

2001 Jr2 DRAFTING REQUEST

Senate Amendment (SA-SSA1-AB1)

Received: 03/28/2002

Received By: malaigm

Wanted: As time permits

Identical to LRB:

For: Senate Democratic Caucus 6-9220

By/Representing: Engel

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:

SCC:.....Engel - CN7901,

Topic:

Prevailing wage enforcement

Instructions:

See Attached

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 03/28/2002	kfollet 03/28/2002		_____			
/1			chanaman 03/28/2002	_____	lrb_docadmin 03/28/2002		
/2	malaigm 04/02/2002	kfollet 04/02/2002	haugeca 04/02/2002	_____	lrb_docadmin 04/03/2002		

FE Sent For:

<END>

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/?	malaigm	/1 kj 3/28		_____			

FE Sent For:

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2001

Date (time)
needed

LRB b 2903 / 1

CAUCUS BUDGET AMENDMENT
[CAUCUS AMDTS. ONLY]

GMM: EJ :

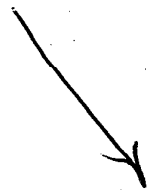
See form **AMENDMENTS — COMPONENTS & ITEMS.**

CAUCUS AMENDMENT
TO SENATE SUBSTITUTE AMENDMENT 1
TO 2001 SPECIAL SESSION ASSEMBLY BILL 1

>>FOR CAUCUS SUPERAMENDMENT — NOT FOR INTRODUCTION<<

At the locations indicated; amend the substitute amendment as follows:

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





State of Wisconsin
2001 - 2002 LEGISLATURE
January 2002 Special Session

62923/1
LRB02-1271
GMM:cs:ch

~~SENATE AMENDMENT,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 1~~

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 53, line 4: after that line insert:

3 "SECTION 153d. 66.0903 (10) (a) of the statutes is amended to read:

4 66.0903 (10) (a) Each contractor, subcontractor, or contractor's or
5 subcontractor's agent performing work on a project that is subject to this section
6 shall keep full and accurate records clearly indicating the name and trade or
7 occupation of every person performing the work described in sub. (4) and an accurate
8 record of the number of hours worked by each of those persons and the actual wages
9 paid for the hours worked. If requested by any person, a contractor, subcontractor,
10 or contractor's or subcontractor's agent performing work on a project that is subject
11 to this section shall permit that person to inspect and copy any of those records to the
12 same extent as if the record were maintained by the department, except that s. 19.36

1 (3) does not limit the duty of a subcontractor or a contractor's or subcontractor's agent
2 to permit inspection and copying of a record under this paragraph. Before permitting
3 the inspection and copying of a record under this paragraph, a contractor,
4 subcontractor, or contractor's or subcontractor's agent shall delete from the record
5 any personally identifiable information, as defined in s. 19.62 (5), contained in the
6 record about any person performing the work described in sub. (4) other than the
7 trade or occupation of the person, the number of hours worked by the person, and the
8 actual wages paid for those hours worked.

9 **SECTION 153f.** 66.0903 (11) (a) of the statutes is amended to read:

10 66.0903 (11) (a) Any contractor, subcontractor, or contractor's or
11 subcontractor's agent who fails to pay the prevailing wage rate determined by the
12 department under sub. (3) or who pays less than 1.5 times the hourly basic rate of
13 pay for all hours worked in excess of the prevailing hours of labor is liable to any
14 affected employee in the amount of ~~his or her~~ the employee's unpaid wages or ~~his or~~
15 ~~her~~ unpaid overtime compensation and in an additional equal amount as liquidated
16 damages. ~~An action to recover the liability may be maintained~~ employee may recover
17 that liability by filing a wage claim with the department under s. 109.09 (1) or by
18 commencing an action under s. 109.03 (5) in any court of competent jurisdiction by
19 ~~any employee,~~ for and in behalf of that employee and other employees similarly
20 situated. No employee may be a party plaintiff to ~~the~~ an action commenced under
21 s. 109.03 (5) unless the employee consents in writing to become a party and the
22 consent is filed in the court in which the action is brought. Notwithstanding s. 814.04
23 (1), the court shall, in addition to any judgment awarded to the plaintiff, allow
24 reasonable attorney fees and costs to be paid by the defendant."

1 **2.** Page 152, line 22: after that line insert:

2 “**SECTION 274c.** 103.49 (5) (a) of the statutes is amended to read:

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

20 **SECTION 274cd.** 103.49 (6m) (a) of the statutes is renumbered 103.49 (6m) (ar).

21 **SECTION 274cf.** 103.49 (6m) (ag) of the statutes is created to read:

22 103.49 (6m) (ag) Any contractor, subcontractor, or contractor’s or
23 subcontractor’s agent who fails to pay the prevailing wage rate determined by the
24 department under sub. (3) or who pays less than 1.5 times the hourly basic rate of

1 pay for all hours worked in excess of the prevailing hours of labor is liable to any
2 affected employee in the amount of the employee's unpaid wages or unpaid overtime
3 compensation. An employee may recover that liability by filing a wage claim with
4 the department under s. 109.09 (1) or by commencing an action under s. 109.03 (5)
5 in any court of competent jurisdiction, for and in behalf of that employee and other
6 employees similarly situated. No employee may be a party plaintiff to an action
7 commenced under s. 109.03 (5) unless the employee consents in writing to become
8 a party and the consent is filed in the court in which the action is brought.
9 Notwithstanding s. 814.04 (1), the court shall, in addition to any judgment awarded
10 to the plaintiff, allow reasonable attorney fees and costs to be paid by the defendant.

11 **SECTION 274ch.** 103.49 (6m) (f) of the statutes is amended to read:

12 103.49 (6m) (f) Paragraph ~~(a)~~ (ar) does not apply to any person who fails to
13 provide any information to the department to assist the department in determining
14 prevailing wage rates under sub. (3) (a) or (am).

15 **SECTION 274cj.** 103.50 (6m) of the statutes is created to read:

16 103.50 (6m) RECORDS; INSPECTION. Each contractor, subcontractor, or
17 contractor's or subcontractor's agent performing work on a project that is subject to
18 this section shall keep full and accurate records clearly indicating the name and
19 trade or occupation of every person performing the work described in sub. (2m) and
20 an accurate record of the number of hours worked by each of those persons and the
21 actual wages paid for the hours worked. If requested by any person, a contractor,
22 subcontractor, or contractor's or subcontractor's agent performing work on a project
23 that is subject to this section shall permit that person to inspect and copy any of those
24 records to the same extent as if the record were maintained by the department,
25 except that s. 19.36 (3) does not limit the duty of a subcontractor or a contractor's or

1 subcontractor's agent to permit inspection and copying of a record under this
2 subsection. Before permitting the inspection and copying of a record under this
3 subsection, a contractor, subcontractor, or contractor's or subcontractor's agent shall
4 delete from the record any personally identifiable information, as defined in s. 19.62
5 (5), contained in the record about any person performing the work described in sub.
6 (2m) other than the trade or occupation of the person, the number of hours worked
7 by the person, and the actual wages paid for those hours worked.

8 **SECTION 274cm.** 103.50 (7) (a) of the statutes is renumbered 103.50 (7) (ar).

9 **SECTION 274cn.** 103.50 (7) (ag) of the statutes is created to read:

10 103.50 (7) (ag) Any contractor, subcontractor, or contractor's or subcontractor's
11 agent who fails to pay the prevailing wage rate determined under sub. (3) or (4) or
12 who pays less than 1.5 times the hourly basic rate of pay for all hours worked in
13 excess of the prevailing hours of labor is liable to any affected employee in the amount
14 of the employee's unpaid wages or unpaid overtime compensation. An employee may
15 recover that liability by filing a wage claim with the department of transportation
16 under par. (am) or by commencing an action under s. 109.03 (5) in any court of
17 competent jurisdiction, for and in behalf of that employee and other employees
18 similarly situated. No employee may be a party plaintiff to an action commenced
19 under s. 109.03 (5) unless the employee consents in writing to become a party and
20 the consent is filed in the court in which the action is brought. Notwithstanding s.
21 814.04 (1), the court shall, in addition to any judgment awarded to the plaintiff, allow
22 reasonable attorney fees and costs to be paid by the defendant.

23 **SECTION 274cp.** 103.50 (7) (am) of the statutes is created to read:

24 103.50 (7) (am) An employee may also recover the liability specified in par. (ag)
25 by filing a wage claim with the department of transportation for and in behalf of that

1 employee and other employees similarly situated. On receipt of a wage claim filed
2 under this paragraph, the department of transportation shall investigate the wage
3 claim and, on completion of the investigation, may sue the employer on behalf of the
4 employee to collect the wage claim or refer the wage claim to the district attorney of
5 the county in which the work is located for prosecution and collection. If the
6 department of transportation decides not to sue the employer to collect the wage
7 claim or refer the wage claim to the district attorney, the department of
8 transportation shall refer the wage claim to the department of justice for prosecution
9 and collection. On receipt of a wage claim, a district attorney or the department of
10 justice shall investigate as necessary and, if the wage claim appears to be valid,
11 commence an action in the circuit court having appropriate jurisdiction to collect the
12 wage claim. The department of transportation may receive and investigate a wage
13 claim under this paragraph that is filed no later than 2 years after the date on which
14 the unpaid wages or unpaid overtime compensation was due. After receiving a wage
15 claim under this paragraph, the department of transportation may investigate any
16 unpaid wages or unpaid overtime compensation due from the contractor,
17 subcontractor, or agent against whom the wage claim was filed to any employee
18 during the period commencing 2 years before the date on which the wage claim was
19 filed.

20 **SECTION 274cr.** 103.50 (7) (f) of the statutes is amended to read:

21 103.50 (7) (f) Paragraph ~~(a)~~ (ar) does not apply to any person who fails to
22 provide any information to the department to assist the department in determining
23 prevailing wage rates under sub. (3) or (4).

24 **SECTION 274ct.** 103.50 (8) of the statutes is amended to read:

1 103.50 (8) ENFORCEMENT AND PROSECUTION. The department of transportation
2 shall require adherence to subs. (2), (2m), and (6). The department of transportation
3 may demand and examine, and every contractor, subcontractor, and contractor's or
4 subcontractor's agent shall keep and furnish, upon request by the department of
5 transportation, copies of payrolls and other records and information relating to
6 compliance with this section. ~~Upon request of the department of transportation or~~
7 ~~upon complaint of alleged violation, the district attorney of the county in which the~~
8 ~~work is located shall investigate as necessary and prosecute violations in a court of~~
9 ~~competent jurisdiction.~~ Section 111.322 (2m) applies to discharge and other
10 discriminatory acts arising in connection with any proceeding under this section.”.

11 **3.** Page 158, line 11: after that line insert:

12 **“SECTION 276h.** 109.03 (5) of the statutes is amended to read:

13 109.03 (5) ENFORCEMENT. Except as provided in sub. (1), no employer may by
14 special contract with employees or by any other means secure exemption from this
15 section. Each employee shall have a right of action against any employer for the full
16 amount of the employee's wages due on each regular pay day as provided in this
17 section and for increased wages as provided in s. 109.11 (2), in any court of competent
18 jurisdiction. An employee may bring an action against an employer under this
19 subsection without first filing a wage claim with the department of workforce
20 development under s. 109.09 (1) or with the department of transportation under s.
21 103.50 (7) (am). An employee who brings an action against an employer under this
22 subsection shall have a lien upon all property of the employer, real or personal,
23 located in this state as described in s. 109.09 (2).

24 **SECTION 276j.** 109.09 (1) of the statutes is amended to read:

1 109.09 (1) The department shall investigate and attempt equitably to adjust
2 controversies between employers and employees as to alleged wage claims. The
3 department may receive and investigate any wage claim ~~which~~ that is filed with the
4 department, or received by the department under s. 109.10 (4), no later than 2 years
5 after the date the wages are due. The department may, after receiving a wage claim,
6 investigate any wages due from the employer against whom the claim is filed to any
7 employee during the period commencing 2 years before the date the claim is filed.
8 The department shall enforce this chapter and ss. 66.0903, 103.02, 103.32, 103.49,
9 103.82, 104.12, and 229.8275. In pursuance of this duty, the department may sue the
10 employer on behalf of the employee to collect any wage claim or wage deficiency, and
11 ss. 109.03 (6) and 109.11 (2) and (3) shall apply to such actions. Except for actions
12 under s. 109.10, the department may refer such an action to the district attorney of
13 the county in which the violation occurs for prosecution and collection, and the
14 district attorney shall investigate as necessary and, if the wage claim or wage
15 deficiency appears to be valid, commence an action in the circuit court having
16 appropriate jurisdiction to collect the wage claim or wage deficiency. If the
17 department decides not to sue the employer to collect a wage claim or wage deficiency
18 arising under s. 66.0903 or 103.49 or refer such a wage claim or wage deficiency to
19 the district attorney, the department shall refer the wage claim or wage deficiency
20 to the department of justice, and the department of justice shall investigate as
21 necessary and, if the wage claim or wage deficiency appears to be valid, commence
22 an action in the circuit court having appropriate jurisdiction to collect the wage claim
23 or wage deficiency. Any number of wage claims or wage deficiencies against the same
24 employer may be joined in a single proceeding, but the court may order separate
25 trials or hearings. In actions that are referred to a district attorney under this

1 subsection, any taxable costs recovered by the district attorney shall be paid into the
2 general fund of the county in which the violation occurs and used by that county to
3 meet its financial responsibility under s. 978.13 (2) for the operation of the office of
4 the district attorney who prosecuted the action.”.

5 **4.** Page 158, line 22: after that line insert:

6 “SECTION 276p. 109.11 (1) (c) of the statutes is amended to read:

7 109.11 (1) (c) If an employer does not agree to compromise and settle a wage
8 claim under this subsection, the department may refer the wage claim to a district
9 attorney under s. 109.09 (1) or to the department of justice under s. 109.09 (1) or
10 109.10 (3) for commencement of an action in circuit court to collect the amount of
11 wages due and unpaid plus increased wages as specified in sub. (2) (b).”.

12

(END)



State of Wisconsin
2001 - 2002 LEGISLATURE

January 2002 Special Session

DNOTE

LRBb2903/A(2)
GMM/kjfcmb (RMR)
CS or stays

SCC:.....Engel – CN7901, Prevailing wage enforcement

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

**CAUCUS SENATE AMENDMENT ,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 1**

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 53, line 4: after that line insert:

3 **“SECTION 153d.** 66.0903 (10) (a) of the statutes is amended to read:

4 66.0903 (10) (a) Each contractor, subcontractor, or contractor’s or
5 subcontractor’s agent performing work on a project that is subject to this section
6 shall keep full and accurate records clearly indicating the name and trade or
7 occupation of every person performing the work described in sub. (4) and an accurate
8 record of the number of hours worked by each of those persons and the actual wages
9 paid for the hours worked. If requested by any person, a contractor, subcontractor,
10 or contractor’s or subcontractor’s agent performing work on a project that is subject

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

11 **SECTION 153f.** 66.0903 (11) (a) of the statutes is amended to read:

12 66.0903 (11) (a) Any contractor, subcontractor, or contractor's or
13 subcontractor's agent who fails to pay the prevailing wage rate determined by the
14 department under sub. (3) or who pays less than 1.5 times the hourly basic rate of
15 pay for all hours worked in excess of the prevailing hours of labor is liable to any
16 affected employee in the amount of ~~his or her~~ the employee's unpaid wages or ~~his or~~
17 ~~her~~ unpaid overtime compensation and in an additional equal amount as liquidated
18 damages. ~~An action to recover the liability may be maintained~~ employee may recover
19 that liability by filing a wage claim with the department under s. 109.09 (1) or by
20 commencing an action under s. 109.03 (5) in any court of competent jurisdiction by
21 ~~any employee,~~ for and in behalf of that employee and other employees similarly
22 situated. No employee may be a party plaintiff to ~~the~~ an action commenced under
23 s. 109.03 (5) unless the employee consents in writing to become a party and the
24 consent is filed in the court in which the action is brought. Notwithstanding s. 814.04

157

1 (1), the court shall, in addition to any judgment awarded to the plaintiff, allow
2 reasonable attorney fees and costs to be paid by the defendant.”.

3 2. Page ~~152~~, line 22: after that line insert:

4 “SECTION 274c. 103.49 (5) (a) of the statutes is amended to read:

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

22 SECTION 274cd. 103.49 (6m) (a) of the statutes is renumbered 103.49 (6m) (ar).

23 SECTION 274cf. 103.49 (6m) (ag) of the statutes is created to read:

1 103.49 **(6m)** (ag) Any contractor, subcontractor, or contractor's or
2 subcontractor's agent who fails to pay the prevailing wage rate determined by the
3 department under sub. (3) or who pays less than 1.5 times the hourly basic rate of
4 pay for all hours worked in excess of the prevailing hours of labor is liable to any
5 affected employee in the amount of the employee's unpaid wages or unpaid overtime
6 compensation. An employee may recover that liability by filing a wage claim with
7 the department under s. 109.09 (1) or by commencing an action under s. 109.03 (5)
8 in any court of competent jurisdiction, for and in behalf of that employee and other
9 employees similarly situated. No employee may be a party plaintiff to an action
10 commenced under s. 109.03 (5) unless the employee consents in writing to become
11 a party and the consent is filed in the court in which the action is brought.
12 Notwithstanding s. 814.04 (1), the court shall, in addition to any judgment awarded
13 to the plaintiff, allow reasonable attorney fees and costs to be paid by the defendant.

14 **SECTION 274ch.** 103.49 (6m) (f) of the statutes is amended to read:

15 103.49 **(6m)** (f) Paragraph ~~(a)~~ (ar) does not apply to any person who fails to
16 provide any information to the department to assist the department in determining
17 prevailing wage rates under sub. (3) (a) or (am).

18 **SECTION 274cj.** 103.50 (6m) of the statutes is created to read:

19 103.50 **(6m)** RECORDS; INSPECTION. Each contractor, subcontractor, or
20 contractor's or subcontractor's agent performing work on a project that is subject to
21 this section shall keep full and accurate records clearly indicating the name and
22 trade or occupation of every person performing the work described in sub. (2m) and
23 an accurate record of the number of hours worked by each of those persons and the
24 actual wages paid for the hours worked. If requested by any person, a contractor,
25 subcontractor, or contractor's or subcontractor's agent performing work on a project

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

11 **SECTION 274cm.** 103.50 (7) (a) of the statutes is renumbered 103.50 (7) (ar).

12 **SECTION 274cn.** 103.50 (7) (ag) of the statutes is created to read:

13 103.50 (7) (ag) Any contractor, subcontractor, or contractor's or subcontractor's
14 agent who fails to pay the prevailing wage rate determined under sub. (3) or (4) or
15 who pays less than 1.5 times the hourly basic rate of pay for all hours worked in
16 excess of the prevailing hours of labor is liable to any affected employee in the amount
17 of the employee's unpaid wages or unpaid overtime compensation. An employee may
18 recover that liability by filing a wage claim with the department of transportation
19 under par. (am) or by commencing an action under s. 109.03 (5) in any court of
20 competent jurisdiction, for and in behalf of that employee and other employees
21 similarly situated. No employee may be a party plaintiff to an action commenced
22 under s. 109.03 (5) unless the employee consents in writing to become a party and
23 the consent is filed in the court in which the action is brought. Notwithstanding s.
24 814.04 (1), the court shall, in addition to any judgment awarded to the plaintiff, allow
25 reasonable attorney fees and costs to be paid by the defendant.

1 **SECTION 274cp.** 103.50 (7) (am) of the statutes is created to read:

2 103.50 (7) (am) An employee may also recover the liability specified in par. (ag)
3 by filing a wage claim with the department of transportation for and in behalf of that
4 employee and other employees similarly situated. On receipt of a wage claim filed
5 under this paragraph, the department of transportation shall investigate the wage
6 claim and, on completion of the investigation, may sue the employer on behalf of the
7 employee to collect the wage claim or refer the wage claim to the district attorney of
8 the county in which the work is located for prosecution and collection. If the
9 department of transportation decides not to sue the employer to collect the wage
10 claim or refer the wage claim to the district attorney, the department of
11 transportation shall refer the wage claim to the department of justice for prosecution
12 and collection. On receipt of a wage claim, a district attorney or the department of
13 justice shall investigate as necessary and, if the wage claim appears to be valid,
14 commence an action in the circuit court having appropriate jurisdiction to collect the
15 wage claim. The department of transportation may receive and investigate a wage
16 claim under this paragraph that is filed no later than 2 years after the date on which
17 the unpaid wages or unpaid overtime compensation was due. After receiving a wage
18 claim under this paragraph, the department of transportation may investigate any
19 unpaid wages or unpaid overtime compensation due from the contractor,
20 subcontractor, or agent against whom the wage claim was filed to any employee
21 during the period commencing 2 years before the date on which the wage claim was
22 filed.

23 **SECTION 274cr.** 103.50 (7) (f) of the statutes is amended to read:

1 103.50 (7) (f) Paragraph ~~(a)~~ (ar) does not apply to any person who fails to
2 provide any information to the department to assist the department in determining
3 prevailing wage rates under sub. (3) or (4).

4 **SECTION 274ct.** 103.50 (8) of the statutes is amended to read:

5 103.50 (8) ENFORCEMENT AND PROSECUTION. The department of transportation
6 shall require adherence to subs. (2), (2m), and (6). The department of transportation
7 may demand and examine, and every contractor, subcontractor, and contractor's or
8 subcontractor's agent shall keep and furnish, upon request by the department of
9 transportation, copies of payrolls and other records and information relating to
10 compliance with this section. ~~Upon request of the department of transportation or~~
11 ~~upon complaint of alleged violation, the district attorney of the county in which the~~
12 ~~work is located shall investigate as necessary and prosecute violations in a court of~~
13 ~~competent jurisdiction.~~ Section 111.322 (2m) applies to discharge and other
14 discriminatory acts arising in connection with any proceeding under this section.”.

15 **3.** Page 158, line 11: after that line insert:

16 **SECTION 276h.** 109.03 (5) of the statutes is amended to read:

17 109.03 (5) ENFORCEMENT. Except as provided in sub. (1), no employer may by
18 special contract with employees or by any other means secure exemption from this
19 section. Each employee shall have a right of action against any employer for the full
20 amount of the employee's wages due on each regular pay day as provided in this
21 section and for increased wages as provided in s. 109.11 (2), in any court of competent
22 jurisdiction. An employee may bring an action against an employer under this
23 subsection without first filing a wage claim with the department of workforce
24 development under s. 109.09 (1) or with the department of transportation under s.

1 103.50 (7) (am). An employee who brings an action against an employer under this
2 subsection shall have a lien upon all property of the employer, real or personal,
3 located in this state as described in s. 109.09 (2).

4 **SECTION 276j.** 109.09 (1) of the statutes is amended to read:

5 109.09 (1) The department shall investigate and attempt equitably to adjust
6 controversies between employers and employees as to alleged wage claims. The
7 department may receive and investigate any wage claim ~~which~~ that is filed with the
8 department, or received by the department under s. 109.10 (4), no later than 2 years
9 after the date the wages are due. The department may, after receiving a wage claim,
10 investigate any wages due from the employer against whom the claim is filed to any
11 employee during the period commencing 2 years before the date the claim is filed.
12 The department shall enforce this chapter and ss. 66.0903, 103.02, 103.32, 103.49,
13 103.82, 104.12, and 229.8275. In pursuance of this duty, the department may sue the
14 employer on behalf of the employee to collect any wage claim or wage deficiency, and
15 ss. 109.03 (6) and 109.11 (2) and (3) shall apply to such actions. Except for actions
16 under s. 109.10, the department may refer such an action to the district attorney of
17 the county in which the violation occurs for prosecution and collection, and the
18 district attorney shall investigate as necessary and, if the wage claim or wage
19 deficiency appears to be valid, commence an action in the circuit court having
20 appropriate jurisdiction to collect the wage claim or wage deficiency. If the
21 department decides not to sue the employer to collect a wage claim or wage deficiency
22 arising under s. 66.0903 or 103.49 or refer such a wage claim or wage deficiency to
23 the district attorney, the department shall refer the wage claim or wage deficiency
24 to the department of justice, and the department of justice shall investigate as
25 necessary and, if the wage claim or wage deficiency appears to be valid, commence

1 an action in the circuit court having appropriate jurisdiction to collect the wage claim
2 or wage deficiency. Any number of wage claims or wage deficiencies against the same
3 employer may be joined in a single proceeding, but the court may order separate
4 trials or hearings. In actions that are referred to a district attorney under this
5 subsection, any taxable costs recovered by the district attorney shall be paid into the
6 general fund of the county in which the violation occurs and used by that county to
7 meet its financial responsibility under s. 978.13 (2) for the operation of the office of
8 the district attorney who prosecuted the action.”.

9 4. Page 158, line 22: after that line insert:

10 “SECTION 276p. 109.11 (1) (c) of the statutes is amended to read:

11 109.11 (1) (c) If an employer does not agree to compromise and settle a wage
12 claim under this subsection, the department may refer the wage claim to a district
13 attorney under s. 109.09 (1) or to the department of justice under s. 109.09 (1) or
14 109.10 (3) for commencement of an action in circuit court to collect the amount of
15 wages due and unpaid plus increased wages as specified in sub. (2) (b).”.

16

(END)

DMATI

This redraft corrects an incorrect page number
at page 3, line 3, by changing "152" to "157".

GMM

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb2903/2dn
GMM:cs:ch

April 2, 2002

This redraft corrects an incorrect page number at page 3, line 3, by changing "152" to "157".

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State of Wisconsin
2001 - 2002 LEGISLATURE

January 2002 Special Session

LRBb2903/2
GMM:cs&kjf:ch

SCC:.....Engel - CN7901, Prevailing wage enforcement

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS SENATE AMENDMENT ,

TO SENATE SUBSTITUTE AMENDMENT 1,

TO ASSEMBLY BILL 1

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 53, line 4: after that line insert:

3 “SECTION 153d. 66.0903 (10) (a) of the statutes is amended to read:

4 66.0903 (10) (a) Each contractor, subcontractor, or contractor’s or
5 subcontractor’s agent performing work on a project that is subject to this section
6 shall keep full and accurate records clearly indicating the name and trade or
7 occupation of every person performing the work described in sub. (4) and an accurate
8 record of the number of hours worked by each of those persons and the actual wages
9 paid for the hours worked. If requested by any person, a contractor, subcontractor,
10 or contractor’s or subcontractor’s agent performing work on a project that is subject

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

11 **SECTION 153f.** 66.0903 (11) (a) of the statutes is amended to read:

12 66.0903 (11) (a) Any contractor, subcontractor, or contractor's or
13 subcontractor's agent who fails to pay the prevailing wage rate determined by the
14 department under sub. (3) or who pays less than 1.5 times the hourly basic rate of
15 pay for all hours worked in excess of the prevailing hours of labor is liable to any
16 affected employee in the amount of ~~his or her~~ the employee's unpaid wages or ~~his or~~
17 ~~her~~ unpaid overtime compensation and in an additional equal amount as liquidated
18 damages. ~~An action to recover the liability may be maintained~~ employee may recover
19 that liability by filing a wage claim with the department under s. 109.09 (1) or by
20 commencing an action under s. 109.03 (5) in any court of competent jurisdiction by
21 ~~any employee, for and in behalf of that employee and other employees similarly~~
22 ~~situated. No employee may be a party plaintiff to the~~ an action commenced under
23 s. 109.03 (5) unless the employee consents in writing to become a party and the
24 consent is filed in the court in which the action is brought. Notwithstanding s. 814.04

1 (1), the court shall, in addition to any judgment awarded to the plaintiff, allow
2 reasonable attorney fees and costs to be paid by the defendant.”.

3 **2.** Page 157, line 22: after that line insert:

4 **“SECTION 274c.** 103.49 (5) (a) of the statutes is amended to read:

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

22 **SECTION 274cd.** 103.49 (6m) (a) of the statutes is renumbered 103.49 (6m) (ar).

23 **SECTION 274cf.** 103.49 (6m) (ag) of the statutes is created to read:

1 103.49 (6m) (ag) Any contractor, subcontractor, or contractor's or
2 subcontractor's agent who fails to pay the prevailing wage rate determined by the
3 department under sub. (3) or who pays less than 1.5 times the hourly basic rate of
4 pay for all hours worked in excess of the prevailing hours of labor is liable to any
5 affected employee in the amount of the employee's unpaid wages or unpaid overtime
6 compensation. An employee may recover that liability by filing a wage claim with
7 the department under s. 109.09 (1) or by commencing an action under s. 109.03 (5)
8 in any court of competent jurisdiction, for and in behalf of that employee and other
9 employees similarly situated. No employee may be a party plaintiff to an action
10 commenced under s. 109.03 (5) unless the employee consents in writing to become
11 a party and the consent is filed in the court in which the action is brought.
12 Notwithstanding s. 814.04 (1), the court shall, in addition to any judgment awarded
13 to the plaintiff, allow reasonable attorney fees and costs to be paid by the defendant.

14 **SECTION 274ch.** 103.49 (6m) (f) of the statutes is amended to read:

15 103.49 (6m) (f) Paragraph ~~(a)~~ (ar) does not apply to any person who fails to
16 provide any information to the department to assist the department in determining
17 prevailing wage rates under sub. (3) (a) or (am).

18 **SECTION 274cj.** 103.50 (6m) of the statutes is created to read:

19 103.50 (6m) RECORDS; INSPECTION. Each contractor, subcontractor, or
20 contractor's or subcontractor's agent performing work on a project that is subject to
21 this section shall keep full and accurate records clearly indicating the name and
22 trade or occupation of every person performing the work described in sub. (2m) and
23 an accurate record of the number of hours worked by each of those persons and the
24 actual wages paid for the hours worked. If requested by any person, a contractor,
25 subcontractor, or contractor's or subcontractor's agent performing work on a project

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

11 **SECTION 274cm.** 103.50 (7) (a) of the statutes is renumbered 103.50 (7) (ar).

12 **SECTION 274cn.** 103.50 (7) (ag) of the statutes is created to read:

13 103.50 (7) (ag) Any contractor, subcontractor, or contractor's or subcontractor's
14 agent who fails to pay the prevailing wage rate determined under sub. (3) or (4) or
15 who pays less than 1.5 times the hourly basic rate of pay for all hours worked in
16 excess of the prevailing hours of labor is liable to any affected employee in the amount
17 of the employee's unpaid wages or unpaid overtime compensation. An employee may
18 recover that liability by filing a wage claim with the department of transportation
19 under par. (am) or by commencing an action under s. 109.03 (5) in any court of
20 competent jurisdiction, for and in behalf of that employee and other employees
21 similarly situated. No employee may be a party plaintiff to an action commenced
22 under s. 109.03 (5) unless the employee consents in writing to become a party and
23 the consent is filed in the court in which the action is brought. Notwithstanding s.
24 814.04 (1), the court shall, in addition to any judgment awarded to the plaintiff, allow
25 reasonable attorney fees and costs to be paid by the defendant.

1 **SECTION 274cp.** 103.50 (7) (am) of the statutes is created to read:

2 103.50 (7) (am) An employee may also recover the liability specified in par. (ag)
3 by filing a wage claim with the department of transportation for and in behalf of that
4 employee and other employees similarly situated. On receipt of a wage claim filed
5 under this paragraph, the department of transportation shall investigate the wage
6 claim and, on completion of the investigation, may sue the employer on behalf of the
7 employee to collect the wage claim or refer the wage claim to the district attorney of
8 the county in which the work is located for prosecution and collection. If the
9 department of transportation decides not to sue the employer to collect the wage
10 claim or refer the wage claim to the district attorney, the department of
11 transportation shall refer the wage claim to the department of justice for prosecution
12 and collection. On receipt of a wage claim, a district attorney or the department of
13 justice shall investigate as necessary and, if the wage claim appears to be valid,
14 commence an action in the circuit court having appropriate jurisdiction to collect the
15 wage claim. The department of transportation may receive and investigate a wage
16 claim under this paragraph that is filed no later than 2 years after the date on which
17 the unpaid wages or unpaid overtime compensation was due. After receiving a wage
18 claim under this paragraph, the department of transportation may investigate any
19 unpaid wages or unpaid overtime compensation due from the contractor,
20 subcontractor, or agent against whom the wage claim was filed to any employee
21 during the period commencing 2 years before the date on which the wage claim was
22 filed.

23 **SECTION 274cr.** 103.50 (7) (f) of the statutes is amended to read:

1 103.50 (7) (f) Paragraph (a) ~~(ar)~~ does not apply to any person who fails to
2 provide any information to the department to assist the department in determining
3 prevailing wage rates under sub. (3) or (4).

4 **SECTION 274ct.** 103.50 (8) of the statutes is amended to read:

5 103.50 (8) ENFORCEMENT AND PROSECUTION. The department of transportation
6 shall require adherence to subs. (2), (2m), and (6). The department of transportation
7 may demand and examine, and every contractor, subcontractor, and contractor's or
8 subcontractor's agent shall keep and furnish, upon request by the department of
9 transportation, copies of payrolls and other records and information relating to
10 compliance with this section. ~~Upon request of the department of transportation or~~
11 ~~upon complaint of alleged violation, the district attorney of the county in which the~~
12 ~~work is located shall investigate as necessary and prosecute violations in a court of~~
13 ~~competent jurisdiction.~~ Section 111.322 (2m) applies to discharge and other
14 discriminatory acts arising in connection with any proceeding under this section.”.

15 **3.** Page 158, line 11: after that line insert:

16 “**SECTION 276h.** 109.03 (5) of the statutes is amended to read:

17 109.03 (5) ENFORCEMENT. Except as provided in sub. (1), no employer may by
18 special contract with employees or by any other means secure exemption from this
19 section. Each employee shall have a right of action against any employer for the full
20 amount of the employee's wages due on each regular pay day as provided in this
21 section and for increased wages as provided in s. 109.11 (2), in any court of competent
22 jurisdiction. An employee may bring an action against an employer under this
23 subsection without first filing a wage claim with the department of workforce
24 development under s. 109.09 (1) or with the department of transportation under s.

1 103.50 (7) (am). An employee who brings an action against an employer under this
2 subsection shall have a lien upon all property of the employer, real or personal,
3 located in this state as described in s. 109.09 (2).

4 **SECTION 276j.** 109.09 (1) of the statutes is amended to read:

5 109.09 (1) The department shall investigate and attempt equitably to adjust
6 controversies between employers and employees as to alleged wage claims. The
7 department may receive and investigate any wage claim ~~which~~ that is filed with the
8 department, or received by the department under s. 109.10 (4), no later than 2 years
9 after the date the wages are due. The department may, after receiving a wage claim,
10 investigate any wages due from the employer against whom the claim is filed to any
11 employee during the period commencing 2 years before the date the claim is filed.
12 The department shall enforce this chapter and ss. 66.0903, 103.02, 103.32, 103.49,
13 103.82, 104.12, and 229.8275. In pursuance of this duty, the department may sue the
14 employer on behalf of the employee to collect any wage claim or wage deficiency, and
15 ss. 109.03 (6) and 109.11 (2) and (3) shall apply to such actions. Except for actions
16 under s. 109.10, the department may refer such an action to the district attorney of
17 the county in which the violation occurs for prosecution and collection, and the
18 district attorney shall investigate as necessary and, if the wage claim or wage
19 deficiency appears to be valid, commence an action in the circuit court having
20 appropriate jurisdiction to collect the wage claim or wage deficiency. If the
21 department decides not to sue the employer to collect a wage claim or wage deficiency
22 arising under s. 66.0903 or 103.49 or refer such a wage claim or wage deficiency to
23 the district attorney, the department shall refer the wage claim or wage deficiency
24 to the department of justice, and the department of justice shall investigate as
25 necessary and, if the wage claim or wage deficiency appears to be valid, commence

1 an action in the circuit court having appropriate jurisdiction to collect the wage claim
2 or wage deficiency. Any number of wage claims or wage deficiencies against the same
3 employer may be joined in a single proceeding, but the court may order separate
4 trials or hearings. In actions that are referred to a district attorney under this
5 subsection, any taxable costs recovered by the district attorney shall be paid into the
6 general fund of the county in which the violation occurs and used by that county to
7 meet its financial responsibility under s. 978.13 (2) for the operation of the office of
8 the district attorney who prosecuted the action.”.

9 **4.** Page 158, line 22: after that line insert:

10 “**SECTION 276p.** 109.11 (1) (c) of the statutes is amended to read:

11 109.11 (1) (c) If an employer does not agree to compromise and settle a wage
12 claim under this subsection, the department may refer the wage claim to a district
13 attorney under s. 109.09 (1) or to the department of justice under s. 109.09 (1) or
14 109.10 (3) for commencement of an action in circuit court to collect the amount of
15 wages due and unpaid plus increased wages as specified in sub. (2) (b).”.

16

(END)