

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



David J. Stute, Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE RULE 99-006

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

5. Clarity, Grammar, Punctuation and Use of Plain Language

Both the fiscal impact statement and the fiscal estimate of the rule appear to be somewhat misleading in that they both seem to imply that, under the rule, single-trade public works projects that cost under \$32,000 and multi-trade public works projects with a cost below \$160,000 *will* be subject to prevailing wage rates. Clearly, that is not the purpose of the rule nor its effect. Perhaps the accuracy and clarity of the statement and estimate could be enhanced if the references to the old thresholds are removed and only the new upper limits are referred to. Thus, the fiscal impact would read, in part, ". . . a state or local government with a public works project that costs less than \$33,000 for a single-trade project or less than \$164,000 for a multi-trade project will not be covered by the prevailing wage requirement."

WISCONSIN LEGISLATIVE COUNCIL STAFF



RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



David J. Stute, Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE REPORT TO AGENCY

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

CLEARINGHOUSE RULE 99-006

AN ORDER to amend DWD 290.155, relating to the annual adjustment of the minimum estimated project costs for the application of the requirement to obtain a determination of prevailing wage rates for workers employed on state or local public works projects.

Submitted by **DEPARTMENT OF WORKFORCE DEVELOPMENT**

01-15-99 RECEIVED BY LEGISLATIVE COUNCIL.

02-12-99 REPORT SENT TO AGENCY.

RNS:RJC:kjf;wu

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

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

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

Comment Attached YES NO

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

Comment Attached YES NO

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

Comment Attached YES NO

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

Comment Attached YES NO

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

Comment Attached YES NO

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

Comment Attached YES NO

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

Comment Attached YES NO

March 15, 1999

TO: Members of the Senate Labor Committee

Senator Russell Decker
Senator Roger Breske

Senator David Zien
Senator Margaret Farrow

FROM: Senator Jim Baumgart, Chair

Re: Administrative Rule

On March 10, 1999, the following administrative rule was referred to the committee for review:

CLEARINGHOUSE RULE 99-006

Relating to the annual adjustment of the minimum estimated project costs for the application of the requirement to obtain a determination of prevailing wage rates for workers employed on state or local public works projects.

Submitted by the Department of Workforce Development

Enclosed is a copy of the rule. If you have any concerns or questions about the rule, please advise.

cc: Dan Fernbach, Legislative Council

Tommy G. Thompson
Governor
Linda Stewart
Secretary



State of Wisconsin

Department of Workforce Development

OFFICE OF THE SECRETARY
201 East Washington Avenue
P.O. Box 7946
Madison, WI 53707-7946
Telephone: (608) 266-7552
Fax: (608) 266-1784
<http://www.dwd.state.wi.us/>

March 4, 1999

Senator Fred Risser
President of the Senate
220 South, State Capitol
Madison, Wisconsin 53702

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

Dear Senator Risser and Representative Jensen:

NOTICE OF ADMINISTRATIVE RULES IN FINAL DRAFT FORM

CLEARINGHOUSE RULE NO.: 99-006
RULE NO.: DWD 290.155
RELATING TO: Thresholds for Application of the Prevailing Wage Rates for
State or Local Public Works Projects

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

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

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

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

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

Respectfully submitted,

A handwritten signature in black ink that reads 'Linda Stewart' in a cursive script.

Linda Stewart, Ph.D.
Secretary



State of Wisconsin
Department of Workforce Development

Rules in Final Draft Form

Rule No.: DWD 290.155

Relating to: **Thresholds for Application of the Prevailing
Wage Rates for State or Local Public Works
Projects**

State of Wisconsin
Department of Workforce Development

**Thresholds for Application of the Prevailing Wage
Rates for State or Local Public Works Projects**

Analysis

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

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

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

The state prevailing wage laws require that, when a state agency or local governmental unit constructs a public works project, it must obtain a prevailing wage rate determination from the Department of Workforce Development and require that the contractors and subcontractors on the project pay their employees in accordance with those wage rates. Under secs. 66.293(5) and 103.49(3g), Stats., and the current sec. DWD 290.155, Wis. Admin. Code, the state prevailing wage rate laws do not apply to any "single-trade public works project" (a project involving the employment of only one trade) whose estimated cost is below \$32,000, and it does not apply to any "multi-trade public works project" whose estimated cost is below \$160,000.

Under secs. 66.293(5) and 103.49(3g), Stats., and DWD 290.15, the department is required to adjust the dollar amounts of the threshold limits each year, in proportion to any change in construction costs since the limits were last determined. The proposed rule changes the threshold limits to \$33,000 for single-trade projects and \$164,000 for multi-trade projects, based on a 2.6% increase in the construction cost index between November 1997 and December 1998.

Rule Text

SECTION 1. DWD 290.155 is amended to read:

DWD 290.155 This chapter does not apply to any single-trade public works project for which the estimated cost of completion is below ~~\$32,000~~ \$33,000, and any multi-trade public works project for which the estimated cost of completion is below ~~\$160,000~~ \$164,000.

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

(End)

Public Hearing Comment and Agency Response

Department of Workforce Development

Rule number: DWD 290.155

Hearing location: G.E.F. 1, Room 400X,
Madison

Hearing date: February 11, 1999

Related to: Thresholds for Application of the Prevailing Wage Rates for State or Local Public Works Projects

Comment in Sup. Opp.	For info.	Exh no.	Presenter, group represented	Comments/Recommendations	Agency Response
	X		Jim Boullion Associated Builders and Contractors		

Tommy G. Thompson
Governor
Linda Stewart
Secretary



OFFICE OF THE SECRETARY
201 East Washington Avenue
P.O. Box 7946
Madison, WI 53707-7946
Telephone: (608) 266-7552
Fax: (608) 266-1784
<http://www.dwd.state.wi.us/>

State of Wisconsin
Department of Workforce Development

Response to Legislative Council Clearinghouse Report

Clearinghouse Rule No.: 99-006
Rule No.: DWD 290.155
Relating To: Thresholds for Application of the Prevailing Wage Rates for State or Local Public Works Projects

Agency contact person for substantive questions.

Name: Gary Shealy
Title: Construction Wage Standards Section Chief
Telephone No. (608) 266-3193

Legislative Council report recommendations accepted in whole.

Yes No

1. Review of statutory authority (s.227.15(2)(a))
 - a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached

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

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

ESTIMATE WORKSHEET

1999 Session

Detailed Estimate of Annual Fiscal Effect
DOA-2047 (R10/94)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No. DWD 290.155	Amendment No.
--	---------------

Subject
Prevailing Wage-Minimum Project Costs

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

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

NET ANNUALIZED FISCAL IMPACT

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

Agency/Prepared by: (Name & Phone No.)
DWD/Elaine Pridgen

Authorized Signature/Telephone No.
Elaine Pridgen 267-9403

Date

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

FISCAL ESTIMATE
DOA-2048 N(R03/97)

Subject
Prevailing Wage-Minimum Project Costs

Fiscal Effect

State: No State Fiscal Effect

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

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

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

Decrease Costs

Local: No local government costs

1. Increase Costs
 Permissive Mandatory
 2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
 4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
- Towns Villages Cities
 Counties Others _____
 School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

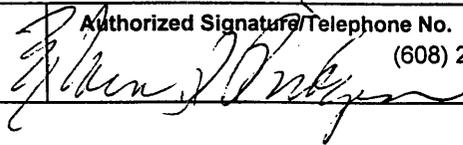
Assumptions Used in Arriving at Fiscal Estimate

Currently a public project that costs more than \$32,000 for a single-trade project or \$160,000 for a multi-trade project must obtain a prevailing wage rate determination from DWD and pay wages at those rates. This rule raises the thresholds to \$33,000 and \$164,000 to reflect the increase in construction costs since November of 1997. Under this rule, a state or local government with a public works project that costs less than \$33,000 for a single-trade project or less than \$164,000 for a multi-trade project will not be covered by the prevailing wage requirement.

Long-Range Fiscal Implications

None

Agency/Prepared by: (Name & Phone No.)
DWD/Elaine Pridgen

Authorized Signature/Telephone No.
 (608) 267-9403

Date

FINAL REGULATORY FLEXIBILITY ANALYSIS

Department of Workforce Development

CLEARINGHOUSE RULE NO.: 99-006

RULE NO.: DWD 290.155

RELATING TO: Thresholds for Application of the Prevailing Wage Rates for State or Local Public Works Projects

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

The rule change will not affect small business.

1. Reason for including or failing to include the following methods for reducing impact of the rule on small businesses: Less stringent compliance or reporting requirements; less stringent schedules or deadlines for compliance or reporting requirements; simplification of compliance or reporting requirements; establishment of performance standards to replace design or operational standards; exemption from any or all requirements.
2. Issues raised by small businesses during hearings, changes in proposed rules as a result of comments by small businesses and reasons for rejecting any alternatives suggested by small businesses.
3. Nature and estimated cost of preparation of any reports by small businesses.
4. Nature and estimated cost of other measures and investments required of small businesses.
5. Additional cost to agency of administering or enforcing a rule which includes any of the methods in 1. for reducing impact on small business.
6. Impact on public health, safety and welfare caused by including any of the methods in 1. for reducing impact on small businesses.