ~~hours of labor~~ when those prevailing wage rates ~~and prevailing hours of labor~~ can
22 be determined for any trade or occupation in any area and shall specify the effective
23 date of those future prevailing wage rates ~~and prevailing hours of labor~~. If a
24 construction project extends into more than one area there shall be but one standard
25 of prevailing wage rates ~~and prevailing hours of labor~~ for the entire project.

BILL

1 SECTION 3. 66.293 (3) (bm) of the statutes is amended to read:

2 66.293 (3) (bm) Any person may request a recalculation of any portion of a
3 determination within 30 days after the initial determination date if the person
4 submits evidence with the request showing that the prevailing wage rate or
5 ~~prevailing hours of labor~~ for any given trade or occupation included in the initial
6 determination does not represent the prevailing wage rate or ~~prevailing hours of~~
7 ~~labor~~ for that trade or occupation in the area. Such evidence shall include wage rate
8 and ~~hours of labor~~ information for work performed in the contested trade or
9 occupation area within the previous 12 months. The department shall affirm or
10 modify the initial determination within 15 days after the date on which the
11 department receives the request for recalculation.

Insert
4-11

12 SECTION 4. 66.293 (3) (br) of the statutes is amended to read:

13 66.293 (3) (br) In addition to the recalculation under par. (bm), the local
14 governmental unit that requested the determination under this subsection may
15 request a review of any portion of a determination within 30 days after the date of
16 issuance of the determination if the local governmental unit submits evidence with
17 the request showing that the prevailing wage rate or ~~prevailing hours of labor~~ for any
18 given trade or occupation included in the determination does not represent the
19 prevailing wage rate or ~~prevailing hours of labor~~ for that trade or occupation in the
20 city, village or town in which the proposed project is located. That evidence shall
21 include wage rate and ~~hours of labor~~ information for the contested trade or
22 occupation on at least 3 similar projects located in the city, village or town where the
23 proposed project is located and on which some work has been performed ~~within the~~
24 ~~previous 12 months~~ and which were considered by the department in issuing its most
25 recent compilation under par. (ar). The department shall affirm or modify the

during the current survey period

BILL

1 determination within 15 days after the date on which the department receives the
2 request for review.

3 **SECTION 5.** 66.293 (3) (dm) of the statutes is amended to read:

4 66.293 (3) (dm) A reference to the prevailing wage rates ~~and prevailing hours~~
5 ~~of labor~~ determined by the department or a local governmental unit exempted under
6 sub. (6) and to the prevailing hours of labor shall be published in the notice issued
7 for the purpose of securing bids for the project. If any contract or subcontract for a
8 project of public works, including a highway, street or bridge construction project, is
9 entered into, the prevailing wage rates ~~and prevailing hours of labor~~ determined by
10 the department or exempted local governmental unit and the prevailing hours of
11 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. No person performing the work described in sub.
18 (4) may be paid less than the prevailing wage rate in the same or most similar trade
19 or occupation determined under this subsection; nor may he or she be permitted to
20 work a greater number of hours per day or per ~~calendar~~ week than the prevailing
21 hours of labor ~~determined under this subsection~~, unless he or she is paid for all hours
22 worked in excess of the prevailing hours of labor at a rate of at least 1.5 times his or
23 her hourly basic rate of pay.

24 **SECTION 6.** 66.293 (4) (a) (intro.) of the statutes is amended to read:

BILL

1 66.293 (4) (a) (intro.) ~~All~~ Subject to par. (b), all of the following employes shall
2 be paid the prevailing wage rate determined under sub. (3) and may not be permitted
3 to work a greater number of hours per day or per calendar week than the prevailing
4 hours of labor ~~determined under sub. (3),~~ unless they are paid for all hours worked
5 in excess of the prevailing hours of labor at a rate of at least 1.5 times their hourly
6 basic rate of pay:

7 **SECTION 7.** 66.293 (4) (a) 1. of the statutes is amended to read:

8 66.293 (4) (a) 1. All laborers, workers, mechanics and truck drivers employed
9 on the site of a project that is subject to this section, ~~or employed to deliver mineral~~
10 ~~aggregate such as sand, gravel or stone that is immediately incorporated into the~~
11 ~~work, and not stockpiled or further transported by truck, to or from the site of a~~
12 ~~project that is subject to this section by depositing the material substantially in~~
13 ~~place, directly or through spreaders from the transporting vehicle, or employed to~~
14 ~~transport excavated material or spoil from and return to the site of a project that is~~
15 ~~subject to this section.~~

16 **SECTION 8.** 66.293 (4) (b) of the statutes is renumbered 66.293 (4) (b) (intro.)
17 and amended to read:

18 66.293 (4) (b) (intro.) Notwithstanding par. (a) 1., a laborer, worker, mechanic
19 or truck driver who is regularly employed ~~in the processing, manufacturing or~~
20 ~~delivery of materials or products by or for to process, manufacture, pick up or deliver~~
21 materials or products from a commercial establishment that has a fixed place of
22 business from which the establishment regularly supplies processed or
23 manufactured materials or products is not entitled to receive the prevailing wage
24 rate determined under sub. (3) or to receive at least 1.5 times his or her hourly basic

BILL

1 rate of pay for all hours worked in excess of the prevailing hours of labor determined
2 ~~under sub. (3). unless any of the following applies:~~

and return to the source of the mineral aggregate

3 SECTION 9. 66.293 (4) (b) 1. and 2. of the statutes are created to read:

4 66.293 (4) (b) 1. The laborer, worker, mechanic or truck driver is employed to

5 ~~deliver~~ mineral aggregate such as sand, gravel or stone that is ~~immediately~~

go to the source of

to be

picked up and deliver that mineral aggregate

6 incorporated into the work, and not stockpiled or further transported by truck, ~~to or~~

7 ~~from~~ the site of a project that is subject to this section by depositing the material

8 substantially in place, directly or through spreaders from the transporting vehicle,

9 2. The laborer, worker, mechanic or truck driver is employed to transport

10 excavated material or spoil from ~~of~~ ~~return to~~ the site of a project that is subject to this

and go to

11 section.

transport excavated material or spoil from the site of the project and return to the site of the project

12 SECTION 10. 66.293 (8) of the statutes is amended to read:

13 66.293 (8) POSTING. For the information of the employees working on the project,

14 the prevailing wage rates and ~~prevailing hours of labor~~ determined by the

15 department or exempted local governmental unit, the prevailing hours of labor and

16 the provisions of subs. (10) (a) and (11) (a) shall be kept posted by the local

17 governmental unit in at least one conspicuous and easily accessible place on the site

18 of the project or, if there is no common site on the project, at the place normally used

19 by the local governmental unit to post public notices.

20 SECTION 11. 66.293 (9) (c) of the statutes is amended to read:

21 66.293 (9) (c) Upon completion of a project and before receiving final payment

22 for his or her work on the project, each contractor shall file with the local

23 governmental unit authorizing the work an affidavit stating that the contractor has

24 complied fully with the requirements of this section and that the contractor has

25 received an affidavit under par. (b) from each of the contractor's agents and

BILL**SECTION 11**

1 subcontractors. A local governmental unit may not authorize a final payment until
2 such an affidavit is filed in proper form and order. If a local governmental unit
3 authorizes a final payment before such an affidavit is filed in proper form and order
4 or if the department determines, based on the greater weight of the credible evidence,
5 that any person performing the work specified in sub. (4) has been or may have been
6 paid less than the prevailing wage rate or less than 1.5 times the hourly basic rate
7 of pay for all hours worked in excess of the prevailing hours of labor and requests that
8 the local governmental unit withhold all or part of the final payment, but the local
9 governmental unit fails to do so, the local governmental unit is liable for all back
10 wages payable up to the amount of ~~that~~ the final payment.

11 **SECTION 12.** 66.293 (10) (a) of the statutes is amended to read:

12 66.293 (10) (a) Each contractor, subcontractor or agent thereof performing
13 work on a project that is subject to this section shall keep full and accurate records
14 clearly indicating the name and trade or occupation of every person performing the
15 work described in sub. (4) and an accurate record of the number of hours worked by
16 each of those persons and the actual wages paid therefor.

17 **SECTION 13.** 66.293 (10) (b) of the statutes is amended to read:

18 66.293 (10) (b) The department or the contracting local governmental unit may
19 demand and examine, and it shall be the duty of every contractor, subcontractor and
20 agent thereof to keep and furnish to the department or local governmental unit,
21 copies of payrolls and other records and information relating to the wages paid to
22 persons performing the work described in sub. (4) for work to which this section
23 applies. The department may inspect records in the manner provided in ~~chs. 103 to~~
24 ~~106~~ ch. 103. Every contractor, subcontractor or agent performing work on a project

BILL

1 that is subject to this section is subject to the requirements of ~~chs. 103 to 106~~ ch. 103
2 relating to the examination of records.

3 **SECTION 14.** 66.293 (10) (c) of the statutes is amended to read:

4 66.293 (10) (c) If requested by any person, the department shall inspect the
5 payroll records of any contractor, subcontractor or agent performing work on a
6 project that is subject to this section to ensure compliance with this section. If the
7 contractor, subcontractor or agent subject to the inspection is found to be in
8 compliance and if the person making the request is a person performing the work
9 specified in sub. (4), the department shall charge the person making the request the
10 actual cost of the inspection. If the contractor, subcontractor or agent subject to the
11 inspection is found to be in compliance and if the person making the request is not
12 a person performing the work specified in sub. (4), the department shall charge the
13 person making the request \$250 or the actual cost of the inspection, whichever is
14 greater.

15 **SECTION 15.** 66.293 (10) (d) of the statutes is amended to read:

16 66.293 (10) (d) Section 103.005 (5) (f), (11), (12) and (13) applies to this section,
17 except that s. 103.005 (12) (a) does not apply to any person who fails to provide any
18 information to the department to assist the department in determining prevailing
19 wage rates ~~or prevailing hours of labor~~ under sub. (3) (am) or (ar). Section 111.322
20 (2m) applies to discharge ~~or~~ other discriminatory acts arising in connection with any
21 proceeding under this section, including proceedings under sub. (11) (a).

22 **SECTION 16.** 66.293 (11) (a) of the statutes is amended to read:

23 66.293 (11) (a) Any contractor, subcontractor or agent thereof, who fails to pay
24 the prevailing wage rate determined by the department under sub. (3) or who pays
25 less than 1.5 times the hourly basic rate of pay for all hours worked in excess of the

BILL

1 prevailing hours of labor ~~determined under sub. (3)~~, shall be liable to any affected
2 employe in the amount of his or her unpaid wages or his or her unpaid overtime
3 compensation and in an additional equal amount as liquidated damages. An action
4 to recover the liability may be maintained in any court of competent jurisdiction by
5 any employe for and in behalf of that employe and other employes similarly situated.
6 No employe may be a party plaintiff to any such action unless the employe consents
7 in writing to become such a party and the consent is filed in the court in which the
8 action is brought. Notwithstanding s. 814.04 (1), the court shall, in addition to any
9 judgment awarded to the plaintiff, allow reasonable attorney fees and costs to be paid
10 by the defendant.

11 **SECTION 17.** 66.293 (11) (b) 2. of the statutes is amended to read:

12 66.293 (11) (b) 2. Whoever induces any ~~individual~~ person who seeks to be or is
13 employed on any project that is subject to this section to give up, waive or return any
14 part of the wages to which the ~~individual~~ person is entitled under the contract
15 governing such project, or who reduces the hourly basic rate of pay normally paid to
16 ~~an employe~~ a person for work on a project that is not subject to this section during
17 a week in which the ~~employe~~ person works both on a project that is subject to this
18 section and on a project that is not subject to this section, by threat not to employ, by
19 threat of dismissal from such employment or by any other means is guilty of an
20 offense under s. 946.15 (1).

21 **SECTION 18.** 66.293 (11) (b) 4. of the statutes is amended to read:

22 66.293 (11) (b) 4. Whoever induces any ~~individual~~ person who seeks to be or is
23 employed on any project that is subject to this section to permit any part of the wages
24 to which the ~~individual~~ person is entitled under the contract governing such project
25 to be deducted from the ~~individual's~~ person's pay is guilty of an offense under s.

BILL

1 946.15 (3), unless the deduction would be permitted under 29 CFR 3.5 or 3.6 from an
2 individual a person who is working on a project that is subject to 40 USC 276c.

3 **SECTION 19.** 66.293 (11) (b) 6. of the statutes is amended to read:

4 66.293 (11) (b) 6. Subdivision 1. does not apply to any person who fails to
5 provide any information to the department to assist the department in determining
6 prevailing wage rates ~~or prevailing hours of labor~~ under sub. (3) (am) or (ar).

7 ~~**SECTION 20.** 66.293 (12) (a) of the statutes is amended to read:~~

8 ~~66.293 (12) (a) Except as provided under pars. (b) and (c), the department shall
9 notify any local governmental unit applying for a determination under sub. (3) and
10 any local governmental unit exempted under sub. (6) of the names of all persons
11 whom the department has found to have failed to pay the prevailing wage rate
12 determined under sub. (3) or has found to have paid less than 1.5 times the hourly
13 basic rate of pay for all hours worked in excess of the prevailing hours of labor
14 determined under sub. (3) at any time in the preceding 3 years. The department shall
15 include with any such name the address of such person and shall specify when such
16 person failed to pay the prevailing wage rate and when such person failed to pay less
17 than 1.5 times the hourly basic rate of pay for all hours worked in excess of the
18 prevailing hours of labor. A local governmental unit may not award any contract to
19 such person unless otherwise recommended by the department or unless at least 3
20 years have elapsed from the date the department issued its findings or the date of
21 final determination by a court of competent jurisdiction, whichever is later.~~

22 **SECTION 21.** 66.293 (12) (b) of the statutes is amended to read:

23 66.293 (12) (b) The department may not include in a notification under par. (a)
24 the name of any person on the basis of having let work to a person whom the
25 department has found to have failed to pay the prevailing wage rate determined

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BILL

1 under sub. (3) or has found to have paid less than 1.5 times the hourly basic rate of
2 pay for all hours worked in excess of the prevailing hours of labor determined under
3 sub. (3).

4 **SECTION 22.** 66.293 (12) (d) of the statutes is amended to read:

5 66.293 (12) (d) Any person submitting a bid on a project that is subject to this
6 section shall be required, on the date the person submits the bid, to identify any
7 construction business in which the person, or a shareholder, officer or partner of the
8 person, if the person is a business, owns, or has owned at least a 25% interest on the
9 date the person submits the bid or at any other time within 3 years preceding the date
10 the person submits the bid, if the business has been found to have failed to pay the
11 prevailing wage rate determined under sub. (3) or to have paid less than 1.5 times
12 the hourly basic rate of pay for all hours worked in excess of the prevailing hours of
13 labor determined under sub. (3).

14 **SECTION 23.** 103.49 (1) (c) (intro.) of the statutes is amended to read:

15 103.49 (1) (c) "Prevailing hours of labor" for any trade or occupation in any area
16 means ~~no more than~~ 10 hours per day ~~nor more than~~ and 40 hours per week and may
17 not include any hours worked on a Saturday or Sunday or on any of the following
18 holidays:

19 **SECTION 24.** 103.49 (1) (d) of the statutes is amended to read:

20 103.49 (1) (d) "Prevailing wage rate" for any trade or occupation engaged in the
21 erection, construction, remodeling, repairing or demolition of any project of public
22 works in any area means the hourly basic rate of pay, plus the hourly contribution
23 for health insurance benefits, vacation benefits, pension benefits and any other bona
24 fide economic benefit, paid directly or indirectly for a majority of the hours worked
25 in the trade or occupation on projects in the area, or if there is no rate at which a

Making

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1 majority of the hours worked in the trade or occupation on projects in the area is paid,
2 then the prevailing wage rate for any trade or occupation engaged in the erection,
3 construction, remodeling, repairing or demolition of any project of public works in
4 any area shall be the average hourly basic rate of pay, weighted by the number of
5 hours worked, plus the average hourly contribution, weighted by the number of
6 hours worked, for health insurance benefits, vacation benefits, pension benefits and
7 any other bona fide economic benefit, paid directly or indirectly for all hours worked
8 at the hourly basic rate of pay of the highest-paid 51% of hours worked in that trade
9 or occupation on projects in that area.

10 ~~SECTION 25. 103.49 (2) of the statutes is amended to read:~~

11 ~~103.49 (2) PREVAILING WAGE RATES AND HOURS OF LABOR. Any contract hereafter~~
12 ~~made for the erection, construction, remodeling, repairing or demolition of any~~
13 ~~project of public works, except contracts for the construction or maintenance of public~~
14 ~~highways, streets and bridges, to which the state, any state agency or the University~~
15 ~~of Wisconsin Hospitals and Clinics Authority is a party shall contain a stipulation~~
16 ~~that no person performing the work described in sub. (2m) may be permitted to work~~
17 ~~a greater number of hours per day or per calendar week than the prevailing hours~~
18 ~~of labor determined under sub. (3), except that any such person may be permitted or~~
19 ~~required to work more than such prevailing hours of labor per day and per calendar~~
20 ~~week if he or she is paid for all hours worked in excess of the prevailing hours of labor~~
21 ~~at a rate of at least 1.5 times his or her hourly basic rate of pay; nor may he or she~~
22 ~~be paid less than the prevailing wage rate determined under sub. (3) in the same or~~
23 ~~most similar trade or occupation in the area wherein such project of public works is~~
24 ~~situated determined under sub. (3). A reference to the prevailing wage rates and~~
25 ~~prevailing hours of labor determined under sub. (3) and the prevailing hours of labor~~

BILL

1 shall be published in the notice issued for the purpose of securing bids for the project.
 2 If any contract or subcontract for a project that is subject to this section is entered
 3 into, the prevailing wage rates and prevailing hours of labor determined under sub.
 4 (3) and the prevailing hours of labor shall be physically incorporated into and made
 5 a part of the contract or subcontract, except that for a minor subcontract, as
 6 determined by the department, the department shall prescribe by rule the method
 7 of notifying the minor subcontractor of the prevailing wage rates and prevailing
 8 hours of labor applicable to the minor subcontract. The prevailing wage rates and
 9 prevailing hours of labor applicable to a contract or subcontract may not be changed
 10 during the time that the contract or subcontract is in force.

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11 SECTION 26. 103.49 (2m) (a) (intro.) of the statutes is amended to read:

12 103.49 (2m) (a) (intro.) ~~All~~ Subject to par. (b), all of the following employees shall
 13 be paid the prevailing wage rate determined under sub. (3) and may not be permitted
 14 to work a greater number of hours per day or per calendar week than the prevailing
 15 hours of labor ~~determined under sub. (3),~~ unless they are paid for all hours worked
 16 in excess of the prevailing hours of labor at a rate of at least 1.5 times their hourly
 17 basic rate of pay:

18 SECTION 27. 103.49 (2m) (a) 1. of the statutes is amended to read:

19 103.49 (2m) (a) 1. All laborers, workers, mechanics and truck drivers employed
 20 on the site of a project that is subject to this section, ~~or employed to deliver mineral~~
 21 ~~aggregate such as sand, gravel or stone that is immediately incorporated into the~~
 22 ~~work, and not stockpiled or further transported by truck, to or from the site of a~~
 23 ~~project that is subject to this section by depositing the material substantially in~~
 24 ~~place, directly or through spreaders from the transporting vehicle, or employed to~~

BILL

1 transport excavated material or spoil from and return to the site of a project that is
2 subject to this section.

3 **SECTION 28.** 103.49 (2m) (b) of the statutes is renumbered 103.49 (2m) (b)
4 (intro.) and amended to read:

5 103.49 (2m) (b) (intro.) Notwithstanding par. (a) 1, a laborer, worker, mechanic
6 or truck driver who is regularly employed ~~in the processing, manufacturing or~~
7 ~~delivery of materials or products by or for to process, manufacture, pick up or deliver~~
8 materials or products from a commercial establishment that has a fixed place of
9 business from which the establishment regularly supplies processed or
10 manufactured materials or products is not entitled to receive the prevailing wage
11 rate determined under sub. (3) or to receive at least 1.5 times his or her hourly basic
12 rate of pay for all hours worked in excess of the prevailing hours of labor ~~determined~~
13 ~~under sub. (3).~~ unless any of the following applies: *deliver that mineral aggregate*

14 **SECTION 29.** 103.49 (2m) (b) 1. and 2. of the statutes are created to read:

15 103.49 (2m) (b) 1. The laborer, worker, mechanic or truck driver is employed
16 *go to the source of* to ~~deliver~~ mineral aggregate such as sand, gravel or stone that *is to be*
17 incorporated into the work, and not stockpiled or further transported by truck, ~~to~~
18 ~~from~~ the site of a project that is subject to this section by depositing the material
19 substantially in place, directly or through spreaders from the transporting vehicle,

20 2. The laborer, worker, mechanic or truck driver is employed to ~~transport~~
21 ~~excavated material or spoil from or return to~~ *go to* the site of a project that is subject to this
22 section, *transport excavated material or spoil from the site of the project and return to the site of the project*

23 **SECTION 30.** 103.49 (3) (a) of the statutes is amended to read:

24 103.49 (3) (a) Before bids are asked for any work to which this section applies,
25 the state agency having the authority to prescribe the specifications shall apply to

, and return to the source of the mineral aggregate

BILL

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

16 **SECTION 31.** 103.49 (3) (am) of the statutes is amended to read:

17 103.49 (3) (am) The department shall, by January 1 of each year, compile the
18 prevailing wage rates ~~and the prevailing hours of labor~~ for each trade or occupation
19 in each area. The compilation shall, in addition to the current prevailing wage rates
20 ~~and prevailing hours of labor~~, include future prevailing wage rates ~~and prevailing~~
21 ~~hours of labor~~ when those prevailing wage rates ~~and prevailing hours of labor~~ can
22 be determined for any trade or occupation in any area and shall specify the effective
23 date of those future prevailing wage rates ~~and prevailing hours of labor~~. If a
24 construction project extends into more than one area there shall be but one standard
25 of prevailing wage rates ~~and prevailing hours of labor~~ for the entire project.

BILL unless the department determines that there is insufficient wage data in the area to determine those prevailing

1 SECTION 32. 103.49 (3) (ar) of the statutes is amended to read: wage rates in

2 103.49 (3) (ar) In determining prevailing wage rates under par. (a) or (am) for

3 ~~building, residential or agricultural projects~~, the department may not use data from

4 projects that are subject to this section, s. 66.293 or 103.50 or 40 USC 276a. ~~In~~

5 ~~determining prevailing wage rates for ~~large~~ projects involving the use of heavy~~

6 ~~equipment, as defined by the department by rule,~~ the department may use data from

7 projects that are subject to this section, s. 66.293 or 103.50 or 40 USC 276a.

8 SECTION 33. 103.49 (3) (b) of the statutes is amended to read:

9 103.49 (3) (b) Any person may request a recalculation of any portion of a

10 determination within 30 days after the initial determination date if the person

11 submits evidence with the request showing that the prevailing wage rate or

12 ~~prevailing hours of labor~~ for any given trade or occupation included in the initial

13 determination does not represent the prevailing wage rate or ~~prevailing hours of~~

14 ~~labor~~ for that trade or occupation in the area. Such evidence shall include wage rate

15 ~~and hours of labor~~ information reflecting for work performed by persons working

16 ~~within the previous 12 months~~ during the current survey period. The department shall affirm

17 or modify the initial determination within 15 days after the date on which the

18 department receives the request for recalculation.

19 SECTION 34. 103.49 (3) (c) of the statutes is amended to read:

20 103.49 (3) (c) In addition to the recalculation under par. (b), the state agency

21 that requested the determination under this subsection may request a review of any

22 portion of a determination within 30 days after the date of issuance of the

23 determination if the state agency submits evidence with the request showing that

24 the prevailing wage rate or ~~prevailing hours of labor~~ for any given trade or occupation

25 included in the determination does not represent the prevailing wage rate or

an initial

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during the current
survey period

1 prevailing hours of labor for that trade or occupation in the city, village or town in
2 which the proposed project is located. That evidence shall include wage rate and
3 hours of labor information for the contested trade or occupation on at least 3 similar
4 projects located in the city, village or town where the proposed project is located on
5 which some work has been performed within the previous 12 months and which were
6 considered by the department in issuing its most recent compilation under par. (am).
7 The department shall affirm or modify the determination within 15 days after the
8 date on which the department receives the request for review.

9 ~~SECTION 35. 103.49 (3g) of the statutes is amended to read:~~
10 ~~103.49 (3g) NONAPPLICABILITY. This section does not apply to (a) (intro.) any~~
11 ~~single-trade public works project for which the estimated project cost of completion~~
12 ~~is less than \$30,000 or an amount determined by the department under s. 66.293 (5)~~
13 ~~or to any multiple-trade public works project for which the estimated project cost of~~
14 ~~completion is less than \$150,000 or an amount determined by the department under~~
15 ~~s. 66.293 (5).~~

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18-15

16 ~~SECTION 36. 103.49 (4) of the statutes is repealed.~~
17 SECTION 37. 103.49 (4r) (c) of the statutes is amended to read:
18 103.49 (4r) (c) Upon completion of a project and before receiving final payment
19 for his or her work on the project, each contractor shall file with the state agency
20 authorizing the work an affidavit stating that the contractor has complied fully with
21 the requirements of this section and that the contractor has received an affidavit
22 under par. (b) from each of the contractor's agents and subcontractors. A state
23 agency may not authorize a final payment until such an affidavit is filed in proper
24 form and order. If a state agency authorizes a final payment before such an affidavit
25 is filed in proper form and order or if the department determines, based on the

BILL

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

7 **SECTION 38.** 103.49 (5) (a) of the statutes is amended to read:

8 103.49 (5) (a) Each contractor, subcontractor or agent thereof performing work
9 on a project that is subject to this section shall keep full and accurate records clearly
10 indicating the name and trade or occupation of every person performing the work
11 described in sub. (2m) and an accurate record of the number of hours worked by each
12 of those persons and the actual wages paid therefor.

13 **SECTION 39.** 103.49 (5) (b) of the statutes is amended to read:

14 103.49 (5) (b) It shall be the duty of the department to enforce this section. To
15 this end it may demand and examine, and it shall be the duty of every contractor,
16 subcontractor and agent thereof to keep and furnish to the department, copies of
17 payrolls and other records and information relating to the wages paid to persons
18 performing the work described in sub. (2m) for work to which this section applies.
19 The department may inspect records in the manner provided in this chapter and chs.
20 104 to 106. Every contractor, subcontractor or agent performing work on a project
21 that is subject to this section is subject to the requirements of ~~ch. 101~~ this chapter
22 relating to the examination of records. Section 111.322 (2m) applies to discharge and
23 other discriminatory acts arising in connection with any proceeding under this
24 section.

25 **SECTION 40.** 103.49 (5) (c) of the statutes is amended to read:

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1 103.49 (5) (c) If requested by any person, the department shall inspect the
2 payroll records of any contractor, subcontractor or agent performing work on a
3 project that is subject to this section to ensure compliance with this section. If the
4 contractor, subcontractor or agent subject to the inspection is found to be in
5 compliance and if the person making the request is a person performing the work
6 specified in sub. (2m), the department shall charge the person making the request
7 the actual cost of the inspection. If the contractor, subcontractor or agent subject to
8 the inspection is found to be in compliance and if the person making the request is
9 not a person performing the work specified in sub. (2m), the department shall charge
10 the person making the request \$250 or the actual cost of the inspection, whichever
11 is greater.

12 **SECTION 41.** 103.49 (6m) (b) of the statutes is amended to read:

13 103.49 (6m) (b) Whoever induces any individual person who seeks to be or is
14 employed on any project that is subject to this section to give up, waive or return any
15 part of the wages to which the individual person is entitled under the contract
16 governing such project, or who reduces the hourly basic rate of pay normally paid to
17 ~~an employe~~ a person for work on a project that is not subject to this section during
18 a week in which the ~~employe~~ person works both on a project that is subject to this
19 section and on a project that is not subject to this section, by threat not to employ, by
20 threat of dismissal from such employment or by any other means is guilty of an
21 offense under s. 946.15 (1).

22 **SECTION 42.** 103.49 (6m) (d) of the statutes is amended to read:

23 103.49 (6m) (d) Whoever induces any individual person who seeks to be or is
24 employed on any project that is subject to this section to permit any part of the wages
25 to which the individual person is entitled under the contract governing such project

BILL

1 to be deducted from the ~~individual's~~ person's pay is guilty of an offense under s.
2 946.15 (3), unless the deduction would be permitted under 29 CFR 3.5 or 3.6 from an
3 ~~individual~~ a person who is working on a project that is subject to 40 USC 276c.

4 **SECTION 43.** 103.49 (6m) (f) of the statutes is amended to read:

5 103.49 (6m) (f) Paragraph (a) does not apply to any person who fails to provide
6 any information to the department to assist the department in determining
7 prevailing wage rates ~~and prevailing hours of labor~~ under sub. (3) (a) or (am).

8 **SECTION 44.** 103.49 (7) (a) of the statutes is amended to read:

9 103.49 (7) (a) Except as provided under pars. (b) and (c), the department shall
10 distribute to all state agencies and to the University of Wisconsin Hospitals and
11 Clinics Authority a list of all persons whom the department has found to have failed
12 to pay the prevailing wage rate determined under sub. (3) or has found to have paid
13 less than 1.5 times the hourly basic rate of pay for all hours worked in excess of the
14 prevailing hours of labor ~~determined under sub. (3)~~ at any time in the preceding 3
15 years. The department shall include with any such name the address of such person
16 and shall specify when such person failed to pay the prevailing wage rate and when
17 such person failed to pay ~~less than 1.5 times the hourly basic rate of pay~~ for all hours
18 worked in excess of the prevailing hours of labor. A state agency or the University
19 of Wisconsin Hospitals and Clinics Authority may not award any contract to such
20 person unless otherwise recommended by the department or unless 3 years have
21 elapsed from the date the department issued its findings or date of final
22 determination by a court of competent jurisdiction, ~~whichever is later.~~

✓
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21-22 22

23 **SECTION 45.** 103.49 (7) (b) of the statutes is amended to read:

24 103.49 (7) (b) The department may not include in a notification under par. (a)
25 the name of any person on the basis of having let work to a person whom the

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1 department has found to have failed to pay the prevailing wage rate determined
2 under sub. (3) or has found to have paid less than 1.5 times the hourly basic rate of
3 pay for all hours worked in excess of the prevailing hours of labor ~~determined under~~
4 ~~sub. (3).~~

5 **SECTION 46.** 103.49 (7) (d) of the statutes is amended to read:

6 103.49 (7) (d) Any person submitting a bid on a project that is subject to this
7 section shall be required, on the date the person submits the bid, to identify any
8 construction business in which the person, or a shareholder, officer or partner of the
9 person, if the person is a business, owns, or has owned at least a 25% interest on the
10 date the person submits the bid or at any other time within 3 years preceding the date
11 the person submits the bid, if the business has been found to have failed to pay the
12 prevailing wage rate determined under sub. (3) or to have paid less than 1.5 times
13 the hourly basic rate of pay for all hours worked in excess of the prevailing hours of
14 labor ~~determined under sub. (3).~~

15 ~~**SECTION 47.** 103.50 (1) (a) of the statutes is amended to read:~~

16 ~~103.50 (1) (a). "Area" means the county in which a proposed project that is~~
17 ~~subject to this section is located or, if the department determines that there is~~
18 ~~insufficient wage data in that county, "area" means those counties that are~~
19 ~~contiguous to that county or, if the department determines that there is insufficient~~
20 ~~wage data in those counties, "area" means those counties that are contiguous to those~~
21 ~~counties or, if the department determines that there is insufficient wage data in those~~
22 ~~counties, "area" means the entire state.~~

23 **SECTION 48.** 103.50 (2) of the statutes is amended to read:

24 103.50 (2) **PREVAILING WAGE RATES AND HOURS OF LABOR.** No person performing
25 the work described in sub. (2m) in the employ of a contractor, subcontractor, agent

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1 or other person performing any work on a project under a contract based on bids as
2 provided in s. 84.06 (2) to which the state is a party for the construction or
3 improvement of any highway may be permitted to work a longer number of hours per
4 day or per calendar week than the prevailing hours of labor determined under sub.
5 (3); nor may he or she be paid a lesser rate of wages than the prevailing wage rate
6 in the area in which the work is to be done determined under sub. (3); except that any
7 such person may be permitted or required to work more than such prevailing hours
8 of labor per day and per calendar week if he or she is paid for all hours worked in
9 excess of the prevailing hours of labor at a rate of at least 1.5 times his or her hourly
10 basic rate of pay.

11 **SECTION 49.** 103.50 (2m) (a) (intro.) of the statutes is amended to read:

12 103.50 (2m) (a) (intro.) All Subject to par. (b). all of the following employes shall
13 be paid the prevailing wage rate determined under sub. (3) and may not be permitted
14 to work a greater number of hours per day or per calendar week than the prevailing
15 hours of labor determined under sub. (3), unless they are paid for all hours worked
16 in excess of the prevailing hours of labor at a rate of at least 1.5 times their hourly
17 basic rate of pay:

18 **SECTION 50.** 103.50 (2m) (a) 1. of the statutes is amended to read:

19 103.50 (2m) (a) 1. All laborers, workers, mechanics and truck drivers employed
20 on the site of a project that is subject to this section, ~~or employed to deliver mineral~~
21 ~~aggregate such as sand, gravel or stone that is immediately incorporated into the~~
22 ~~work, and not stockpiled or further transported by truck, to or from the site of a~~
23 ~~project that is subject to this section by depositing the material substantially in~~
24 ~~place, directly or through spreaders from the transporting vehicle, or employed to~~

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1 transport excavated material or spoil from and return to the site of a project that is
2 subject to this section.

3 SECTION 51. 103.50 (2m) (b) [✓] of the statutes is renumbered 103.50 (2m) (b)
4 (intro.) and amended to read:

5 103.50 (2m) (b) (intro.) Notwithstanding par. (a) 1., a laborer, worker, mechanic
6 or truck driver who is regularly employed ~~in the processing, manufacturing or~~
7 ~~delivery of materials or products by or for to process, manufacture, pick up or deliver~~
8 materials or products from a commercial establishment that has a fixed place of
9 business from which the establishment regularly supplies processed or
10 manufactured materials or products is not entitled to receive the prevailing wage
11 rate determined under sub. (3) or to receive at least 1.5 times his or her hourly basic
12 rate of pay for all hours worked in excess of the prevailing hours of labor determined
13 under sub. (3). unless any of the following applies: *deliver that mineral aggregate*

14 SECTION 52. 103.50 (2m) (b) 1. and 2. of the statutes are created to read:

15 103.50 (2m) (b) 1. The laborer, worker, mechanic or truck driver is employed
16 *go to the source & ✓* to ~~deliver~~ ^{*to be*} mineral aggregate such as sand, gravel or stone that is ~~immediately~~
17 incorporated into the work, and not stockpiled or further transported by truck, ~~to or~~
18 ~~from~~ the site of a project that is subject to this section by depositing the material
19 substantially in place, directly or through spreaders from the transporting vehicles

20 2. The laborer, worker, mechanic or truck driver is employed to ~~transport~~
21 ~~excavated material or spoil from or return to~~ ^{*go to*} the site of a project that is subject to this
22 section *transport excavated material or spoil from the site of
the project and return to the site of the project*

23 SECTION 53. 103.50 (3) of the statutes is amended to read:

24 103.50 (3) INVESTIGATIONS; DETERMINATIONS. The department shall conduct
25 investigations and hold public hearings necessary to define the trades or occupations

*, and return to the source
of the mineral aggregate*

BILL

1 that are commonly employed in the highway construction industry and to inform
2 itself as to the prevailing wage rates ~~and prevailing hours of labor~~ in all areas of the
3 state for those trades or occupations, in order to ascertain and determine the
4 prevailing wage rates ~~and prevailing hours of labor~~ accordingly.

5 ~~SECTION 54. 103.50 (4) of the statutes is amended to read:~~

6 ~~103.50 (4) (title) CERTIFICATION OF PREVAILING WAGE RATES AND HOURS OF LABOR.~~

7 ~~The department of industry, labor and job development shall, by May 1 of each~~
8 ~~calendar year, certify to the department of transportation the prevailing wage rates~~
9 ~~and the prevailing hours of labor in each area for all trades or occupations commonly~~
10 ~~employed in the highway construction industry. The certification shall, in addition~~
11 ~~to the current prevailing wage rates and prevailing hours of labor, include future~~
12 ~~prevailing wage rates and prevailing hours of labor when such prevailing wage rates~~
13 ~~and prevailing hours of labor can be determined for any such trade or occupation in~~
14 ~~any area and shall specify the effective date of those future prevailing wage rates and~~
15 ~~prevailing hours of labor. If a construction project extends into more than one area~~
16 ~~there shall be but one standard of prevailing wage rates and prevailing hours of labor~~
17 ~~for the entire project.~~

18 ~~SECTION 55. 103.50 (5) of the statutes is amended to read:~~

19 ~~103.50 (5) APPEALS TO GOVERNOR. If the department of transportation considers~~
20 ~~any determination of the department of industry, labor and job development as to the~~
21 ~~prevailing wage rates and the prevailing hours of labor in an area to have been~~
22 ~~incorrect, it may appeal to the governor, whose determination shall be final.~~

23 ~~SECTION 56. 103.50 (6) of the statutes is amended to read:~~

24 ~~103.50 (6) CONTENTS OF CONTRACTS. A reference to the prevailing wage rates~~
25 ~~and the prevailing hours of labor determined under sub. (3) and the prevailing hours~~

BILL

1 of labor shall be published in the notice issued for the purpose of securing bids for a
 2 project. If any contract or subcontract for a project that is subject to this section is
 3 entered into, the prevailing wage rates and ~~prevailing hours of labor~~ determined
 4 under sub. (3) and the prevailing hours of labor shall be physically incorporated into
 5 and made a part of the contract or subcontract, except that for a minor subcontract,
 6 as determined by the department of industry, labor and job development, that
 7 department shall prescribe by rule the method of notifying the minor subcontractor
 8 of the prevailing wage rates and prevailing hours of labor applicable to the minor
 9 subcontract. The prevailing wage rates and prevailing hours of labor applicable to
 10 a contract or subcontract may not be changed during the time that the contract or
 11 subcontract is in force. For the information of the employees working on the project,
 12 the prevailing wage rates and ~~prevailing hours of labor~~ determined by the
 13 department, the prevailing hours of labor and the provisions of subs. (2) and (7) shall
 14 be kept posted by the department of transportation in at least one conspicuous and
 15 easily accessible place on the site of the project.

Insert
26-15

16 SECTION 57. 103.50 (7) (b) of the statutes is amended to read:

17 103.50 (7) (b) Whoever induces any individual person who seeks to be or is
 18 employed on any project that is subject to this section to give up, waive or return any
 19 part of the wages to which the individual person is entitled under the contract
 20 governing such project, or who reduces the hourly basic rate of pay normally paid to
 21 ~~an employe~~ a person for work on a project that is not subject to this section during
 22 a week in which the ~~employe~~ person works both on a project that is subject to this
 23 section and on a project that is not subject to this section, by threat not to employ, by
 24 threat of dismissal from such employment or by any other means is guilty of an
 25 offense under s. 946.15 (1).

BILL

1 **SECTION 58.** 103.50 (7) (d) of the statutes is amended to read:

2 103.50 (7) (d) Whoever induces any ~~individual~~ person who seeks to be or is
3 employed on any project that is subject to this section to permit any part of the wages
4 to which the ~~individual~~ person is entitled under the contract governing such project
5 to be deducted from the ~~individual's~~ person's pay is guilty of an offense under s.
6 946.15 (3), unless the deduction would be permitted under 29 CFR 3.5 or 3.6 from ~~an~~
7 ~~individual~~ a person who is working on a project that is subject to 40 USC 276c.

8 **SECTION 59.** 103.50 (7) (e) of the statutes is amended to read:

9 103.50 (7) (e) Any person employed on a project that is subject to this section
10 who knowingly permits any part of the wages to which he or she is entitled under the
11 contract governing such project to be deducted from his or her pay is guilty of an
12 offense under s. 946.15 (4), unless the deduction would be permitted under 29 CFR
13 3.5 or 3.6 from ~~an individual~~ a person who is working on a project that is subject to
14 40 USC 276c.

15 **SECTION 60.** 103.50 (7) (f) of the statutes is amended to read:

16 103.50 (7) (f) Paragraph (a) does not apply to any person who fails to provide
17 any information to the department to assist the department in determining
18 prevailing wage rates ~~or prevailing hours of labor~~ under sub. (3) or (4).

19 **SECTION 61.** 103.50 (8) of the statutes is amended to read:

20 103.50 (8) ENFORCEMENT AND PROSECUTION. The department of transportation
21 shall require adherence to subs. (2), ~~(2m)~~ [✓](2m) and (6). The department of transportation
22 may demand and examine, and it shall be the duty of every contractor, subcontractor
23 and agent thereof to keep and furnish to the department of transportation, copies of
24 payrolls and other records and information relating to ~~the wages paid to persons~~
25 ~~performing the work~~ described in sub. (2m) for work to which ~~this section applies.~~

Compliance with

BILL**SECTION 61**

1 Upon request of the department of transportation or upon complaint of alleged
2 violation, the district attorney of the county in which the work is located shall make
3 such investigation as necessary and prosecute violations in a court of competent
4 jurisdiction. Section 111.322 (2m) applies to discharge and other discriminatory acts
5 arising in connection with any proceeding under this section.

6 **SECTION 62.** 227.01 (13) (t) of the statutes is amended to read:

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

11 (END)

Insert 4-11 ✓

Section #. 66.293 (3) (bm) of the statutes is amended to read:

reflecting

by persons working

an initial

66.293 (3) (bm) Any person may request a recalculation of any portion of a determination within 30 days after the initial determination date if the person submits evidence with the request showing that the prevailing wage rate or ~~prevailing hours of labor~~ for any given trade or occupation included in the initial determination does not represent the prevailing wage rate or ~~prevailing hours of labor~~ for that trade or occupation in the area. Such evidence shall include wage rate ~~and hours of labor~~ information for work performed in the contested trade or occupation in the area ~~within the previous 12 months~~. The department shall affirm or modify the initial determination within 15 days after the date on which the department receives the request for recalculation.

History: 1971 c. 154, 307; 1973 c. 181; 1977 c. 29; 1985 a. 159; 1989 a. 56, 228; 1991 a. 316; 1993 a. 112, 399; 1995 a. 27 ss. 3318, 3319, 9130 (4); 1995 a. 215; 1997 a. 3, 35.

(end of insert)

during the current survey period

Insert 11-21

Section #. 66.293 (12) (a) of the statutes is amended to read:

66.293 (12) (a) Except as provided under pars. (b) and (c), the department shall notify any local governmental unit applying for a determination under sub. (3) and any local governmental unit exempted under sub. (6) of the names of all persons whom the department has found to have failed to pay the prevailing wage rate determined under sub. (3) or has found 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 ~~determined under sub. (3)~~ at any time in the preceding 3 years. The department shall include with any such name the address of such person and shall specify when such person failed to pay the prevailing wage rate and when such person paid ~~less than~~ ^{set} 1.5 times the hourly basic rate of pay for all hours worked in excess of the prevailing hours of labor. A local governmental unit may not award any contract to such person unless otherwise recommended by the department or unless ~~at least~~ 3 years have elapsed from the date the department issued its findings or the date of final determination by a court of competent jurisdiction, whichever is later.

~~History: 1971 c. 154, 307, 1973 c. 181; 1977 c. 29; 1985 a. 159; 1989 a. 56, 228; 1991 a. 316; 1993 a. 112, 399; 1995 a. 27 ss. 3318, 3319, 9130 (4); 1995 a. 215; 1997 a. 3, 35.~~

(end of insert)

Insert 14-10 and the prevailing hours of labor

Section #. 103.49 (2) of the statutes is amended to read:

performing the work

determined under sub. (3)

103.49 (2) PREVAILING WAGE RATES AND HOURS OF LABOR. Any contract hereafter made for the erection, construction, remodeling, repairing or demolition of any project of public works, except contracts for the construction or maintenance of public highways, streets and bridges, to which the state, any state agency or the University of Wisconsin Hospitals and Clinics Authority is a party shall contain a stipulation that no person described in sub. (2m) may be permitted to work a greater number of hours per day or per ~~calendar~~ week than the prevailing hours of labor ~~determined under sub. (3)~~, except that any such person may be permitted or required to work more than such prevailing hours of labor per day and per ~~calendar~~ week if he or she is paid for all hours worked in excess of the prevailing hours of labor at a rate of at least 1.5 times his or her hourly basic rate of pay; nor may he or she be paid less than the prevailing wage rate in the same or most similar trade or occupation in the area wherein such project of public works is situated ~~determined under sub. (3)~~. A reference to the prevailing wage rates ~~and prevailing hours of labor~~ determined under sub. (3) shall be published in the notice issued for the purpose of securing bids for the project. If any contract or subcontract for a project that is subject to this section is entered into, the prevailing wage rates ~~and prevailing hours of labor~~ determined under sub. (3) shall be physically incorporated into and made a part of the contract or subcontract, except that for a minor subcontract, as determined by the department, the department shall prescribe by rule the method of notifying the minor subcontractor of the prevailing wage rates and prevailing hours of labor applicable to the minor subcontract. The prevailing wage rates and prevailing hours of labor applicable to a contract or subcontract may not be changed during the time that the contract or subcontract is in force.

History: ~~1983 a. 27, 1985 a. 159, 1985 a. 332 ss. 141, 142, 253, 1987 a. 403 s. 256, 1989 a. 228, 1993 a. 112, 1995 a. 27, 215, 225, 1997 a. 35.~~

(end of insert)

Insert 18-15 ✓

Section #. 103.49 (3g) of the statutes is amended to read:

103.49 (3g) NONAPPLICABILITY. This section does not apply to any single-trade project for which the estimated cost of completion is less than \$30,000 or an amount determined under s. 66.293 (5) or to any multiple-trade project for which the estimated cost of completion is less than \$150,000 or an amount determined by the department under s. 66.293 (5).

Handwritten annotations:
- "project" circled and underlined, with a line pointing to "single-trade project" and "multiple-trade project".
- "public works" circled, with a line pointing to "project".
- "by the department" circled and underlined, with a line pointing to "determined by the department".
- "public works" circled, with a line pointing to "determined by the department".

~~History: 1983 a. 27; 1985 a. 159; 1985 a. 332 ss. 141, 142, 253; 1987 a. 403 s. 256; 1989 a. 228; 1993 a. 112; 1995~~

~~a. 27, 215, 225; 1997 a. 35.~~

(end insert)

Insert 19-24

Section #. 103.49 (5) (b) of the statutes is amended to read:

performing the work

103.49 (5) (b) It shall be the duty of the department to enforce this section. To this end it may demand and examine, and it shall be the duty of every contractor, subcontractor and agent thereof to keep and furnish to the department, copies of payrolls and other records and information relating to the wages paid to persons described in sub. (2m) for work to which this section applies. The department may inspect records in the manner provided in this chapter and ~~chs. 104 to 106~~. Every contractor, subcontractor or agent performing work on a project that is subject to this section is subject to the requirements of this chapter and ~~chs. 104 to 106~~ relating to the examination of records. Section 111.322 (2m) applies to discharge and other discriminatory acts arising in connection with any proceeding under this section.

~~History: 1983 a. 27; 1985 a. 159, 1985 a. 332 ss. 141, 142, 253; 1987 a. 403 s. 256; 1989 a. 228; 1993 a. 112; 1995 a. 27, 215, 225; 1997 a. 35.~~

(end of insert)

Insert 21-22 ✓

Section #. 103.49 (7) (a) of the statutes is amended to read:

103.49 (7) (a) Except as provided under pars. (b) and (c), the department shall distribute to all state agencies and to the University of Wisconsin Hospitals and Clinics Authority a list of all persons whom the department has found to have failed to pay the prevailing wage rate determined under sub. (3) or has found 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 ~~determined under sub. (3)~~ at any time in the preceding 3 years. The department shall include with any such name the address of such person and shall specify when such person failed to pay the prevailing wage rate and when such person paid less than 1.5 ^{5/10} times the hourly basic rate of pay for all hours worked in excess of the prevailing hours of labor. A state agency or the University of Wisconsin Hospitals and Clinics Authority may not award any contract to such person unless otherwise recommended by the department or unless 3 years have elapsed from the date the department issued its findings or date of final determination by a court of competent jurisdiction, whichever is later.

~~History: 1983 a. 27; 1985 a. 159; 1985 a. 332 ss. 141, 142, 253; 1987 a. 403 s. 256; 1989 a. 228; 1993 a. 112; 1995 a. 27, 215, 225; 1997 a. 35.~~

(end of insert)

Insert 23 - 10

Section #. 103.50 (2) of the statutes is amended to read:

Performing the work

103.50 (2) PREVAILING WAGE RATES AND HOURS OF LABOR. No person, described in sub. (2m) in the employ of a contractor, subcontractor, agent or other person performing any work on a project under a contract based on bids as provided in s. 84.06 (2) to which the state is a party for the construction or improvement of any highway may be permitted to work a longer number of hours per day or per calendar week than the prevailing hours of labor determined under sub. (3); nor may he or she be paid a lesser rate of wages than the prevailing wage rate in the area in which the work is to be done determined under sub. (3); except that any such person may be permitted or required to work more than such prevailing hours of labor per day and per calendar week if he or she is paid for all hours worked in excess of the prevailing hours of labor at a rate of at least 1.5 times his or her hourly basic rate of pay.

greater

History: 1977 c. 29 s. 1654 (8) (c); 1979 c. 269; 1985 a. 332 ss. 143, 144, 253, 1989 a. 228; 1993 a. 492; 1995 a. 215, 225; 1997 a. 3, 35.

(end insert)

Insert 26-15 ✓

Section #. 103.50 (4) of the statutes is amended to read:

103.50 (4) CERTIFICATION OF PREVAILING WAGE RATES ~~AND HOURS OF LABOR~~. The department of workforce development shall, by May 1 of each ~~calendar~~ year, certify to the department of transportation the prevailing wage rates ~~and the prevailing hours of labor~~ in each area for all trades or occupations commonly employed in the highway construction industry. The certification shall, in addition to the current prevailing wage rates ~~and prevailing hours of labor~~, include future prevailing wage rates ~~and prevailing hours of labor~~ when such prevailing wage rates ~~and prevailing hours of labor~~ can be determined for any such trade or occupation in any area and shall specify the effective date of those future prevailing wage rates ~~and prevailing hours of labor~~. If a construction project extends into more than one area there shall be but one standard of prevailing wage rates ~~and prevailing hours of labor~~ for the entire project.

History: 1977 c. 29 s. 1654 (8) (c); 1979 e. 269; 1985 a. 332 ss. 143, 144, 253; 1989 a. 228; 1993 a. 492; 1995 a. 215, 225; 1997 a. 3, 35.

Exempt 2615

Section #. 103.50 (5) of the statutes is amended to read:

103.50 (5) APPEALS TO GOVERNOR. If the department of transportation considers any determination of the department of workforce development as to the prevailing wage rates ~~and the prevailing hours of labor~~ in an area to have been incorrect, it may appeal to the governor, whose determination shall be final.

~~History: 1977 c. 29 s. 1654 (8) (c); 1979 c. 269; 1985 a. 332 ss. 143, 144, 253; 1989 a. 228; 1993 a. 492; 1995 a. 215, 225, 1997 a. 3, 35.~~



Insert 26-15

Section #. 103.50 (6) of the statutes is amended to read:

and the prevailing hours of labor

103.50 (6) CONTENTS OF CONTRACTS. A reference to the prevailing wage rates ~~and the prevailing hours of labor~~ determined under sub. (3) shall be published in the notice issued for the purpose of securing bids for a project. If any contract or subcontract for a project that is subject to this section is entered into, the prevailing wage rates ~~and prevailing hours of labor~~ determined under sub. (3) shall be physically incorporated into and made a part of the contract or subcontract, except that for a minor subcontract, as determined by the department of workforce development, that department shall prescribe by rule the method of notifying the minor subcontractor of the prevailing wage rates and prevailing hours of labor applicable to the minor subcontract. The prevailing wage rates and prevailing hours of labor applicable to a contract or subcontract may not be changed during the time that the contract or subcontract is in force. For the information of the employees working on the project, the prevailing wage rates ~~and prevailing hours of labor~~ determined by the department and the provisions of subs. (2) and (7) shall be kept posted by the department of transportation in at least one conspicuous and easily accessible place on the site of the project.

History: 1977 c. 29 s. 1654 (8) (c); 1979 c. 269; 1985 a. 332 ss. 143, 144, 253; 1989 a. 228; 1993 a. 492; 1995 a. 215, 225; 1997 a. 3, 35.

(end of insert)

, the prevailing hours of labor

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2860/1
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INSERT A

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This bill provides that a laborer, worker, mechanic or truck driver who is employed to process, manufacture, pick up or deliver materials or products from such a commercial establishment is not covered under the prevailing wage and hours law unless the person is employed to go to the source of mineral aggregate, deliver that mineral aggregate to the site of a public works project and return to the source of the mineral aggregate or is employed to go to the site of a public works project, transport excavated materials or spoil from the site of the project and return to the site of the project.

Under current law, DWD must, by January 1 of each year, determine the prevailing wage rates for each trade or occupation in each area of the state. Currently, in determining prevailing wage rates for local public works projects, DWD may not use data from projects that are subject to the state prevailing wage and hours law or the federal Davis-Bacon Act, unless there is insufficient wage data in an area to determine prevailing wage rates. In determining prevailing wage rates for state building, residential or agricultural projects, DWD may not use ~~data~~ from projects that are subject to the state prevailing wage and hours law or the federal Davis-Bacon Act even if there is insufficient wage ~~data~~ in an area to determine prevailing wage rates. In determining prevailing wage rates for state projects involving the use of heavy equipment, however, DWD may use such data. This bill eliminates the separate method for determining prevailing wage rates for projects involving the use of heavy equipment and permits DWD, in determining prevailing wage rates for state public works projects, to use data from projects that are subject to the state prevailing wage and hours law or the federal Davis-Bacon Act if there is insufficient wage ~~data~~ in an area to determine prevailing wage rates. ~~data~~

Finally, under current law, any person may request a recalculation or a review of a prevailing wage rate determination if the person submits evidence, including wage rate information for work performed within the previous 12 months, showing that the prevailing wage rate determined by DWD does not reflect the actual prevailing wage rate in the area of the project. This bill changes the wage rate information that must be submitted with a request for recalculation or review to wage rate information for work performed during DWD's current survey period.

~~(END)~~