

**SENATE AMENDMENT 3,
TO 2005 ASSEMBLY BILL 15**

March 8, 2006 – Offered by Senator DECKER.

1 At the locations indicated, amend the bill, as shown by assembly substitute
2 amendment 3, as follows:

3 **1.** Page 1, line 2: after “gasoline,” insert “grants for the construction of ethanol
4 production facilities,”.

5 **2.** Page 1, line 3: delete “a penalty” and substitute “penalties”.

6 **3.** Page 1, line 4: delete that line and substitute:

7 “**SECTION 1c.** 84.185 (8r) of the statutes, as created by 2005 Wisconsin Act 25,
8 is renumbered 84.185 (8r) (intro.) and amended to read:

9 **84.185 (8r) ETHANOL PRODUCTION FACILITIES.** (intro.) The department may not
10 make a grant under this section after July 27, 2005, for an improvement related to
11 an economic development project that involves the construction of an ethanol
12 production facility, unless the department determines that a competitive bidding
13 process is used for the construction of the ethanol production facility. and that all

1 contractors, subcontractors, and agents of a contractor or subcontractor performing
2 work on the construction of the facility have agreed to all of the following conditions:

3 **SECTION 1d.** 84.185 (8r) (a) to (d) of the statutes are created to read:

4 84.185 **(8r)** (a) To employ residents of this state in not less than 50 percent of
5 the positions of the contractor, subcontractor, or agent working on the construction
6 of the facility.

7 (b) 1. To pay all employees working on the construction of the facility who would
8 be entitled to receive the prevailing wage rate under s. 66.0903, if the construction
9 of the facility were a project of public works subject to s. 66.0903, not less than the
10 prevailing wage rate.

11 2. Not to require or permit any employee who would not be required or
12 permitted to work more than the prevailing hours of labor, if the construction of the
13 facility were a project of public works subject to s. 66.0903, to work more than the
14 prevailing hours of labor, except as permitted under s. 66.0903 (4) (a).

15 3. To keep and permit inspection of records in the same manner as a contractor,
16 subcontractor, or agent of a contractor or subcontractor performing work on a project
17 of public works that is subject to s. 66.0903 is required to keep and permit inspection
18 of records under s. 66.0903 (10).

19 4. Otherwise to comply with s. 66.0903 in the same manner as a contractor,
20 subcontractor, or agent of a contractor or subcontractor performing work on a project
21 of public works that is subject to s. 66.0903 is required to comply with s. 66.0903. The
22 person soliciting bids for the construction of the facility shall also agree to comply
23 with s. 66.0903 in the same manner as a local governmental unit contracting for the
24 erection, construction, remodeling, repairing, or demolition of a project of public
25 works is required to comply with s. 66.0903.

1 (c) To participate in an apprenticeship program under subch. I of ch. 106.

2 (d) To provide employer–subsidized health care coverage, as defined in s.
3 49.665 (1) (c), to all employees working on the construction of the facility.

4 **SECTION 1f.** 93.46 (4) of the statutes, as created by 2005 Wisconsin Act 25, is
5 renumbered 93.46 (4) (intro.) and amended to read:

6 93.46 (4) (intro.) The department may not make a grant under this section for
7 an ethanol production facility on which construction begins after July 27, 2005,
8 unless a competitive bidding process is used for the construction of the ethanol
9 production facility. and the department determines that all contractors,
10 subcontractors, and agents of a contractor or subcontractor performing work on the
11 construction of the facility have agreed to all of the following conditions:

12 **SECTION 1g.** 93.46 (4) (a) to (d) of the statutes are created to read:

13 93.46 (4) (a) To employ residents of this state in not less than 50 percent of the
14 positions of the contractor, subcontractor, or agent working on the construction of the
15 facility.

16 (b) 1. To pay all employees working on the construction of the facility who would
17 be entitled to receive the prevailing wage rate under s. 66.0903, if the construction
18 of the facility were a project of public works subject to s. 66.0903, not less than the
19 prevailing wage rate.

20 2. Not to require or permit any employee who would not be required or
21 permitted to work more than the prevailing hours of labor, if the construction of the
22 facility were a project of public works subject to s. 66.0903, to work more than the
23 prevailing hours of labor, except as permitted under s. 66.0903 (4) (a).

24 3. To keep and permit inspection of records in the same manner as a contractor,
25 subcontractor, or agent of a contractor or subcontractor performing work on a project

1 of public works that is subject to s. 66.0903 is required to keep and permit inspection
2 of records under s. 66.0903 (10).

3 4. Otherwise to comply with s. 66.0903 in the same manner as a contractor,
4 subcontractor, or agent of a contractor or subcontractor performing work on a project
5 of public works that is subject to s. 66.0903 is required to comply with s. 66.0903. The
6 person soliciting bids for the construction of the facility shall also agree to comply
7 with s. 66.0903 in the same manner as a local governmental unit contracting for the
8 erection, construction, remodeling, repairing, or demolition of a project of public
9 works is required to comply with s. 66.0903.

10 (c) To participate in an apprenticeship program under subch. I of ch. 106.

11 (d) To provide employer–subsidized health care coverage, as defined in s.
12 49.665 (1) (c), to all employees working on the construction of the facility.

13 **SECTION 1j.** 93.75 (1) (d) of the statutes, as created by 2005 Wisconsin Act 25,
14 is renumbered 93.75 (1) (d) (intro.) and amended to read:

15 93.75 (1) (d) (intro.) If construction of the ethanol production facility begins
16 after July 27, 2005, a competitive bidding process is used for the construction of the
17 ethanol production facility. and the department determines that all contractors,
18 subcontractors, and agents of a contractor or subcontractor performing work on the
19 construction of the facility have agreed to all of the following conditions:

20 **SECTION 1k.** 93.75 (1) (d) 1. to 4. of the statutes are created to read:

21 93.75 (1) (d) 1. To employ residents of this state in not less than 50 percent of
22 the positions of the contractor, subcontractor, or agent working on the construction
23 of the facility.

24 2. a. To pay all employees working on the construction of the facility who would
25 be entitled to receive the prevailing wage rate under s. 66.0903, if the construction

1 of the facility were a project of public works subject to s. 66.0903, not less than the
2 prevailing wage rate.

3 b. Not to require or permit any employee who would not be required or
4 permitted to work more than the prevailing hours of labor, if the construction of the
5 facility were a project of public works subject to s. 66.0903, to work more than the
6 prevailing hours of labor, except as permitted under s. 66.0903 (4) (a).

7 c. To keep and permit inspection of records in the same manner as a contractor,
8 subcontractor, or agent of a contractor or subcontractor performing work on a project
9 of public works that is subject to s. 66.0903 is required to keep and permit inspection
10 of records under s. 66.0903 (10).

11 d. Otherwise to comply with s. 66.0903 in the same manner as a contractor,
12 subcontractor, or agent of a contractor or subcontractor performing work on a project
13 of public works that is subject to s. 66.0903 is required to comply with s. 66.0903. The
14 person soliciting bids for the construction of the facility shall also agree to comply
15 with s. 66.0903 in the same manner as a local governmental unit contracting for the
16 erection, construction, remodeling, repairing, or demolition of a project of public
17 works is required to comply with s. 66.0903.

18 3. To participate in an apprenticeship program under subch. I of ch. 106.

19 4. To provide employer–subsidized health care coverage, as defined in s. 49.665
20 (1) (c), to all employees working on the construction of the facility.

21 **SECTION 1m.** 103.49 (3) (ar) of the statutes is amended to read:

22 103.49 (3) (ar) In determining prevailing wage rates under par. (a) or (am), the
23 department may not use data from projects that are subject to this section, s. 66.0903,
24 84.185 (8r) (b), 93.46 (4) (b), 93.75 (1) (d) 2., 103.50 ~~or~~, 229.8275, 560.031 (2), or
25 560.605 (1) (p) 2. or 40 USC 276a unless the department determines that there is

1 insufficient wage data in the area to determine those prevailing wage rates, in which
2 case the department may use data from projects that are subject to this section, s.
3 66.0903, 103.50 or 229.8275 or 40 USC 276a.

4 **SECTION 1p.** 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 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, 84.185 (8r) (b), 93.46 (4)
13 (b), 93.75 (1) (d) 2., 103.02, 103.49, 103.82, 104.12 and, 229.8275, 560.031 (2), and
14 560.605 (1) (p) 2. In pursuance of this duty, the department may sue the employer
15 on behalf of the employee to collect any wage claim or wage deficiency and ss. 109.03
16 (6) and 109.11 (2) and (3) shall apply to such actions. Except for actions under s.
17 109.10, the department may refer such an action to the district attorney of the county
18 in which the violation occurs for prosecution and collection and the district attorney
19 shall commence an action in the circuit court having appropriate jurisdiction. Any
20 number of wage claims or wage deficiencies against the same employer may be joined
21 in a single proceeding, but the court may order separate trials or hearings. In actions
22 that are referred to a district attorney under this subsection, any taxable costs
23 recovered by the district attorney shall be paid into the general fund of the county
24 in which the violation occurs and used by that county to meet its financial

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

3 **SECTION 1r.** 111.322 (2m) (c) of the statutes is amended to read:

4 111.322 (2m) (c) The individual files a complaint or attempts to enforce a right
5 under s. 66.0903, 84.185 (8r) (b), 93.46 (4) (b), 93.75 (1) (d) 2., 103.49 or, 229.8275,
6 560.031 (2), or 560.605 (1) (p) 2. or testifies or assists in any action or proceeding
7 under s. 66.0903, 84.185 (8r) (b), 93.46 (4) (b), 93.75 (1) (d) 2., 103.49 or, 229.8275,
8 560.031 (2), or 560.605 (1) (p) 2.

9 **SECTION 1t.** 168.04 (2m) and (2r) of the statutes are created to read:”.

10 **4.** Page 3, line 8: after that line insert:

11 “**SECTION 2m.** 227.01 (13) (t) of the statutes is amended to read:

12 227.01 (13) (t) Ascertains and determines prevailing wage rates under ss.
13 66.0903, 84.185 (8r) (b), 93.46 (4) (b), 93.75 (1) (d) 2., 103.49, 103.50 and, 229.8275,
14 560.031 (2), and 560.605 (1) (p) 2., except that any action or inaction which ascertains
15 and determines prevailing wage rates under ss. 66.0903, 84.185 (8r) (b), 93.46 (4) (b),
16 93.75 (1) (d) 2., 103.49, 103.50 and, 229.8275, 560.031 (2), and 560.605 (1) (p) 2. is
17 subject to judicial review under s. 227.40.”.

18 **5.** Page 4, line 4: after that line, before the material inserted by assembly
19 amendment 4 to assembly substitute amendment 3, insert:

20 “**SECTION 3m.** 560.031 of the statutes, as created by 2005 Wisconsin Act 25, is
21 renumbered 560.031 (intro.) and amended to read:

22 **560.031 Grants for ethanol production facilities.** (intro.)
23 Notwithstanding ss. 560.135 (2), 560.138 (2) (a), and 560.17 (3), the department may
24 not make a grant for an ethanol production facility on which construction begins

1 after July 27, 2005, unless a competitive bidding process is used for the construction
2 of the ethanol production facility. and all contractors, subcontractors, and agents of
3 a contractor or subcontractor performing work on the construction of the facility have
4 agreed to all of the following conditions:

5 **SECTION 3h.** 560.031 (1) to (4) of the statutes are created to read:

6 560.031 (1) To employ residents of this state in not less than 50 percent of the
7 positions of the contractor, subcontractor, or agent working on the construction of the
8 facility.

9 (2) (a) To pay all employees working on the construction of the facility who
10 would be entitled to receive the prevailing wage rate under s. 66.0903, if the
11 construction of the facility were a project of public works subject to s. 66.0903, not
12 less than the prevailing wage rate.

13 (b) Not to require or permit any employee who would not be required or
14 permitted to work more than the prevailing hours of labor, if the construction of the
15 facility were a project of public works subject to s. 66.0903, to work more than the
16 prevailing hours of labor, except as permitted under s. 66.0903 (4) (a).

17 (c) To keep and permit inspection of records in the same manner as a contractor,
18 subcontractor, or agent of a contractor or subcontractor performing work on a project
19 of public works that is subject to s. 66.0903 is required to keep and permit inspection
20 of records under s. 66.0903 (10).

21 (d) Otherwise to comply with s. 66.0903 in the same manner as a contractor,
22 subcontractor, or agent of a contractor or subcontractor performing work on a project
23 of public works that is subject to s. 66.0903 is required to comply with s. 66.0903. The
24 person soliciting bids for the construction of the facility shall also agree to comply
25 with s. 66.0903 in the same manner as a local governmental unit contracting for the

1 erection, construction, remodeling, repairing, or demolition of a project of public
2 works is required to comply with s. 66.0903.

3 **(3)** To participate in an apprenticeship program under subch. I of ch. 106.

4 **(4)** To provide employer–subsidized health care coverage, as defined in s.
5 49.665 (1) (c), to all employees working on the construction of the facility.

6 **SECTION 3p.** 560.605 (1) (p) of the statutes, as created by 2005 Wisconsin Act
7 25, is renumbered 560.605 (1) (p) (intro.) and amended to read:

8 560.605 **(1)** (p) (intro.) For an ethanol production facility on which construction
9 begins after July 27, 2005, a competitive bidding process is used for the construction
10 of the ethanol production facility. and all contractors, subcontractors, and agents of
11 a contractor or subcontractor performing work on the construction of the facility have
12 agreed to all of the following conditions:

13 **SECTION 3r.** 560.605 (1) (p) 1. to 4. of the statutes are created to read:

14 560.605 **(1)** (p) 1. To employ residents of this state in not less than 50 percent
15 of the positions of the contractor, subcontractor, or agent working on the construction
16 of the facility.

17 2. a. To pay all employees working on the construction of the facility who would
18 be entitled to receive the prevailing wage rate under s. 66.0903, if the construction
19 of the facility were a project of public works subject to s. 66.0903, not less than the
20 prevailing wage rate.

21 b. Not to require or permit any employee who would not be required or
22 permitted to work more than the prevailing hours of labor, if the construction of the
23 facility were a project of public works subject to s. 66.0903, to work more than the
24 prevailing hours of labor, except as permitted under s. 66.0903 (4) (a).

1 c. To keep and permit inspection of records in the same manner as a contractor,
2 subcontractor, or agent of a contractor or subcontractor performing work on a project
3 of public works that is subject to s. 66.0903 is required to keep and permit inspection
4 of records under s. 66.0903 (10).

5 d. Otherwise to comply with s. 66.0903 in the same manner as a contractor,
6 subcontractor, or agent of a contractor or subcontractor performing work on a project
7 of public works that is subject to s. 66.0903 is required to comply with s. 66.0903. The
8 person soliciting bids for the construction of the facility shall also agree to comply
9 with s. 66.0903 in the same manner as a local governmental unit contracting for the
10 erection, construction, remodeling, repairing, or demolition of a project of public
11 works is required to comply with s. 66.0903.

12 3. To participate in an apprenticeship program under subch. I of ch. 106.

13 4. To provide employer–subsidized health care coverage, as defined in s. 49.665
14 (1) (c), to all employees working on the construction of the facility.

15 **SECTION 4d.** 946.15 (1) of the statutes is amended to read:

16 946.15 (1) Any employer, or any agent or employee of an employer, who induces
17 any person who seeks to be or is employed pursuant to a public contract as defined
18 in s. 66.0901 (1) (c) or who seeks to be or is employed on a project on which a prevailing
19 wage rate determination has been issued by the department of workforce
20 development under s. 66.0903 (3), 84.185 (8r) (b) 4., 93.46 (4) (b) 4., 93.75 (1) (d) 2.
21 d., 103.49 (3), 103.50 (3) or, 229.8275 (3), 560.031 (2) (d), or 560.605 (1) (p) 2. d. or by
22 a local governmental unit, as defined in s. 66.0903 (1) (d), under s. 66.0903 (6) to give
23 up, waive or return any part of the compensation to which that person is entitled
24 under his or her contract of employment or under the prevailing wage rate
25 determination issued by the department or local governmental unit, or who reduces

1 the hourly basic rate of pay normally paid to an employee for work on a project on
2 which a prevailing wage rate determination has not been issued under s. 66.0903 (3)
3 or (6), 84.185 (8r) (b) 4., 93.46 (4) (b) 4., 93.75 (1) (d) 2. d., 103.49 (3), 103.50 (3) or,
4 229.8275 (3), 560.031 (2) (d), or 560.605 (1) (p) 2. d. during a week in which the
5 employee works both on a project on which a prevailing wage rate determination has
6 been issued and on a project on which a prevailing wage rate determination has not
7 been issued, is guilty of a Class I felony.

8 **SECTION 4e.** 946.15 (2) of the statutes is amended to read:

9 946.15 (2) Any person employed pursuant to a public contract as defined in s.
10 66.0901 (1) (c) or employed on a project on which a prevailing wage rate
11 determination has been issued by the department of workforce development under
12 s. 66.0903 (3), 84.185 (8r) (b) 4., 93.46 (4) (b) 4., 93.75 (1) (d) 2. d., 103.49 (3), 103.50
13 (3) or, 229.8275 (3), 560.031 (2) (d), or 560.605 (1) (p) 2. d. or by a local governmental
14 unit, as defined in s. 66.0903 (1) (d), under s. 66.0903 (6) who gives up, waives or
15 returns to the employer or agent of the employer any part of the compensation to
16 which the employee is entitled under his or her contract of employment or under the
17 prevailing wage determination issued by the department or local governmental unit,
18 or who gives up any part of the compensation to which he or she is normally entitled
19 for work on a project on which a prevailing wage rate determination has not been
20 issued under s. 66.0903 (3) or (6), 84.185 (8r) (b) 4., 93.46 (4) (b) 4., 93.75 (1) (d) 2. d.,
21 103.49 (3), 103.50 (3) or, 229.8275 (3), 560.031 (2) (d), or 560.605 (1) (p) 2. d. during
22 a week in which the person works part-time on a project on which a prevailing wage
23 rate determination has been issued and part-time on a project on which a prevailing
24 wage rate determination has not been issued, is guilty of a Class C misdemeanor.

25 **SECTION 4f.** 946.15 (3) of the statutes is amended to read:

1 946.15 (3) Any employer or labor organization, or any agent or employee of an
2 employer or labor organization, who induces any person who seeks to be or is
3 employed on a project on which a prevailing wage rate determination has been issued
4 by the department of workforce development under s. 66.0903 (3), 84.185 (8r) (b) 4.,
5 93.46 (4) (b) 4., 93.75 (1) (d) 2. d., 103.49 (3), 103.50 (3) ~~or~~, 229.8275 (3), 560.031 (2)
6 (d), or 560.605 (1) (p) 2. d. or by a local governmental unit, as defined in s. 66.0903
7 (1) (d), under s. 66.0903 (6) to permit any part of the wages to which that person is
8 entitled under the prevailing wage rate determination issued by the department or
9 local governmental unit to be deducted from the person’s pay is guilty of a Class I
10 felony, unless the deduction would be permitted under 29 CFR 3.5 or 3.6 from a
11 person who is working on a project that is subject to 40 USC 276c.

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

13 946.15 (4) Any person employed on a project on which a prevailing wage rate
14 determination has been issued by the department of workforce development under
15 s. 66.0903 (3), 84.185 (8r) (b) 4., 93.46 (4) (b) 4., 93.75 (1) (d) 2. d., 103.49 (3), 103.50
16 (3) ~~or~~, 229.8275 (3), 560.031 (2) (d), or 560.605 (1) (p) 2. d. or by a local governmental
17 unit, as defined in s. 66.0903 (1) (d), under s. 66.0903 (6) who permits any part of the
18 wages to which that person is entitled under the prevailing wage rate determination
19 issued by the department or local governmental unit to be deducted from his or her
20 pay is guilty of a Class C misdemeanor, unless the deduction would be permitted
21 under 29 CFR 3.5 or 3.6 from a person who is working on a project that is subject to
22 40 USC 276c.”.

23 **(END)**