

2001 DRAFTING REQUEST

Bill

Received: 09/12/2001

Received By: malaigm

Wanted: 09/13/2001

Identical to LRB:

For: Lee Meyerhofer (608) 266-2418

By/Representing: Susan of Rep. Black's Office

This file may be shown to any legislator: NO

Drafter: malaigm

May Contact:

Addl. Drafters:

Subject: **Employ Priv - prevailing wage**

Extra Copies:

Submit via email: NO

Pre Topic:

No specific pre topic given

Topic:

Prevailing wage rate determinations

Instructions:

See Attached--draft as separate bill portions of LRB-3700 relating to use of data from public works projects in determining prevailing wage rates

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 09/12/2001 | jdye 09/13/2001 | | _____ | | | S&L |
| /1 | | | jfrantze 09/13/2001 | _____ | lrb_docadmin 09/13/2001 | lrb_docadmin 09/17/2001 | |

FE Sent For:

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Th. 9/13 noon

3768/1

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2001 BILL

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AN ACT to amend 66.0903 (3) (av), 66.0903 (10) (a), 103.49 (3) (ar) and 103.49 (5) (a); and to create 103.50 (6m) of the statutes; relating to: the use of data from public works projects that are subject to the prevailing wage law in determining the wage rates that must be paid to workers employed on those projects and ~~public inspection of the payroll records of contractors, subcontractors, and agents performing work on those projects.~~

Analysis by the Legislative Reference Bureau

Under current law, certain laborers, workers, mechanics, and truck drivers employed on a state or local project of public works must be paid at the rate paid for a majority of the hours worked in the person's trade or occupation in the county in which the project is located (prevailing wage law). This bill makes certain changes relating to the data that may be used in determining the wage rates that must be paid under the prevailing wage law and ~~public inspection of the payroll records of contractors, subcontractors, and contractor's and subcontractor's agents performing work on a project that is subject to the prevailing wage law.~~

Specifically, under current law, the department of workforce development (DWD) must, by January 1 of each year, determine the prevailing wage rate for each trade or occupation in each area of the state. In determining prevailing wage rates for state public works projects, other than highway projects, and local public works projects, DWD may not use data from projects that are subject to the prevailing wage

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law or its federal counterpart, the Davis-Bacon Act, unless there is insufficient wage data in an area to determine the prevailing wage rates for that area. In determining prevailing wage rates for state highway projects, DWD must use data from projects that are subject to the prevailing wage law or the Davis-Bacon Act. This bill permits DWD to use data from a project that is subject to the prevailing wage law or the Davis-Bacon Act in determining prevailing wage rates for state public works projects, other than highway projects, and local public works projects if DWD determines that the wage rate paid on that project is higher than the prevailing wage rate determined for that project.

~~Under current law, each contractor, subcontractor, and contractor's or subcontractor's agent performing work on a project that is subject to the prevailing wage law must keep copies of payrolls and other records and information relating to compliance with the prevailing wage law and, on demand of DWD or, in the case of a state highway project, the department of transportation (DOT) must furnish those records and information to DWD or DOT. This bill requires a contractor, subcontractor, or contractor's or subcontractor's agent performing work on a project that is subject to the prevailing wage law, on the request of any person, to permit that person to inspect and copy any of those records to the same extent as if the records were maintained by DWD or DOT and subject to the open records law, except that the bill requires the contractor, subcontractor, or contractor's or subcontractor's agent to delete any personally identifiable information contained in the record about the laborer, worker, mechanic, or truck driver who is the subject of the record before permitting inspection and copying of the record.~~

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

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

1 **SECTION 1.** 66.0903 (3) (av) of the statutes is amended to read:
2 66.0903 (3) (av) In determining prevailing wage rates under par. (am) or (ar),
3 the department may not use data from projects that are subject to this section, s.
4 103.49 or 103.50, or 40 USC 276a unless the department determines that there is
5 insufficient wage data in the area to determine those prevailing wage rates, in which
6 case the department may use data from projects that are subject to this section, s.
7 103.49 or 103.50, or 40 USC 276a. The department may also use data from a project
8 that is subject to this section, s. 103.49 or 103.50, or 40 USC 276a in determining

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1 prevailing wage rates under par. (am) or (ar) if the department determines that the
2 wage rate paid on that project is higher than the prevailing wage rate determined
3 for that project.

4 ~~SECTION 2. 66.0903 (10) (a) of the statutes is amended to read:~~

5 ~~66.0903 (10) (a) Each contractor, subcontractor, or contractor's or~~
6 ~~subcontractor's agent performing work on a project that is subject to this section~~
7 ~~shall keep full and accurate records clearly indicating the name and trade or~~
8 ~~occupation of every person performing the work described in sub. (4) and an accurate~~
9 ~~record of the number of hours worked by each of those persons and the actual wages~~
10 ~~paid for the hours worked. If requested by any person, a contractor, subcontractor,~~
11 ~~or contractor's or subcontractor's agent performing work on a project that is subject~~
12 ~~to this section shall permit that person to inspect and copy any of those records to the~~
13 ~~same extent as if the record were maintained by the department, except that s. 19.36~~
14 ~~(3) does not limit the duty of a subcontractor or a contractor's or subcontractor's agent~~
15 ~~to permit inspection and copying of a record under this paragraph. Before permitting~~
16 ~~the inspection and copying of a record under this paragraph, a contractor,~~
17 ~~subcontractor, or contractor's or subcontractor's agent shall delete from the record~~
18 ~~any personally identifiable information, as defined in s. 19.62 (5), contained in the~~
19 ~~record about any person performing the work described in sub. (4).~~

20 ~~SECTION 3. 103.49 (3) (ar) of the statutes is amended to read:~~

21 103.49 (3) (ar) In determining prevailing wage rates under par. (a) or (am), the
22 department may not use data from projects that are subject to this section, s. 66.0903,
23 103.50, or 229.8275, or 40 USC 276a unless the department determines that there
24 is insufficient wage data in the area to determine those prevailing wage rates, in
25 which case the department may use data from projects that are subject to this

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1 section, s. 66.0903, 103.50, or 229.8275, or 40 USC 276a. The department may also
2 use data from a project that is subject to this section, s. 66.0903, 103.50, or 229.8275,
3 or 40 USC 276a in determining prevailing wage rates under par. (a) or (am) if the
4 department determines that the wage rate paid on that project is higher than the
5 prevailing wage rate determined for that project.

6 ~~SECTION 4. 103.49 (5) (a) of the statutes is amended to read:~~

7 ~~103.49 (5) (a) Each contractor, subcontractor, or contractor's or subcontractor's~~
8 ~~agent performing work on a project that is subject to this section shall keep full and~~
9 ~~accurate records clearly indicating the name and trade or occupation of every person~~
10 ~~performing the work described in sub. (2m) and an accurate record of the number of~~
11 ~~hours worked by each of those persons and the actual wages paid for the hours~~
12 ~~worked. If requested by any person, a contractor, subcontractor, or contractor's or~~
13 ~~subcontractor's agent performing work on a project that is subject to this section~~
14 ~~shall permit that person to inspect and copy any of those records to the same extent~~
15 ~~as if the record were maintained by the department, except that s. 19.36 (3) does not~~
16 ~~limit the duty of a subcontractor or a contractor's or subcontractor's agent to permit~~
17 ~~inspection and copying of a record under this paragraph. Before permitting the~~
18 ~~inspection and copying of a record under this paragraph, a contractor, subcontractor,~~
19 ~~or contractor's or subcontractor's agent shall delete from the record any personally~~
20 ~~identifiable information, as defined in s. 19.62 (5), contained in the record about any~~
21 ~~person performing the work described in sub. (2m).~~

22 SECTION 5. 103.50 (6m) of the statutes is created to read:

23 103.50 (6m) RECORDS; INSPECTION. Each contractor, subcontractor, or
24 contractor's or subcontractor's agent performing work on a project that is subject to
25 this section shall keep full and accurate records clearly indicating the name and

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1 trade or occupation of every person performing the work described in sub. (2m) and
2 an accurate record of the number of hours worked by each of those persons and the
3 actual wages paid for the hours worked. If requested by any person, a contractor,
4 subcontractor, or contractor's or subcontractor's agent performing work on a project
5 that is subject to this section shall permit that person to inspect and copy any of those
6 records to the same extent as if the record were maintained by the department,
7 except that s. 19.36 (3) does not limit the duty of a subcontractor or a contractor's or
8 subcontractor's agent to permit inspection and copying of a record under this
9 subsection. Before permitting the inspection and copying of a record under this
10 subsection, a contractor, subcontractor, or contractor's or subcontractor's agent shall
11 delete from the record any personally identifiable information, as defined in s. 19.62
12 (5), contained in the record about any person performing the work described in sub.
13 (2m).

(END)



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

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STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

September 13, 2001

MEMORANDUM

To: Representative Meyerhofer

From: Gordon M. Malaise, Senior Legislative Attorney

Re: LRB-3768/1 Prevailing wage rate determinations

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-9738 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.