

2005 ASSEMBLY BILL 442

May 26, 2005 – Introduced by JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES. Referred to Committee on Labor.

1 **AN ACT** *to amend* 66.0903 (title), 66.0903 (1) (a), 66.0903 (1) (cm), 66.0903 (1) (g)
2 1., 66.0903 (1) (g) 2., 66.0903 (3), 66.0903 (4) (a) (intro.), 66.0903 (4) (b) (intro.),
3 66.0903 (8), 66.0903 (9) (c), 66.0903 (10) (a), 66.0903 (10) (b), 66.0903 (10) (d),
4 66.0903 (11) (a), 66.0903 (11) (b) 2., 66.0903 (11) (b) 3., 66.0903 (11) (b) 4.,
5 66.0903 (11) (b) 5., 66.0903 (11) (b) 6., 66.0903 (12) (a), 66.0903 (12) (b), 66.0903
6 (12) (d), 103.005 (12) (a), 103.49 (title), 103.49 (1) (a), 103.49 (1) (b), 103.49 (1)
7 (bg), 103.49 (1) (d) 1., 103.49 (1) (d) 2., 103.49 (2), 103.49 (2m) (a) (intro.), 103.49
8 (2m) (b) (intro.), 103.49 (3) (a), 103.49 (3) (am), 103.49 (3) (ar), 103.49 (3) (b),
9 103.49 (3) (c), 103.49 (4r) (c), 103.49 (5) (a), 103.49 (5) (b), 103.49 (6m) (b), 103.49
10 (6m) (c), 103.49 (6m) (d), 103.49 (6m) (e), 103.49 (6m) (f), 103.49 (7) (a), 103.49
11 (7) (b), 103.49 (7) (d), 103.50 (4m), 103.50 (7) (d), 103.50 (7) (e), 227.01 (13) (t),
12 229.8275 (title), 229.8275 (1), 946.15 (1), 946.15 (2), 946.15 (3) and 946.15 (4);
13 and *to create* 66.0903 (1) (cd), 66.0903 (1) (er), 103.49 (1) (bd) and 103.49 (1)
14 (br) of the statutes; **relating to:** the determination of prevailing wage rates and

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- 1 prevailing fringe benefit rates for workers employed on state or local projects
2 of public works and granting rule-making authority.
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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 prevailing wage rate, which is defined as the hourly basic rate of pay, plus the hourly contribution for health insurance benefits, vacation benefits, pension benefits, and any other bona fide economic benefit (fringe benefits), paid for a majority of the hours worked in a person's trade or occupation in the area in which a public works project is located, except that if there is no rate at which a majority of the hours worked in a trade or occupation on projects in an area is paid, "prevailing wage rate" is defined as the average hourly basic rate of pay, weighted by the number of hours worked, plus the average hourly contribution for fringe benefits, weighted by the number of hours worked, paid for all hours worked at the hourly basic rate of pay of the highest-paid 51 percent of hours worked in the trade or occupation in the area. Currently, the Department of Workforce Development (DWD) must determine the prevailing wage rate for each trade or occupation commonly employed on projects of public works in each area of the state by January 1 of each year, that determination may also include the determination of future prevailing wage rates if those rates can be determined.

This bill deletes from the definition of "prevailing wage rate" the references to the hourly contribution for fringe benefits and instead creates a separate definition of "prevailing fringe benefit rate." As such, the bill requires DWD to make separate determinations of the prevailing wage rate and the prevailing fringe benefit rate and requires laborers, workers, mechanics, and truck drivers employed on a state or local project of public works who are covered under the prevailing wage law to be paid at the prevailing wage rate and at the prevailing fringe benefit rate. The bill defines the "prevailing fringe benefit rate" as the hourly contribution for fringe benefits paid for a majority of the hours worked in a person's trade or occupation in the area in which a public works project is located, except that if there is no rate at which a majority of the hours worked in the trade or occupation on projects in the area is paid, "prevailing fringe benefit rate" is defined as the average hourly contribution for fringe benefits, weighted by the number of hours worked, paid for all hours worked at the hourly contribution for fringe benefits of the highest-contribution 51 percent of hours worked in the trade or occupation on projects in the area.

This bill is introduced as required by s. 227.19 (5) (e), stats., in support of the objection by the Assembly Committee on Labor on October 26, 2004, and the objection of the Joint Committee for Review of Administrative Rules on April 27, 2005, to the issuance of Clearinghouse Rule 04-081 by DWD. The proposed rule required DWD to determine the prevailing wage rate by calculating the sum of the hourly basic rate of pay and the hourly contribution for fringe benefits, rather than making those calculations separately.

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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 (title) of the statutes is amended to read:

2 **66.0903** (title) **Municipal prevailing wage, fringe benefit, and hour**
3 **scales.**

4 **SECTION 2.** 66.0903 (1) (a) of the statutes is amended to read:

5 66.0903 **(1)** (a) “Area” means the county in which a proposed project that is
6 subject to this section is located or, if the department determines that there is
7 insufficient wage and fringe benefit data in that county, “area” means those counties
8 that are contiguous to that county or, if the department determines that there is
9 insufficient wage and fringe benefit data in those counties, “area” means those
10 counties that are contiguous to those counties or, if the department determines that
11 there is insufficient wage and fringe benefit data in those counties, “area” means the
12 entire state or, if the department is requested to review a determination under sub.
13 (3) (br), “area” means the city, village, or town in which a proposed project that is
14 subject to this section is located.

15 **SECTION 3.** 66.0903 (1) (cd) of the statutes is created to read:

16 66.0903 **(1)** (cd) “Hourly contribution for fringe benefits” has the meaning given
17 in s. 103.49 (1) (bd).

18 **SECTION 4.** 66.0903 (1) (cm) of the statutes is amended to read:

19 66.0903 **(1)** (cm) “Insufficient wage and fringe benefit data” has the meaning
20 given in s. 103.49 (1) (bg).

21 **SECTION 5.** 66.0903 (1) (er) of the statutes is created to read:

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1 66.0903 (1) (er) 1. Except as provided in subd. 2., “prevailing fringe benefit
2 rate” for any trade or occupation engaged in the erection, construction, remodeling,
3 repairing, or demolition of any project of public works in any area means the hourly
4 contribution for fringe benefits paid directly or indirectly for a majority of the hours
5 worked in the trade or occupation on projects in the area.

6 2. If there is no rate at which a majority of the hours worked in the trade or
7 occupation on projects in the area is paid, “prevailing fringe benefit rate” for any
8 trade or occupation engaged in the erection, construction, remodeling, repairing, or
9 demolition of any project of public works in any area means the average hourly
10 contribution for fringe benefits, weighted by the number of hours worked, paid
11 directly or indirectly for all hours worked at the hourly contribution for fringe
12 benefits of the highest-contribution 51 percent of hours worked in that trade or
13 occupation on projects in that area.

14 **SECTION 6.** 66.0903 (1) (g) 1. of the statutes is amended to read:

15 66.0903 (1) (g) 1. Except as provided in subd. 2., “prevailing wage rate” for any
16 trade or occupation engaged in the erection, construction, remodeling, repairing, or
17 demolition of any project of public works in any area means the hourly basic rate of
18 pay, ~~plus the hourly contribution for health insurance benefits, vacation benefits,~~
19 ~~pension benefits and any other bona fide economic benefit,~~ paid directly or indirectly,
20 for a majority of the hours worked in the trade or occupation on projects in the area.

21 **SECTION 7.** 66.0903 (1) (g) 2. of the statutes is amended to read:

22 66.0903 (1) (g) 2. If there is no rate at which a majority of the hours worked in
23 the trade or occupation on projects in the area is paid, “prevailing wage rate” for any
24 trade or occupation engaged in the erection, construction, remodeling, repairing, or
25 demolition of any project of public works in any area means the average hourly basic

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1 rate of pay, weighted by the number of hours worked, ~~plus the average hourly~~
2 ~~contribution, weighted by the number of hours worked, for health insurance benefits,~~
3 ~~vacation benefits, pension benefits and any other bona fide economic benefit,~~ paid
4 directly or indirectly for all hours worked at the hourly basic rate of pay of the
5 highest-paid ~~51%~~ 51 percent of hours worked in that trade or occupation on projects
6 in that area.

7 **SECTION 8.** 66.0903 (3) of the statutes is amended to read:

8 66.0903 (3) PREVAILING WAGE RATES, FRINGE BENEFIT RATES, AND HOURS OF LABOR.

9 (am) A local governmental unit, before making a contract by direct negotiation or
10 soliciting bids on a contract, for the erection, construction, remodeling, repairing, or
11 demolition of any project of public works, including a highway, street, or bridge
12 construction project, shall apply to the department to determine the prevailing wage
13 rate and prevailing fringe benefit rate for each trade or occupation required in the
14 work contemplated. The department shall conduct investigations and hold public
15 hearings as necessary to define the trades or occupations that are commonly
16 employed on projects that are subject to this section and to inform itself as to the
17 prevailing wage rates and prevailing fringe benefit rates in all areas of the state for
18 those trades or occupations, in order to determine the prevailing wage rate and
19 prevailing fringe benefit rate for each trade or occupation. The department shall
20 issue its determination within 30 days after receiving the request and shall file the
21 determination with the requesting local governmental unit.

22 (ar) The department shall, by January 1 of each year, compile the prevailing
23 wage rates and prevailing fringe benefit rates for each trade or occupation in each
24 area. The compilation shall, in addition to the current prevailing wage rates and
25 prevailing fringe benefit rates, include future prevailing wage rates and prevailing

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1 fringe benefit rates when those prevailing wage rates and prevailing fringe benefit
2 rates can be determined for any trade or occupation in any area and shall specify the
3 effective date of those future prevailing wage rates and prevailing fringe benefit
4 rates. If a construction project extends into more than one area there shall be but
5 one standard of prevailing wage rates and prevailing fringe benefit rates for the
6 entire project.

7 (av) In determining prevailing wage rates and prevailing fringe benefit rates
8 under par. (am) or (ar), the department may not use data from projects that are
9 subject to this section, s. 103.49, or 103.50 or 40 USC 276a 3141 to 3148 unless the
10 department determines that there is insufficient wage and fringe benefit data in the
11 area to determine those prevailing wage rates and prevailing fringe benefit rates, in
12 which case the department may use data from projects that are subject to this
13 section, s. 103.49, or 103.50 or 40 USC 276a 3141 to 3148.

14 (bm) Any person may request a recalculation of any portion of an initial
15 determination within 30 days after the initial determination date if the person
16 submits evidence with the request showing that the prevailing wage rate or
17 prevailing fringe benefit rate for any given trade or occupation included in the initial
18 determination does not represent the prevailing wage rate or prevailing fringe
19 benefit rate for that trade or occupation in the area. The evidence shall include wage
20 rate or fringe benefit rate information reflecting work performed by persons working
21 in the contested trade or occupation in the area during the current survey period.
22 The department shall affirm or modify the initial determination within 15 days after
23 the date on which the department receives the request for recalculation.

24 (br) In addition to the recalculation under par. (bm), the local governmental
25 unit that requested the determination under this subsection may request a review

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1 of any portion of a determination within 30 days after the date of issuance of the
2 determination if the local governmental unit submits evidence with the request
3 showing that the prevailing wage rate or prevailing fringe benefit rate for any given
4 trade or occupation included in the determination does not represent the prevailing
5 wage rate or prevailing fringe benefit rate for that trade or occupation in the city,
6 village, or town in which the proposed project is located. That evidence shall include
7 wage rate or fringe benefit rate information for the contested trade or occupation on
8 at least 3 similar projects located in the city, village, or town where the proposed
9 project is located and on which some work has been performed during the current
10 survey period and which were considered by the department in issuing its most
11 recent compilation under par. (ar). The department shall affirm or modify the
12 determination within 15 days after the date on which the department receives the
13 request for review.

14 (dm) A reference to the prevailing wage rates and prevailing fringe benefit
15 rates determined by the department or a local governmental unit exempted under
16 sub. (6) and to the prevailing hours of labor shall be published in the notice issued
17 for the purpose of securing bids for the project. If any contract or subcontract for a
18 project of public works, including a highway, street, or bridge construction project,
19 is entered into, the prevailing wage rates and prevailing fringe benefit rates
20 determined by the department or exempted local governmental unit and the
21 prevailing hours of labor shall be physically incorporated into and made a part of the
22 contract or subcontract, except that for a minor subcontract, as determined by the
23 department, the department shall prescribe by rule the method of notifying the
24 minor subcontractor of the prevailing wage rates, prevailing fringe benefit rates, and
25 prevailing hours of labor applicable to the minor subcontract. The prevailing wage

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1 rates, prevailing fringe benefit rates, and prevailing hours of labor applicable to a
2 contract or subcontract may not be changed during the time that the contract or
3 subcontract is in force. No person performing the work described in sub. (4) may be
4 paid less than the prevailing wage rate and prevailing fringe benefit rate in the same
5 or most similar trade or occupation determined under this subsection; nor may he
6 or she be permitted to work a greater number of hours per day or per week than the
7 prevailing hours of labor, unless he or she is paid for all hours worked in excess of
8 the prevailing hours of labor at a rate of at least 1.5 times his or her hourly basic rate
9 of pay.

10 **SECTION 9.** 66.0903 (4) (a) (intro.) of the statutes is amended to read:

11 66.0903 (4) (a) (intro.) Subject to par. (b), all of the following employees shall
12 be paid the prevailing wage rate and prevailing fringe benefit rate determined under
13 sub. (3) and may not be permitted to work a greater number of hours per day or per
14 week than the prevailing hours of labor, unless they are paid for all hours worked in
15 excess of the prevailing hours of labor at a rate of at least 1.5 times their hourly basic
16 rate of pay:

17 **SECTION 10.** 66.0903 (4) (b) (intro.) of the statutes is amended to read:

18 66.0903 (4) (b) (intro.) Notwithstanding par. (a) 1., a laborer, worker, mechanic,
19 or truck driver who is regularly employed to process, manufacture, pick up, or deliver
20 materials or products from a commercial establishment that has a fixed place of
21 business from which the establishment regularly supplies processed or
22 manufactured materials or products is not entitled to receive the prevailing wage
23 rate or prevailing fringe benefit rate determined under sub. (3) or to receive at least
24 1.5 times his or her hourly basic rate of pay for all hours worked in excess of the
25 prevailing hours of labor unless any of the following applies:

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1 **SECTION 11.** 66.0903 (8) of the statutes is amended to read:

2 66.0903 **(8)** POSTING. For the information of the employees working on the
3 project, the prevailing wage rates and prevailing fringe benefit rates determined by
4 the department or exempted local governmental unit, the prevailing hours of labor,
5 and the provisions of subs. (10) (a) and (11) (a) shall be kept posted by the local
6 governmental unit in at least one conspicuous and easily accessible place on the site
7 of the project or, if there is no common site on the project, at the place normally used
8 by the local governmental unit to post public notices.

9 **SECTION 12.** 66.0903 (9) (c) of the statutes is amended to read:

10 66.0903 **(9)** (c) Upon completion of a project and before receiving final payment
11 for his or her work on the project, each contractor shall file with the local
12 governmental unit authorizing the work an affidavit stating that the contractor has
13 complied fully with the requirements of this section and that the contractor has
14 received an affidavit under par. (b) from each of the contractor's agents and
15 subcontractors. A local governmental unit may not authorize a final payment until
16 the affidavit is filed in proper form and order. If a local governmental unit authorizes
17 a final payment before an affidavit is filed in proper form and order or if the
18 department determines, based on the greater weight of the credible evidence, that
19 any person performing the work specified in sub. (4) has been or may have been paid
20 less than the prevailing wage rate, less than the prevailing fringe benefit rate, or less
21 than 1.5 times the hourly basic rate of pay for all hours worked in excess of the
22 prevailing hours of labor and requests that the local governmental unit withhold all
23 or part of the final payment, but the local governmental unit fails to do so, the local
24 governmental unit is liable for all back wages and fringe benefits payable up to the
25 amount of the final payment.

ASSEMBLY BILL 442**SECTION 13**

1 **SECTION 13.** 66.0903 (10) (a) of the statutes is amended to read:

2 66.0903 **(10)** (a) Each contractor, subcontractor, or contractor's or
3 subcontractor's agent performing work on a project that is subject to this section
4 shall keep full and accurate records clearly indicating the name and trade or
5 occupation of every person performing the work described in sub. (4) and an accurate
6 record of the number of hours worked by each of those persons and the actual wages
7 and fringe benefits paid for the hours worked.

8 **SECTION 14.** 66.0903 (10) (b) of the statutes is amended to read:

9 66.0903 **(10)** (b) The department or the contracting local governmental unit
10 may demand and examine, and every contractor, subcontractor, and contractor's or
11 subcontractor's agent shall keep, and furnish upon request by the department or
12 local governmental unit, copies of payrolls and other records and information
13 relating to the wages and fringe benefits paid to persons performing the work
14 described in sub. (4) for work to which this section applies. The department may
15 inspect records in the manner provided in ch. 103. Every contractor, subcontractor,
16 or agent performing work on a project that is subject to this section is subject to the
17 requirements of ch. 103 relating to the examination of records.

18 **SECTION 15.** 66.0903 (10) (d) of the statutes is amended to read:

19 66.0903 **(10)** (d) Section 103.005 (5) (f), (11), (12), and (13) applies to this
20 section, except that s. 103.005 (12) (a) does not apply to any person who fails to
21 provide any information to the department to assist the department in determining
22 prevailing wage rates and prevailing fringe benefit rates under sub. (3) (am) or (ar).
23 Section 111.322 (2m) applies to discharge and other discriminatory acts arising in
24 connection with any proceeding under this section, including proceedings under sub.
25 (11) (a).

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1 **SECTION 16.** 66.0903 (11) (a) of the statutes is amended to read:

2 66.0903 (11) (a) Any contractor, subcontractor, or contractor's or
3 subcontractor's agent who fails to pay the prevailing wage rate or prevailing fringe
4 benefit rate determined by the department under sub. (3) or who pays less than 1.5
5 times the hourly basic rate of pay for all hours worked in excess of the prevailing
6 hours of labor is liable to any affected employee in the amount of his or her unpaid
7 wages ~~or his or her, unpaid fringe benefits, or unpaid overtime compensation~~ and in
8 an additional equal amount as liquidated damages. An action to recover the liability
9 may be maintained in any court of competent jurisdiction by any employee for and
10 in behalf of that employee and other employees similarly situated. No employee may
11 be a party plaintiff to the action unless the employee consents in writing to become
12 a party and the consent is filed in the court in which the action is brought.
13 Notwithstanding s. 814.04 (1), the court shall, in addition to any judgment awarded
14 to the plaintiff, allow reasonable attorney fees and costs to be paid by the defendant.

15 **SECTION 17.** 66.0903 (11) (b) 2. of the statutes is amended to read:

16 66.0903 (11) (b) 2. Whoever induces any person who seeks to be or is employed
17 on any project that is subject to this section to give up, waive, or return any part of
18 the wages or fringe benefits to which the person is entitled under the contract
19 governing the project, or who reduces the hourly basic rate of pay or hourly
20 contribution for fringe benefits normally paid to a person for work on a project that
21 is not subject to this section during a week in which the person works both on a
22 project that is subject to this section and on a project that is not subject to this section,
23 by threat not to employ, by threat of dismissal from employment, or by any other
24 means is guilty of an offense under s. 946.15 (1).

25 **SECTION 18.** 66.0903 (11) (b) 3. of the statutes is amended to read:

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1 66.0903 (11) (b) 3. Any person employed on a project that is subject to this
2 section who knowingly permits a contractor, subcontractor, or contractor's or
3 subcontractor's agent to pay him or her less than the prevailing wage rate or
4 prevailing fringe benefit rate set forth in the contract governing the project, who
5 gives up, waives, or returns any part of the compensation to which he or she is
6 entitled under the contract, or who gives up, waives, or returns any part of the
7 compensation to which he or she is normally entitled for work on a project that is not
8 subject to this section during a week in which the person works both on a project that
9 is subject to this section and on a project that is not subject to this section, is guilty
10 of an offense under s. 946.15 (2).

11 **SECTION 19.** 66.0903 (11) (b) 4. of the statutes is amended to read:

12 66.0903 (11) (b) 4. Whoever induces any person who seeks to be or is employed
13 on any project that is subject to this section to permit any part of the wages or fringe
14 benefits to which the person is entitled under the contract governing the project to
15 be deducted from the person's pay is guilty of an offense under s. 946.15 (3), unless
16 the deduction would be permitted under 29 CFR 3.5 or 3.6 from a person who is
17 working on a project that is subject to 40 USC ~~276e~~ 3141 to 3148.

18 **SECTION 20.** 66.0903 (11) (b) 5. of the statutes is amended to read:

19 66.0903 (11) (b) 5. Any person employed on a project that is subject to this
20 section who knowingly permits any part of the wages or fringe benefits to which he
21 or she is entitled under the contract governing the project to be deducted from his or
22 her pay is guilty of an offense under s. 946.15 (4), unless the deduction would be
23 permitted under 29 CFR 3.5 or 3.6 from a person who is working on a project that is
24 subject to 40 USC ~~276e~~ 3141 to 3148.

25 **SECTION 21.** 66.0903 (11) (b) 6. of the statutes is amended to read:

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1 66.0903 (11) (b) 6. Subdivision 1. 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 or prevailing fringe benefit rates under sub. (3) (am) or (ar).

4 **SECTION 22.** 66.0903 (12) (a) of the statutes is amended to read:

5 66.0903 (12) (a) Except as provided under pars. (b) and (c), the department
6 shall notify any local governmental unit applying for a determination under sub. (3)
7 and any local governmental unit exempted under sub. (6) of the names of all persons
8 whom the department has found to have failed to pay the prevailing wage rate or
9 prevailing fringe benefit rate determined under sub. (3) or has found to have paid less
10 than 1.5 times the hourly basic rate of pay for all hours worked in excess of the
11 prevailing hours of labor at any time in the preceding 3 years. The department shall
12 include with each name the address of the person and shall specify when the person
13 failed to pay the prevailing wage rate or prevailing fringe benefit rate and when the
14 person paid less than 1.5 times the hourly basic rate of pay for all hours worked in
15 excess of the prevailing hours of labor. A local governmental unit may not award any
16 contract to the person unless otherwise recommended by the department or unless
17 3 years have elapsed from the date the department issued its findings or the date of
18 final determination by a court of competent jurisdiction, whichever is later.

19 **SECTION 23.** 66.0903 (12) (b) of the statutes is amended to read:

20 66.0903 (12) (b) The department may not include in a notification under par.
21 (a) the name of any person on the basis of having let work to a person whom the
22 department has found to have failed to pay the prevailing wage rate or prevailing
23 fringe benefit rate determined under sub. (3) or has found to have paid less than 1.5
24 times the hourly basic rate of pay for all hours worked in excess of the prevailing
25 hours of labor.

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1 **SECTION 24.** 66.0903 (12) (d) of the statutes is amended to read:

2 66.0903 **(12)** (d) Any person submitting a bid or negotiating a contract on a
3 project that is subject to this section shall, on the date on which the person submits
4 the bid or negotiates the contract, identify any construction business in which the
5 person, or a shareholder, officer, or partner of the person, if the person is a business,
6 owns, or has owned at least a 25% percent interest on the date the person submits
7 the bid or negotiates the contract or at any other time within 3 years preceding the
8 date the person submits the bid or negotiates the contract, if the business has been
9 found to have failed to pay the prevailing wage rate or prevailing fringe benefit rate
10 determined under sub. (3) or to have paid less than 1.5 times the hourly basic rate
11 of pay for all hours worked in excess of the prevailing hours of labor.

12 **SECTION 25.** 103.005 (12) (a) of the statutes is amended to read:

13 103.005 **(12)** (a) If any employer, employee, owner, or other person violates chs.
14 103 to 106, or fails or refuses to perform any duty required under chs. 103 to 106,
15 within the time prescribed by the department, for which no penalty has been
16 specifically provided, or fails, neglects, or refuses to obey any lawful order given or
17 made by the department or any judgment or decree made by any court in connection
18 with chs. 103 to 106, for each such violation, failure, or refusal, the employer,
19 employee, owner, or other person shall forfeit not less than \$10 nor more than \$100
20 for each offense. This paragraph does not apply to any person who fails to provide
21 any information to the department to assist the department in determining
22 prevailing wage rates, prevailing fringe benefit rates, or prevailing hours of labor
23 under s. 103.49 (3) (a) or (am) or in determining prevailing wage rates or prevailing
24 hours of labor under s. 103.50 (3) or (4).

25 **SECTION 26.** 103.49 (title) of the statutes is amended to read:

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1 **103.49** (title) **Wage rate and fringe benefit rates on state work.**

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

3 103.49 **(1)** (a) “Area” means the county in which a proposed project that is
4 subject to this section is located or, if the department determines that there is
5 insufficient wage and fringe benefit data in that county, “area” means those counties
6 that are contiguous to that county or, if the department determines that there is
7 insufficient wage and fringe benefit data in those counties, “area” means those
8 counties that are contiguous to those counties or, if the department determines that
9 there is insufficient wage and fringe benefit data in those counties, “area” means the
10 entire state or, if the department is requested to review a determination under sub.
11 (3) (c), “area” means the city, village, or town in which a proposed project that is
12 subject to this section is located.

13 **SECTION 28.** 103.49 (1) (b) of the statutes is amended to read:

14 103.49 **(1)** (b) “Hourly basic rate of pay” means the hourly wage paid to any
15 employee, excluding any contributions or payments for ~~health insurance benefits,~~
16 ~~vacation benefits, pension benefits and any other bona fide economic~~ fringe benefits,
17 whether paid directly or indirectly.

18 **SECTION 29.** 103.49 (1) (bd) of the statutes is created to read:

19 103.49 **(1)** (bd) “Hourly contribution for fringe benefits” means the hourly
20 contribution or payment for health insurance benefits, vacation benefits, pension
21 benefits, and any other bona fide economic benefits for any employee, whether paid
22 directly or indirectly.

23 **SECTION 30.** 103.49 (1) (bg) of the statutes is amended to read:

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1 103.49 (1) (bg) “Insufficient wage and fringe benefit data” means less than 500
2 hours of work performed in a particular trade or occupation on projects that are
3 similar to a proposed project that is subject to this section.

4 **SECTION 31.** 103.49 (1) (br) of the statutes is created to read:

5 103.49 (1) (br) 1. Except as provided in subd. 2., “prevailing fringe benefit rate”
6 for any trade or occupation engaged in the erection, construction, remodeling,
7 repairing, or demolition of any project of public works in any area means the hourly
8 contribution for fringe benefits paid directly or indirectly for a majority of the hours
9 worked in the trade or occupation on projects in the area.

10 2. If there is no rate at which a majority of the hours worked in the trade or
11 occupation on projects in the area is paid, “prevailing fringe benefit rate” for any
12 trade or occupation engaged in the erection, construction, remodeling, repairing, or
13 demolition of any project of public works in any area means the average hourly
14 contribution for fringe benefits, weighted by the number of hours worked, paid
15 directly or indirectly for all hours worked at the hourly contribution for fringe
16 benefits of the highest-contribution 51 percent of hours worked in that trade or
17 occupation on projects in that area.

18 **SECTION 32.** 103.49 (1) (d) 1. of the statutes is amended to read:

19 103.49 (1) (d) 1. Except as provided in subd. 2., “prevailing wage rate” for any
20 trade or occupation engaged in the erection, construction, remodeling, repairing, or
21 demolition of any project of public works in any area means the hourly basic rate of
22 pay, ~~plus the hourly contribution for health insurance benefits, vacation benefits,~~
23 ~~pension benefits and any other bona fide economic benefit,~~ paid directly or indirectly
24 for a majority of the hours worked in the trade or occupation on projects in the area.

25 **SECTION 33.** 103.49 (1) (d) 2. of the statutes is amended to read:

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1 103.49 (1) (d) 2. If there is no rate at which a majority of the hours worked in
2 the trade or occupation on projects in the area is paid, “prevailing wage rate” for any
3 trade or occupation engaged in the erection, construction, remodeling, repairing, or
4 demolition of any project of public works in any area means the average hourly basic
5 rate of pay, weighted by the number of hours worked, ~~plus the average hourly~~
6 ~~contribution, weighted by the number of hours worked, for health insurance benefits,~~
7 ~~vacation benefits, pension benefits and any other bona fide economic benefit,~~ paid
8 directly or indirectly for all hours worked at the hourly basic rate of pay of the
9 highest-paid ~~51%~~ 51 percent of hours worked in that trade or occupation on projects
10 in that area.

11 **SECTION 34.** 103.49 (2) of the statutes is amended to read:

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

ASSEMBLY BILL 442**SECTION 34**

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

12 **SECTION 35.** 103.49 (2m) (a) (intro.) of the statutes is amended to read:

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

19 **SECTION 36.** 103.49 (2m) (b) (intro.) of the statutes is amended to read:

20 103.49 **(2m)** (b) (intro.) Notwithstanding par. (a) 1., a laborer, worker,
21 mechanic, or truck driver who is regularly employed to process, manufacture, pick
22 up, or deliver materials or products from a commercial establishment that has a fixed
23 place of business from which the establishment regularly supplies processed or
24 manufactured materials or products is not entitled to receive the prevailing wage
25 rate or prevailing fringe benefit rate determined under sub. (3) or to receive at least

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1 1.5 times his or her hourly basic rate of pay for all hours worked in excess of the
2 prevailing hours of labor unless any of the following applies:

3 **SECTION 37.** 103.49 (3) (a) of the statutes is amended to read:

4 103.49 (3) (a) Before bids are asked for any work to which this section applies,
5 the state agency having the authority to prescribe the specifications shall apply to
6 the department to determine the prevailing wage rate and prevailing fringe benefit
7 rate for each trade or occupation required in the work under contemplation in the
8 area in which the work is to be done. The department shall conduct investigations
9 and hold public hearings as necessary to define the trades or occupations that are
10 commonly employed on projects that are subject to this section and to inform itself
11 as to the prevailing wage rates and prevailing fringe benefit rates in all areas of the
12 state for those trades or occupations, in order to determine the prevailing wage rate
13 and prevailing fringe benefit rate for each trade or occupation. The department shall
14 issue its determination within 30 days after receiving the request and shall file the
15 determination with the requesting state agency. For the information of the
16 employees working on the project, the prevailing wage rates and prevailing fringe
17 benefit rates determined by the department, the prevailing hours of labor, and the
18 provisions of subs. (2) and (6m) shall be kept posted by the state agency in at least
19 one conspicuous and easily accessible place on the site of the project.

20 **SECTION 38.** 103.49 (3) (am) of the statutes is amended to read:

21 103.49 (3) (am) The department shall, by January 1 of each year, compile the
22 prevailing wage rates and prevailing fringe benefit rates for each trade or occupation
23 in each area. The compilation shall, in addition to the current prevailing wage rates
24 and prevailing fringe benefit rates, include future prevailing wage rates and
25 prevailing fringe benefit rates when those prevailing wage rates and prevailing

ASSEMBLY BILL 442**SECTION 38**

1 fringe benefit rates can be determined for any trade or occupation in any area and
2 shall specify the effective date of those future prevailing wage rates and prevailing
3 fringe benefit rates. If a construction project extends into more than one area there
4 shall be but one standard of prevailing wage rates and prevailing fringe benefit rates
5 for the entire project.

6 **SECTION 39.** 103.49 (3) (ar) of the statutes is amended to read:

7 103.49 (3) (ar) In determining prevailing wage rates and prevailing fringe
8 benefit rates under par. (a) or (am), the department may not use data from projects
9 that are subject to this section, s. 66.0903, 103.50₁ or 229.8275 or 40 USC 276a 3141
10 to 3148 unless the department determines that there is insufficient wage and fringe
11 benefit data in the area to determine those prevailing wage rates and prevailing
12 fringe benefit rates, in which case the department may use data from projects that
13 are subject to this section, s. 66.0903, 103.50₁ or 229.8275 or 40 USC 276a 3141 to
14 3148.

15 **SECTION 40.** 103.49 (3) (b) of the statutes is amended to read:

16 103.49 (3) (b) Any person may request a recalculation of any portion of an
17 initial determination within 30 days after the initial determination date if the person
18 submits evidence with the request showing that the prevailing wage rate or
19 prevailing fringe benefit rate for any given trade or occupation included in the initial
20 determination does not represent the prevailing wage rate or prevailing fringe
21 benefit rate for that trade or occupation in the area. The evidence shall include wage
22 rate or fringe benefit rate information reflecting work performed by persons working
23 in the contested trade or occupation in the area during the current survey period.
24 The department shall affirm or modify the initial determination within 15 days after
25 the date on which the department receives the request for recalculation.

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1 **SECTION 41.** 103.49 (3) (c) of the statutes is amended to read:

2 103.49 **(3)** (c) In addition to the recalculation under par. (b), the state agency
3 that requested the determination under this subsection may request a review of any
4 portion of a determination within 30 days after the date of issuance of the
5 determination if the state agency submits evidence with the request showing that
6 the prevailing wage rate or prevailing fringe benefit rate for any given trade or
7 occupation included in the determination does not represent the prevailing wage
8 rate or prevailing fringe benefit rate for that trade or occupation in the city, village,
9 or town in which the proposed project is located. That evidence shall include wage
10 rate or fringe benefit rate information for the contested trade or occupation on at
11 least 3 similar projects located in the city, village, or town where the proposed project
12 is located on which some work has been performed during the current survey period
13 and which were considered by the department in issuing its most recent compilation
14 under par. (am). The department shall affirm or modify the determination within
15 15 days after the date on which the department receives the request for review.

16 **SECTION 42.** 103.49 (4r) (c) of the statutes is amended to read:

17 103.49 **(4r)** (c) Upon completion of a project and before receiving final payment
18 for his or her work on the project, each contractor shall file with the state agency
19 authorizing the work an affidavit stating that the contractor has complied fully with
20 the requirements of this section and that the contractor has received an affidavit
21 under par. (b) from each of the contractor's agents and subcontractors. A state
22 agency may not authorize a final payment until the affidavit is filed in proper form
23 and order. If a state agency authorizes a final payment before an affidavit is filed in
24 proper form and order or if the department determines, based on the greater weight
25 of the credible evidence, that any person performing the work specified in sub. (2m)

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1 has been or may have been paid less than the prevailing wage rate, less than the
2 prevailing fringe benefit rate, or less than 1.5 times the hourly basic rate of pay for
3 all hours worked in excess of the prevailing hours of labor and requests that the state
4 agency withhold all or part of the final payment, but the state agency fails to do so,
5 the state agency is liable for all back wages and fringe benefits payable up to the
6 amount of the final payment.

7 **SECTION 43.** 103.49 (5) (a) of the statutes is amended to read:

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

14 **SECTION 44.** 103.49 (5) (b) of the statutes is amended to read:

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

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1 **SECTION 45.** 103.49 (6m) (b) of the statutes is amended to read:

2 103.49 **(6m)** (b) Whoever induces any person who seeks to be or is employed on
3 any project that is subject to this section to give up, waive, or return any part of the
4 wages or fringe benefits to which the person is entitled under the contract governing
5 the project, or who reduces the hourly basic rate of pay or hourly contribution for
6 fringe benefits normally paid to a person for work on a project that is not subject to
7 this section during a week in which the person works both on a project that is subject
8 to this section and on a project that is not subject to this section, by threat not to
9 employ, by threat of dismissal from employment, or by any other means is guilty of
10 an offense under s. 946.15 (1).

11 **SECTION 46.** 103.49 (6m) (c) of the statutes is amended to read:

12 103.49 **(6m)** (c) Any person employed on a project that is subject to this section
13 who knowingly permits a contractor, subcontractor, or contractor's or subcontractor's
14 agent to pay him or her less than the prevailing wage rate or prevailing fringe benefit
15 rate set forth in the contract governing the project, who gives up, waives, or returns
16 any part of the compensation to which he or she is entitled under the contract, or who
17 gives up, waives, or returns any part of the compensation to which he or she is
18 normally entitled for work on a project that is not subject to this section during a
19 week in which the person works both on a project that is subject to this section and
20 on a project that is not subject to this section, is guilty of an offense under s. 946.15
21 (2).

22 **SECTION 47.** 103.49 (6m) (d) of the statutes is amended to read:

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

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1 be deducted from the person's pay is guilty of an offense under s. 946.15 (3), unless
2 the deduction would be permitted under 29 CFR 3.5 or 3.6 from a person who is
3 working on a project that is subject to 40 USC 276e 3141 to 3148.

4 **SECTION 48.** 103.49 (6m) (e) of the statutes is amended to read:

5 103.49 **(6m)** (e) Any person employed on a project that is subject to this section
6 who knowingly permits any part of the wages or fringe benefits to which he or she
7 is entitled under the contract governing the project to be deducted from his or her pay
8 is guilty of an offense under s. 946.15 (4), unless the deduction would be permitted
9 under 29 CFR 3.5 or 3.6 from a person who is working on a project that is subject to
10 40 USC 276e 3141 to 3148.

11 **SECTION 49.** 103.49 (6m) (f) of the statutes is amended to read:

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

15 **SECTION 50.** 103.49 (7) (a) of the statutes is amended to read:

16 103.49 **(7)** (a) Except as provided under pars. (b) and (c), the department shall
17 distribute to all state agencies a list of all persons whom the department has found
18 to have failed to pay the prevailing wage rate or prevailing fringe benefit rate
19 determined under sub. (3) or has found to have paid less than 1.5 times the hourly
20 basic rate of pay for all hours worked in excess of the prevailing hours of labor at any
21 time in the preceding 3 years. The department shall include with any name the
22 address of the person and shall specify when the person failed to pay the prevailing
23 wage rate or prevailing fringe benefit rate and when the person paid less than 1.5
24 times the hourly basic rate of pay for all hours worked in excess of the prevailing
25 hours of labor. A state agency may not award any contract to the person unless

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1 otherwise recommended by the department or unless 3 years have elapsed from the
2 date the department issued its findings or date of final determination by a court of
3 competent jurisdiction, whichever is later.

4 **SECTION 51.** 103.49 (7) (b) of the statutes is amended to read:

5 103.49 (7) (b) The department may not include in a notification under par. (a)
6 the name of any person on the basis of having let work to a person whom the
7 department has found to have failed to pay the prevailing wage rate or prevailing
8 fringe benefit rate determined under sub. (3) or has found to have paid less than 1.5
9 times the hourly basic rate of pay for all hours worked in excess of the prevailing
10 hours of labor.

11 **SECTION 52.** 103.49 (7) (d) of the statutes is amended to read:

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

21 **SECTION 53.** 103.50 (4m) of the statutes is amended to read:

22 103.50 (4m) WAGE RATE DATA. In determining prevailing wage rates for projects
23 that are subject to this section, the department shall use data from projects that are
24 subject to this section, s. 66.0903 or 103.49 or 40 USC 276a 3141 to 3148.

25 **SECTION 54.** 103.50 (7) (d) of the statutes is amended to read:

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1 103.50 (7) (d) Whoever induces any person who seeks to be or is employed on
2 any project that is subject to this section to permit any part of the wages to which the
3 person is entitled under the contract governing the project to be deducted from the
4 person's pay is guilty of an offense under s. 946.15 (3), unless the deduction would
5 be permitted under 29 CFR 3.5 or 3.6 from a person who is working on a project that
6 is subject to 40 USC ~~276e~~ 3141 to 3148.

7 **SECTION 55.** 103.50 (7) (e) of the statutes is amended to read:

8 103.50 (7) (e) Any person employed on a project that is subject to this section
9 who knowingly permits any part of the wages to which he or she is entitled under the
10 contract governing the project to be deducted from his or her pay is guilty of an
11 offense under s. 946.15 (4), unless the deduction would be permitted under 29 CFR
12 3.5 or 3.6 from a person who is working on a project that is subject to 40 USC ~~276e~~
13 3141 to 3148.

14 **SECTION 56.** 227.01 (13) (t) of the statutes is amended to read:

15 227.01 (13) (t) Ascertains and determines prevailing wage rates or prevailing
16 fringe benefit rates under ss. 66.0903, 103.49, ~~103.50~~ and 229.8275 or prevailing
17 wage rates under s. 103.50, except that any action or inaction ~~which that~~ that ascertains
18 and determines prevailing wage rates or prevailing fringe benefit rates under ss.
19 66.0903, 103.49, ~~103.50~~ and 229.8275 or prevailing wage rates under s. 103.50 is
20 subject to judicial review under s. 227.40.

21 **SECTION 57.** 229.8275 (title) of the statutes is amended to read:

22 **229.8275 (title) Prevailing wage and fringe benefit rates.**

23 **SECTION 58.** 229.8275 (1) of the statutes is amended to read:

24 229.8275 (1) Not to permit any employee working on the football stadium
25 facilities who would be entitled to receive the prevailing wage rate and prevailing

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1 fringe benefit rate under s. 66.0903 and who would not be required or permitted to
2 work more than the prevailing hours of labor, if the football stadium facilities were
3 a project of public works subject to s. 66.0903, to be paid less than the prevailing wage
4 rate or less than the prevailing fringe benefit rate or to be required or permitted to
5 work more than the prevailing hours of labor, except as permitted under s. 66.0903
6 (4) (a).

7 **SECTION 59.** 946.15 (1) of the statutes is amended to read:

8 946.15 (1) Any employer, or any agent or employee of an employer, who induces
9 any person who seeks to be or is employed pursuant to a public contract, as defined
10 in s. 66.0901 (1) (c), or who seeks to be or is employed on a project on which a
11 prevailing wage rate and prevailing fringe benefit rate determination has been
12 issued by the department of workforce development under s. 66.0903 (3), 103.49 (3),
13 ~~103.50 (3)~~ or 229.8275 (3) or by a local governmental unit, as defined in s. 66.0903
14 (1) (d), under s. 66.0903 (6) or on which a prevailing wage rate determination has
15 been issued by that department under s. 103.50 (3) to give up, waive, or return any
16 part of the compensation to which that person is entitled under his or her contract
17 of employment or under the prevailing wage rate or prevailing fringe benefit rate
18 determination issued by the department or local governmental unit, or who reduces
19 the hourly basic rate of pay or hourly contribution for fringe benefits normally paid
20 to an employee for work on a project on which a prevailing wage rate and prevailing
21 fringe benefit rate determination has not been issued under s. 66.0903 (3) or (6),
22 103.49 (3), ~~103.50 (3)~~ or 229.8275 (3) or on which a prevailing wage rate
23 determination has not been issued by that department under s. 103.50 (3) during a
24 week in which the employee works both on a project on which a prevailing wage rate
25 or prevailing fringe benefit rate determination has been issued and on a project on

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1 which a prevailing wage rate or prevailing fringe benefit rate determination has not
2 been issued, is guilty of a Class I felony.

3 **SECTION 60.** 946.15 (2) of the statutes is amended to read:

4 946.15 (2) Any person employed pursuant to a public contract, as defined in s.
5 66.0901 (1) (c), or employed on a project on which a prevailing wage rate and
6 prevailing fringe benefit rate determination has been issued by the department of
7 workforce development under s. 66.0903 (3), 103.49 (3), ~~103.50 (3)~~ or 229.8275 (3) or
8 by a local governmental unit, as defined in s. 66.0903 (1) (d), under s. 66.0903 (6) or
9 on which a prevailing wage rate determination has been issued by that department
10 under s. 103.50 (3) who gives up, waives, or returns to the employer or agent of the
11 employer any part of the compensation to which the employee is entitled under his
12 or her contract of employment or under the prevailing wage rate or prevailing fringe
13 benefit rate determination issued by the department or local governmental unit, or
14 who gives up any part of the compensation to which he or she is normally entitled
15 for work on a project on which a prevailing wage rate and prevailing fringe benefit
16 rate determination has not been issued under s. 66.0903 (3) or (6), 103.49 (3), ~~103.50~~
17 ~~(3)~~ or 229.8275 (3) or on which a prevailing wage rate determination has not been
18 issued by that department under s. 103.50 (3) during a week in which the person
19 works part-time on a project on which a prevailing wage rate or prevailing fringe
20 benefit rate determination has been issued and part-time on a project on which a
21 prevailing wage rate determination or prevailing fringe benefit rate has not been
22 issued, is guilty of a Class C misdemeanor.

23 **SECTION 61.** 946.15 (3) of the statutes is amended to read:

24 946.15 (3) Any employer or labor organization, or any agent or employee of an
25 employer or labor organization, who induces any person who seeks to be or is

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1 employed on a project on which a prevailing wage rate and prevailing fringe benefit
2 rate determination has been issued by the department of workforce development
3 under s. 66.0903 (3), 103.49 (3), ~~103.50 (3)~~ or 229.8275 (3) or by a local governmental
4 unit, as defined in s. 66.0903 (1) (d), under s. 66.0903 (6) or on which a prevailing
5 wage rate determination has been issued by that department under s. 103.50 (3) to
6 permit any part of the wages or fringe benefits to which that person is entitled under
7 the prevailing wage rate or prevailing fringe benefit rate determination issued by the
8 department or local governmental unit to be deducted from the person's pay is guilty
9 of a Class I felony, unless the deduction would be permitted under 29 CFR 3.5 or 3.6
10 from a person who is working on a project that is subject to 40 USC ~~276c~~ 3141 to 3148.

11 **SECTION 62.** 946.15 (4) of the statutes is amended to read:

12 946.15 (4) Any person employed on a project on which a prevailing wage rate
13 and prevailing fringe benefit rate determination has been issued by the department
14 of workforce development under s. 66.0903 (3), 103.49 (3), ~~103.50 (3)~~ or 229.8275 (3)
15 or by a local governmental unit, as defined in s. 66.0903 (1) (d), under s. 66.0903 (6)
16 or on which a prevailing wage rate determination has been issued by that
17 department under s. 103.50 (3) who permits any part of the wages or fringe benefits
18 to which that person is entitled under the prevailing wage rate or prevailing fringe
19 benefit rate determination issued by the department or local governmental unit to
20 be deducted from his or her pay is guilty of a Class C misdemeanor, unless the
21 deduction would be permitted under 29 CFR 3.5 or 3.6 from a person who is working
22 on a project that is subject to 40 USC ~~276c~~ 3141 to 3148.

23 (END)