

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

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

**History:** 1971 c. 154, 307; 1973 c. 181; 1977 c. 29; 1985 a. 159; 1989 a. 56, 228; 1991 a. 316; 1993 a. 112, 399; 1995 a. 27 ss. 3318, 3319, 9130 (4); 1995 a. 215; 1997 a. 3, 35; 1999 a. 70; 1999 a. 150 s. 335; Stats. 1999 s. 66.0903; 1999 a. 186 ss. 51 to 60.

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

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

**History:** 1971 c. 154, 307; 1973 c. 181; 1977 c. 29; 1985 a. 159; 1989 a. 56, 228; 1991 a. 316; 1993 a. 112, 399; 1995 a. 27 ss. 3318, 3319, 9130 (4); 1995 a. 215; 1997 a. 3, 35; 1999 a. 70; 1999 a. 150 s. 335; Stats. 1999 s. 66.0903; 1999 a. 186 ss. 51 to 60.

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

20           66.0903 (11) (b) 5. Any person employed on a project that is subject to this  
21 section who knowingly permits any part of the wages or fringe benefits to which he  
22 or she is entitled under the contract governing the project to be deducted from his or  
23 her pay is guilty of an offense under s. 946.15 (4), unless the deduction would be

1 permitted under 29 CFR 3.5 or 3.6 from a person who is working on a project that is  
2 subject to 40 USC 276e 3141 to 3148.

**History:** 1971 c. 154, 307; 1973 c. 181; 1977 c. 29; 1985 a. 159; 1989 a. 56, 228; 1991 a. 316; 1993 a. 112, 399; 1995 a. 27 ss. 3318, 3319, 9130 (4); 1995 a. 215; 1997 a. 3, 35; 1999 a. 70; 1999 a. 150 s. 335; Stats. 1999 s. 66.0903; 1999 a. 186 ss. 51 to 60.

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

4 66.0903 (11) (b) 6. Subdivision 1. does not apply to any person who fails to  
5 provide any information to the department to assist the department in determining  
6 prevailing wage rates or prevailing fringe benefit rates under sub. (3) (am) or (ar).

**History:** 1971 c. 154, 307; 1973 c. 181; 1977 c. 29; 1985 a. 159; 1989 a. 56, 228; 1991 a. 316; 1993 a. 112, 399; 1995 a. 27 ss. 3318, 3319, 9130 (4); 1995 a. 215; 1997 a. 3, 35; 1999 a. 70; 1999 a. 150 s. 335; Stats. 1999 s. 66.0903; 1999 a. 186 ss. 51 to 60.

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

8 66.0903 (12) (a) Except as provided under pars. (b) and (c), the department  
9 shall notify any local governmental unit applying for a determination under sub. (3)  
10 and any local governmental unit exempted under sub. (6) of the names of all persons  
11 whom the department has found to have failed to pay the prevailing wage rate or  
12 prevailing fringe benefit rate determined under sub. (3) or has found to have paid less  
13 than 1.5 times the hourly basic rate of pay for all hours worked in excess of the  
14 prevailing hours of labor at any time in the preceding 3 years. The department shall  
15 include with each name the address of the person and shall specify when the person  
16 failed to pay the prevailing wage rate or prevailing fringe benefit rate and when the  
17 person paid less than 1.5 times the hourly basic rate of pay for all hours worked in  
18 excess of the prevailing hours of labor. A local governmental unit may not award any  
19 contract to the person unless otherwise recommended by the department or unless  
20 3 years have elapsed from the date the department issued its findings or the date of  
21 final determination by a court of competent jurisdiction, whichever is later.

**History:** 1971 c. 154, 307; 1973 c. 181; 1977 c. 29; 1985 a. 159; 1989 a. 56, 228; 1991 a. 316; 1993 a. 112, 399; 1995 a. 27 ss. 3318, 3319, 9130 (4); 1995 a. 215; 1997 a. 3, 35; 1999 a. 70; 1999 a. 150 s. 335; Stats. 1999 s. 66.0903; 1999 a. 186 ss. 51 to 60.

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

1           66.0903 (12) (b) The department may not include in a notification under par.  
 2           (a) the name of any person on the basis of having let work to a person whom the  
 3           department has found to have failed to pay the prevailing wage rate or prevailing  
 4           fringe benefit rate determined under sub. (3) or has found to have paid 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.

**History:** 1971 c. 154, 307; 1973 c. 181; 1977 c. 29; 1985 a. 159; 1989 a. 56, 228; 1991 a. 316; 1993 a. 112, 399; 1995 a. 27 ss. 3318, 3319, 9130 (4); 1995 a. 215; 1997 a. 3, 35; 1999 a. 70; 1999 a. 150 s. 335; Stats. 1999 s. 66.0903; 1999 a. 186 ss. 51 to 60.

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

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

**History:** 1971 c. 154, 307; 1973 c. 181; 1977 c. 29; 1985 a. 159; 1989 a. 56, 228; 1991 a. 316; 1993 a. 112, 399; 1995 a. 27 ss. 3318, 3319, 9130 (4); 1995 a. 215; 1997 a. 3, 35; 1999 a. 70; 1999 a. 150 s. 335; Stats. 1999 s. 66.0903; 1999 a. 186 ss. 51 to 60.

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

19          103.005 (12) (a) If any employer, employee, owner, or other person violates chs.  
 20          103 to 106, or fails or refuses to perform any duty required under chs. 103 to 106,  
 21          within the time prescribed by the department, for which no penalty has been  
 22          specifically provided, or fails, neglects, or refuses to obey any lawful order given or  
 23          made by the department or any judgment or decree made by any court in connection

1 with chs. 103 to 106, for each such violation, failure, or refusal, the employer,  
2 employee, owner, or other person shall forfeit not less than \$10 nor more than \$100  
3 for each offense. This paragraph does not apply to any person who fails to provide  
4 any information to the department to assist the department in determining  
5 prevailing wage rates, prevailing fringe benefit rates, or prevailing hours of labor  
6 under s. 103.49 (3) (a) or (am) or in determining prevailing wage rates or prevailing  
7 hours of labor under s. 103.50 (3) or (4).

**History:** 1995 a. 27 ss. 2030, 3649r, 3747, 9130 (4); 1995 a. 215, 404; 1997 a. 3, 191, 237; 2001 a. 61.

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

9 **103.49 (title) Wage rate and fringe benefit rates on state work.**

**History:** 1983 a. 27; 1985 a. 159; 1985 a. 332 ss. 141, 142, 253; 1987 a. 403 s. 256; 1989 a. 228; 1993 a. 112; 1995 a. 27, 215, 225; 1997 a. 35; 1999 a. 70;  
1999 a. 150 ss. 628, 672; 1999 a. 167; 2001 a. 16, 30.

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

11 103.49 (1) (a) “Area” means the county in which a proposed project that is  
12 subject to this section is located or, if the department determines that there is  
13 insufficient wage and fringe benefit data in that county, “area” means those counties  
14 that are contiguous to that county or, if the department determines that there is  
15 insufficient wage and fringe benefit data in those counties, “area” means those  
16 counties that are contiguous to those counties or, if the department determines that  
17 there is insufficient wage and fringe benefit data in those counties, “area” means the  
18 entire state or, if the department is requested to review a determination under sub.  
19 (3) (c), “area” means the city, village, or town in which a proposed project that is  
20 subject to this section is located.

**History:** 1983 a. 27; 1985 a. 159; 1985 a. 332 ss. 141, 142, 253; 1987 a. 403 s. 256; 1989 a. 228; 1993 a. 112; 1995 a. 27, 215, 225; 1997 a. 35; 1999 a. 70;  
1999 a. 150 ss. 628, 672; 1999 a. 167; 2001 a. 16, 30.

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

22 103.49 (1) (b) “Hourly basic rate of pay” means the hourly wage paid to any  
23 employee, excluding any contributions or payments for ~~health insurance benefits,~~

1 ~~vacation benefits, pension benefits and any other bona fide economic fringe~~ benefits,  
2 whether paid directly or indirectly.

**History:** 1983 a. 27; 1985 a. 159; 1985 a. 332 ss. 141, 142, 253; 1987 a. 403 s. 256; 1989 a. 228; 1993 a. 112; 1995 a. 27, 215, 225; 1997 a. 35; 1999 a. 70; 1999 a. 150 ss. 628, 672; 1999 a. 167; 2001 a. 16, 30.

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

4 103.49 (1) (bd) “Hourly contribution for fringe benefits” means the hourly  
5 contribution or payment for health insurance benefits, vacation benefits, pension  
6 benefits, and any other bona fide economic benefits for any employee, whether paid  
7 directly or indirectly.

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

9 103.49 (1) (bg) “Insufficient wage and fringe benefit data” means less than 500  
10 hours of work performed in a particular trade or occupation on projects that are  
11 similar to a proposed project that is subject to this section.

**History:** 1983 a. 27; 1985 a. 159; 1985 a. 332 ss. 141, 142, 253; 1987 a. 403 s. 256; 1989 a. 228; 1993 a. 112; 1995 a. 27, 215, 225; 1997 a. 35; 1999 a. 70; 1999 a. 150 ss. 628, 672; 1999 a. 167; 2001 a. 16, 30.

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

13 103.49 (1) (br) 1. Except as provided in subd. 2., “prevailing fringe benefit rate”  
14 for any trade or occupation engaged in the erection, construction, remodeling,  
15 repairing, or demolition of any project of public works in any area means the hourly  
16 contribution for fringe benefits paid directly or indirectly for a majority of the hours  
17 worked in the trade or occupation on projects in the area.

18 2. If there is no rate at which a majority of the hours worked in the trade or  
19 occupation on projects in the area is paid, “prevailing fringe benefit 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 average hourly  
22 contribution for fringe benefits, weighted by the number of hours worked, paid  
23 directly or indirectly for all hours worked at the hourly contribution for fringe

1 benefits of the highest-contribution 51 percent of hours worked in that trade or  
2 occupation on projects in that area.

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

4 103.49 (1) (d) 1. Except as provided in subd. 2., “prevailing wage rate” for any  
5 trade or occupation engaged in the erection, construction, remodeling, repairing, or  
6 demolition of any project of public works in any area means the hourly basic rate of  
7 pay, ~~plus the hourly contribution for health insurance benefits, vacation benefits,~~  
8 ~~pension benefits and any other bona fide economic benefit,~~ paid directly or indirectly  
9 for a majority of the hours worked in the trade or occupation on projects in the area.

**History:** 1983 a. 27; 1985 a. 159; 1985 a. 332 ss. 141, 142, 253; 1987 a. 403 s. 256; 1989 a. 228; 1993 a. 112; 1995 a. 27, 215, 225; 1997 a. 35; 1999 a. 70; 1999 a. 150 ss. 628, 672; 1999 a. 167; 2001 a. 16, 30.

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

11 103.49 (1) (d) 2. If there is no rate at which a majority of the hours worked in  
12 the trade or occupation on projects in the area is paid, “prevailing wage rate” for any  
13 trade or occupation engaged in the erection, construction, remodeling, repairing, or  
14 demolition of any project of public works in any area means the average hourly basic  
15 rate of pay, weighted by the number of hours worked, ~~plus the average hourly~~  
16 ~~contribution, weighted by the number of hours worked, for health insurance benefits,~~  
17 ~~vacation benefits, pension benefits and any other bona fide economic benefit,~~ paid  
18 directly or indirectly for all hours worked at the hourly basic rate of pay of the  
19 highest-paid ~~51%~~ 51 percent of hours worked in that trade or occupation on projects  
20 in that area.

**History:** 1983 a. 27; 1985 a. 159; 1985 a. 332 ss. 141, 142, 253; 1987 a. 403 s. 256; 1989 a. 228; 1993 a. 112; 1995 a. 27, 215, 225; 1997 a. 35; 1999 a. 70; 1999 a. 150 ss. 628, 672; 1999 a. 167; 2001 a. 16, 30.

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

22 103.49 (2) PREVAILING WAGE RATES, FRINGE BENEFIT RATES, AND HOURS OF LABOR.

23 Any contract hereafter made for the erection, construction, remodeling, repairing, or

1 demolition of any project of public works, except contracts for the construction or  
2 maintenance of public highways, streets, and bridges, to which the state or any state  
3 agency is a party shall contain a stipulation that no person performing the work  
4 described in sub. (2m) may be permitted to work a greater number of hours per day  
5 or per week than the prevailing hours of labor, except that ~~any such~~ the person may  
6 be permitted or required to work more than ~~such~~ the prevailing hours of labor per  
7 day and per week if he or she is paid for all hours worked in excess of the prevailing  
8 hours of labor at a rate of at least 1.5 times his or her hourly basic rate of pay; nor  
9 may he or she be paid less than the prevailing wage rate or prevailing fringe benefit  
10 rate determined under sub. (3) in the same or most similar trade or occupation in the  
11 area ~~wherein such~~ in which the project of public works is situated. A reference to the  
12 prevailing wage rates and prevailing fringe benefit rates determined under sub. (3)  
13 and the prevailing hours of labor shall be published in the notice issued for the  
14 purpose of securing bids for the project. If any contract or subcontract for a project  
15 that is subject to this section is entered into, the prevailing wage rates and prevailing  
16 fringe benefit rates determined under sub. (3) and the prevailing hours of labor shall  
17 be physically incorporated into and made a part of the contract or subcontract, except  
18 that for a minor subcontract, as determined by the department, the department shall  
19 prescribe by rule the method of notifying the minor subcontractor of the prevailing  
20 wage rates, prevailing fringe benefit rates, and prevailing hours of labor applicable  
21 to the minor subcontract. The prevailing wage rates <sup>↑ prevailing fringe benefit rates ↑</sup> and prevailing hours of labor  
22 applicable to a contract or subcontract may not be changed during the time that the  
23 contract or subcontract is in force.

**History:** 1983 a. 27; 1985 a. 159; 1985 a. 332 ss. 141, 142, 253; 1987 a. 403 s. 256; 1989 a. 228; 1993 a. 112; 1995 a. 27, 215, 225; 1997 a. 35; 1999 a. 70; 1999 a. 150 ss. 628, 672; 1999 a. 167; 2001 a. 16, 30.

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

1           103.49 (2m) (a) (intro.) Subject to par. (b), all of the following employees shall  
2 be paid the prevailing wage rate and prevailing fringe benefit rate determined under  
3 sub. (3) and may not be permitted to work a greater number of hours per day or per  
4 week than the prevailing hours of labor, unless they are paid for all hours worked in  
5 excess of the prevailing hours of labor at a rate of at least 1.5 times their hourly basic  
6 rate of pay:

**History:** 1983 a. 27; 1985 a. 159; 1985 a. 332 ss. 141, 142, 253; 1987 a. 403 s. 256; 1989 a. 228; 1993 a. 112; 1995 a. 27, 215, 225; 1997 a. 35; 1999 a. 70;  
1999 a. 150 ss. 628, 672; 1999 a. 167; 2001 a. 16, 30.

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

8           103.49 (2m) (b) (intro.) Notwithstanding par. (a) 1., a laborer, worker,  
9 mechanic, or truck driver who is regularly employed to process, manufacture, pick  
10 up, or deliver materials or products from a commercial establishment that has a fixed  
11 place of business from which the establishment regularly supplies processed or  
12 manufactured materials or products is not entitled to receive the prevailing wage  
13 rate or prevailing fringe benefit rate determined under sub. (3) or to receive at least  
14 1.5 times his or her hourly basic rate of pay for all hours worked in excess of the  
15 prevailing hours of labor unless any of the following applies:

**History:** 1983 a. 27; 1985 a. 159; 1985 a. 332 ss. 141, 142, 253; 1987 a. 403 s. 256; 1989 a. 228; 1993 a. 112; 1995 a. 27, 215, 225; 1997 a. 35; 1999 a. 70;  
1999 a. 150 ss. 628, 672; 1999 a. 167; 2001 a. 16, 30.

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

17           103.49 (3) (a) Before bids are asked for any work to which this section applies,  
18 the state agency having the authority to prescribe the specifications shall apply to  
19 the department to determine the prevailing wage rate and prevailing fringe benefit  
20 rate for each trade or occupation required in the work under contemplation in the  
21 area in which the work is to be done. The department shall conduct investigations  
22 and hold public hearings as necessary to define the trades or occupations that are  
23 commonly employed on projects that are subject to this section and to inform itself



1 as to the prevailing wage rates and prevailing fringe benefit rates in all areas of the  
2 state for those trades or occupations, in order to determine the prevailing wage rate  
3 and prevailing fringe benefit rate for each trade or occupation. The department shall  
4 issue its determination within 30 days after receiving the request and shall file the  
5 determination with the requesting state agency. For the information of the  
6 employees working on the project, the prevailing wage rates and prevailing fringe  
7 benefit rates determined by the department, the prevailing hours of labor, and the  
8 provisions of subs. (2) and (6m) shall be kept posted by the state agency in at least  
9 one conspicuous and easily accessible place on the site of the project.

**History:** 1983 a. 27; 1985 a. 159; 1985 a. 332 ss. 141, 142, 253; 1987 a. 403 s. 256; 1989 a. 228; 1993 a. 112; 1995 a. 27, 215, 225; 1997 a. 35; 1999 a. 70; 1999 a. 150 ss. 628, 672; 1999 a. 167; 2001 a. 16, 30.

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

11 103.49 (3) (am) The department shall, by January 1 of each year, compile the  
12 prevailing wage rates and prevailing fringe benefit rates for each trade or occupation  
13 in each area. The compilation shall, in addition to the current prevailing wage rates  
14 and prevailing fringe benefit rates, include future prevailing wage rates and  
15 prevailing fringe benefit rates when those prevailing wage rates and prevailing  
16 fringe benefit rates can be determined for any trade or occupation in any area and  
17 shall specify the effective date of those future prevailing wage rates and prevailing  
18 fringe benefit rates. If a construction project extends into more than one area there  
19 shall be but one standard of prevailing wage rates and prevailing fringe benefit rates  
20 for the entire project.

**History:** 1983 a. 27; 1985 a. 159; 1985 a. 332 ss. 141, 142, 253; 1987 a. 403 s. 256; 1989 a. 228; 1993 a. 112; 1995 a. 27, 215, 225; 1997 a. 35; 1999 a. 70; 1999 a. 150 ss. 628, 672; 1999 a. 167; 2001 a. 16, 30.

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

22 103.49 (3) (ar) In determining prevailing wage rates and prevailing fringe  
23 benefit rates under par. (a) or (am), the department may not use data from projects

1 that are subject to this section, s. 66.0903, 103.50, or 229.8275 or 40 USC 276a 3141  
2 to 3148 unless the department determines that there is insufficient wage and fringe  
3 benefit data in the area to determine those prevailing wage rates, in which case the <sup>and prevailing fringe benefit</sup>  
4 department may use data from projects that are subject to this section, s. 66.0903, <sup>rates</sup>  
5 103.50, or 229.8275 or 40 USC 276a 3141 to 3148.

**History:** 1983 a. 27; 1985 a. 159; 1985 a. 332 ss. 141, 142, 253; 1987 a. 403 s. 256; 1989 a. 228; 1993 a. 112; 1995 a. 27, 215, 225; 1997 a. 35; 1999 a. 70; 1999 a. 150 ss. 628, 672; 1999 a. 167; 2001 a. 16, 30.

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

7 103.49 (3) (b) Any person may request a recalculation of any portion of an  
8 initial determination within 30 days after the initial determination date if the person  
9 submits evidence with the request showing that the prevailing wage rate or  
10 prevailing fringe benefit rate for any given trade or occupation included in the initial  
11 determination does not represent the prevailing wage rate or prevailing fringe  
12 benefit rate for that trade or occupation in the area. The evidence shall include wage  
13 rate or fringe benefit rate information reflecting work performed by persons working  
14 in the contested trade or occupation in the area during the current survey period.  
15 The department shall affirm or modify the initial determination within 15 days after  
16 the date on which the department receives the request for recalculation.

**History:** 1983 a. 27; 1985 a. 159; 1985 a. 332 ss. 141, 142, 253; 1987 a. 403 s. 256; 1989 a. 228; 1993 a. 112; 1995 a. 27, 215, 225; 1997 a. 35; 1999 a. 70; 1999 a. 150 ss. 628, 672; 1999 a. 167; 2001 a. 16, 30.

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

18 103.49 (3) (c) In addition to the recalculation under par. (b), the state agency  
19 that requested the determination under this subsection may request a review of any  
20 portion of a determination within 30 days after the date of issuance of the  
21 determination if the state agency submits evidence with the request showing that  
22 the prevailing wage rate or prevailing fringe benefit rate for any given trade or  
23 occupation included in the determination does not represent the prevailing wage

1 rate or prevailing fringe benefit rate for that trade or occupation in the city, village,  
2 or town in which the proposed project is located. That evidence shall include wage  
3 rate or fringe benefit rate information for the contested trade or occupation on at  
4 least 3 similar projects located in the city, village, or town where the proposed project  
5 is located on which some work has been performed during the current survey period  
6 and which were considered by the department in issuing its most recent compilation  
7 under par. (am). The department shall affirm or modify the determination within  
8 15 days after the date on which the department receives the request for review.

**History:** 1983 a. 27; 1985 a. 159; 1985 a. 332 ss. 141, 142, 253; 1987 a. 403 s. 256; 1989 a. 228; 1993 a. 112; 1995 a. 27, 215, 225; 1997 a. 35; 1999 a. 70;  
1999 a. 150 ss. 628, 672; 1999 a. 167; 2001 a. 16, 30.

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

10 103.49 (4r) (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 state agency  
12 authorizing the work an affidavit stating that the contractor has complied fully with  
13 the requirements of this section and that the contractor has received an affidavit  
14 under par. (b) from each of the contractor's agents and subcontractors. A state  
15 agency may not authorize a final payment until the affidavit is filed in proper form  
16 and order. If a state agency authorizes a final payment before an affidavit is filed in  
17 proper form and order or if the department determines, based on the greater weight  
18 of the credible evidence, that any person performing the work specified in sub. (2m)  
19 has been or may have been paid less than the prevailing wage rate, less than the  
20 prevailing fringe benefit rate, or less than 1.5 times the hourly basic rate of pay for  
21 all hours worked in excess of the prevailing hours of labor and requests that the state  
22 agency withhold all or part of the final payment, but the state agency fails to do so,

1 the state agency is liable for all back wages and fringe benefits payable up to the  
2 amount of the final payment.

**History:** 1983 a. 27; 1985 a. 159; 1985 a. 332 ss. 141, 142, 253; 1987 a. 403 s. 256; 1989 a. 228; 1993 a. 112; 1995 a. 27, 215, 225; 1997 a. 35; 1999 a. 70; 1999 a. 150 ss. 628, 672; 1999 a. 167; 2001 a. 16, 30.

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

4 103.49 (5) (a) Each contractor, subcontractor, or contractor's or subcontractor's  
5 agent performing work on a project that is subject to this section shall keep full and  
6 accurate records clearly indicating the name and trade or occupation of every person  
7 performing the work described in sub. (2m) and an accurate record of the number of  
8 hours worked by each of those persons and the actual wages and fringe benefits paid  
9 for the hours worked.

**History:** 1983 a. 27; 1985 a. 159; 1985 a. 332 ss. 141, 142, 253; 1987 a. 403 s. 256; 1989 a. 228; 1993 a. 112; 1995 a. 27, 215, 225; 1997 a. 35; 1999 a. 70; 1999 a. 150 ss. 628, 672; 1999 a. 167; 2001 a. 16, 30.

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

11 103.49 (5) (b) It shall be the duty of the department to enforce this section. To  
12 this end it may demand and examine, and every contractor, subcontractor, and  
13 contractor's and subcontractor's agent shall keep, and furnish upon request by the  
14 department, copies of payrolls and other records and information relating to the  
15 wages and fringe benefits paid to persons performing the work described in sub. (2m)  
16 for work to which this section applies. The department may inspect records in the  
17 manner provided in this chapter. Every contractor, subcontractor, or agent  
18 performing work on a project that is subject to this section is subject to the  
19 requirements of this chapter relating to the examination of records. Section 111.322  
20 (2m) applies to discharge and other discriminatory acts arising in connection with  
21 any proceeding under this section.

**History:** 1983 a. 27; 1985 a. 159; 1985 a. 332 ss. 141, 142, 253; 1987 a. 403 s. 256; 1989 a. 228; 1993 a. 112; 1995 a. 27, 215, 225; 1997 a. 35; 1999 a. 70; 1999 a. 150 ss. 628, 672; 1999 a. 167; 2001 a. 16, 30.

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

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

**History:** 1983 a. 27; 1985 a. 159; 1985 a. 332 ss. 141, 142, 253; 1987 a. 403 s. 256; 1989 a. 228; 1993 a. 112; 1995 a. 27, 215, 225; 1997 a. 35; 1999 a. 70; 1999 a. 150 ss. 628, 672; 1999 a. 167; 2001 a. 16, 30.

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

11           103.49 (6m) (c) Any person employed on a project that is subject to this section  
12 who knowingly permits a contractor, subcontractor, or contractor's or subcontractor's  
13 agent to pay him or her less than the prevailing wage rate or prevailing fringe benefit  
14 rate set forth in the contract governing the project, who gives up, waives, or returns  
15 any part of the compensation to which he or she is entitled under the contract, or who  
16 gives up, waives, or returns any part of the compensation to which he or she is  
17 normally entitled for work on a project that is not subject to this section during a  
18 week in which the person works both on a project that is subject to this section and  
19 on a project that is not subject to this section, is guilty of an offense under s. 946.15  
20 (2).

**History:** 1983 a. 27; 1985 a. 159; 1985 a. 332 ss. 141, 142, 253; 1987 a. 403 s. 256; 1989 a. 228; 1993 a. 112; 1995 a. 27, 215, 225; 1997 a. 35; 1999 a. 70; 1999 a. 150 ss. 628, 672; 1999 a. 167; 2001 a. 16, 30.

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

22           103.49 (6m) (d) Whoever induces any person who seeks to be or is employed  
23 on any project that is subject to this section to permit any part of the wages or fringe

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

**History:** 1983 a. 27; 1985 a. 159; 1985 a. 332 ss. 141, 142, 253; 1987 a. 403 s. 256; 1989 a. 228; 1993 a. 112; 1995 a. 27, 215, 225; 1997 a. 35; 1999 a. 70; 1999 a. 150 ss. 628, 672; 1999 a. 167; 2001 a. 16, 30.

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

6 103.49 (6m) (e) Any person employed on a project that is subject to this section  
7 who knowingly permits any part of the wages or fringe benefits to which he or she  
8 is entitled under the contract governing the project to be deducted from his or her pay  
9 is guilty of an offense under s. 946.15 (4), unless the deduction would be permitted  
10 under 29 CFR 3.5 or 3.6 from a person who is working on a project that is subject to  
11 40 USC 276e 3141 to 3148.

**History:** 1983 a. 27; 1985 a. 159; 1985 a. 332 ss. 141, 142, 253; 1987 a. 403 s. 256; 1989 a. 228; 1993 a. 112; 1995 a. 27, 215, 225; 1997 a. 35; 1999 a. 70; 1999 a. 150 ss. 628, 672; 1999 a. 167; 2001 a. 16, 30.

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

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

**History:** 1983 a. 27; 1985 a. 159; 1985 a. 332 ss. 141, 142, 253; 1987 a. 403 s. 256; 1989 a. 228; 1993 a. 112; 1995 a. 27, 215, 225; 1997 a. 35; 1999 a. 70; 1999 a. 150 ss. 628, 672; 1999 a. 167; 2001 a. 16, 30.

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

17 103.49 (7) (a) Except as provided under pars. (b) and (c), the department shall  
18 distribute to all state agencies a list of all persons whom the department has found  
19 to have failed to pay the prevailing wage rate or prevailing fringe benefit rate  
20 determined under sub. (3) or has found to have paid less than 1.5 times the hourly  
21 basic rate of pay for all hours worked in excess of the prevailing hours of labor at any  
22 time in the preceding 3 years. The department shall include with any name the  
23 address of the person and shall specify when the person failed to pay the prevailing

1 wage rate or prevailing fringe benefit rate and when the person paid less than 1.5  
2 times the hourly basic rate of pay for all hours worked in excess of the prevailing  
3 hours of labor. A state agency may not award any contract to the person unless  
4 otherwise recommended by the department or unless 3 years have elapsed from the  
5 date the department issued its findings or date of final determination by a court of  
6 competent jurisdiction, whichever is later.

**History:** 1983 a. 27; 1985 a. 159; 1985 a. 332 ss. 141, 142, 253; 1987 a. 403 s. 256; 1989 a. 228; 1993 a. 112; 1995 a. 27, 215, 225; 1997 a. 35; 1999 a. 70;  
1999 a. 150 ss. 628, 672; 1999 a. 167; 2001 a. 16, 30.

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

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

**History:** 1983 a. 27; 1985 a. 159; 1985 a. 332 ss. 141, 142, 253; 1987 a. 403 s. 256; 1989 a. 228; 1993 a. 112; 1995 a. 27, 215, 225; 1997 a. 35; 1999 a. 70;  
1999 a. 150 ss. 628, 672; 1999 a. 167; 2001 a. 16, 30.

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

15 103.49 (7) (d) Any person submitting a bid on a project that is subject to this  
16 section shall, on the date on which the person submits the bid, identify any  
17 construction business in which the person, or a shareholder, officer, or partner of the  
18 person, if the person is a business, owns, or has owned at least a 25% <sup>percent</sup> interest on the  
19 date the person submits the bid or at any other time within 3 years preceding the date  
20 the person submits the bid, if the business has been found to have failed to pay the  
21 prevailing wage rate or prevailing fringe benefit rate determined under sub. (3) or

1 to have paid less than 1.5 times the hourly basic rate of pay for all hours worked in  
2 excess of the prevailing hours of labor.

**History:** 1983 a. 27; 1985 a. 159; 1985 a. 332 ss. 141, 142, 253; 1987 a. 403 s. 256; 1989 a. 228; 1993 a. 112; 1995 a. 27, 215, 225; 1997 a. 35; 1999 a. 70; 1999 a. 150 ss. 628, 672; 1999 a. 167; 2001 a. 16, 30.

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

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

**History:** 1977 c. 29 s. 1654 (8) (c); 1979 c. 269; 1985 a. 332 ss. 143, 144, 253; 1989 a. 228; 1993 a. 492; 1995 a. 215, 225; 1997 a. 3, 35; 1999 a. 70; 1999 a. 150 ss. 629, 672; 2001 a. 30.

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

8 103.50 (7) (d) Whoever induces any person who seeks to be or is employed on  
9 any project that is subject to this section to permit any part of the wages to which the  
10 person is entitled under the contract governing the project to be deducted from the  
11 person's pay is guilty of an offense under s. 946.15 (3), unless the deduction would  
12 be permitted under 29 CFR 3.5 or 3.6 from a person who is working on a project that  
13 is subject to 40 USC 276e 3141 to 3148.

**History:** 1977 c. 29 s. 1654 (8) (c); 1979 c. 269; 1985 a. 332 ss. 143, 144, 253; 1989 a. 228; 1993 a. 492; 1995 a. 215, 225; 1997 a. 3, 35; 1999 a. 70; 1999 a. 150 ss. 629, 672; 2001 a. 30.

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

15 103.50 (7) (e) Any person employed on a project that is subject to this section  
16 who knowingly permits any part of the wages to which he or she is entitled under the  
17 contract governing the project to be deducted from his or her pay is guilty of an  
18 offense under s. 946.15 (4), unless the deduction would be permitted under 29 CFR  
19 3.5 or 3.6 from a person who is working on a project that is subject to 40 USC 276e  
20 3141 to 3148.

**History:** 1977 c. 29 s. 1654 (8) (c); 1979 c. 269; 1985 a. 332 ss. 143, 144, 253; 1989 a. 228; 1993 a. 492; 1995 a. 215, 225; 1997 a. 3, 35; 1999 a. 70; 1999 a. 150 ss. 629, 672; 2001 a. 30.

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



1           227.01 (13) (t) Ascertains and determines prevailing wage rates or prevailing  
2 fringe benefit rates under ss. 66.0903, 103.49, ~~103.50~~ and 229.8275 or prevailing  
3 wage rates under s. 103.50, except that any action or inaction ~~which~~ that ascertains  
4 and determines prevailing wage rates or prevailing fringe benefit rates under ss.  
5 66.0903, 103.49, ~~103.50~~ and 229.8275 or prevailing wage rates under s. 103.50 is  
6 subject to judicial review under s. 227.40.

**History:** 1985 a. 182; 1987 a. 27, 119, 395, 399, 403; 1989 a. 31, 56, 335, 341; 1991 a. 39, 254, 269, 309, 315; 1993 a. 16, 123, 237, 349, 364, 419, 442,  
481, 491; 1995 a. 27, 215, 227, 289, 363; 1997 a. 27, 35, 231, 237; 1999 a. 9, 70; 1999 a. 150 s. 672; 1999 a. 167; 2001 a. 38, 109; 2003 a. 33 ss. 2364, 2813.

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

8           **229.8275 (title) Prevailing wage and fringe benefit rates.**

**History:** 1999 a. 167; 2001 a. 38.

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

10           229.8275 (1) Not to permit any employee working on the football stadium  
11 facilities who would be entitled to receive the prevailing wage rate and prevailing  
12 fringe benefit rate under s. 66.0903 and who would not be required or permitted to  
13 work more than the prevailing hours of labor, if the football stadium facilities were  
14 a project of public works subject to s. 66.0903, to be paid less than the prevailing wage  
15 rate or less than the prevailing fringe benefit rate or to be required or permitted to  
16 work more than the prevailing hours of labor, except as permitted under s. 66.0903  
17 (4) (a).

**History:** 1999 a. 167; 2001 a. 38.

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

19           946.15 (1) Any employer, or any agent or employee of an employer, who induces  
20 any person who seeks to be or is employed pursuant to a public contract, as defined  
21 in s. 66.0901 (1) (c), or who seeks to be or is employed on a project on which a  
22 prevailing wage rate and prevailing fringe benefit rate determination has been  
23 issued by the department of workforce development under s. 66.0903 (3), 103.49 (3),

1     ~~103.50 (3)~~ or 229.8275 (3) or by a local governmental unit, as defined in s. 66.0903  
2     (1) (d), under s. 66.0903 (6) or on which a prevailing wage rate determination has  
3     been issued by that department under s. 103.50 (3) to give up, waive, or return any  
4     part of the compensation to which that person is entitled under his or her contract  
5     of employment or under the prevailing wage rate or prevailing fringe benefit rate  
6     determination issued by the department or local governmental unit, or who reduces  
7     the hourly basic rate of pay or hourly contribution for fringe benefits normally paid  
8     to an employee for work on a project on which a prevailing wage rate and prevailing  
9     fringe benefit rate determination has not been issued under s. 66.0903 (3) or (6),  
10    103.49 (3), ~~103.50 (3)~~ or 229.8275 (3) or on which a prevailing wage rate  
11    determination has not been issued by that department under s. 103.50 (3) during a  
12    week in which the employee works both on a project on which a prevailing wage rate  
13    or prevailing fringe benefit rate determination has been issued and on a project on  
14    which a prevailing wage rate or prevailing fringe benefit rate determination has not  
15    been issued, is guilty of a Class I felony.

History: 1979 c. 269; 1995 a. 27 s. 9130 (4); 1995 a. 215; 1997 a. 3; 1999 a. 150, 167; 2001 a. 30, 109.

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

17           946.15 (2) Any person employed pursuant to a public contract, as defined in s.  
18    66.0901 (1) (c), or employed on a project on which a prevailing wage rate and  
19    prevailing fringe benefit rate determination has been issued by the department of  
20    workforce development under s. 66.0903 (3), 103.49 (3), ~~103.50 (3)~~ or 229.8275 (3) or  
21    by a local governmental unit, as defined in s. 66.0903 (1) (d), under s. 66.0903 (6) or  
22    on which a prevailing wage rate determination has been issued by that department  
23    under s. 103.50 (3) who gives up, waives, or returns to the employer or agent of the  
24    employer any part of the compensation to which the employee is entitled under his

1 or her contract of employment or under the prevailing wage rate or prevailing fringe  
2 benefit rate determination issued by the department or local governmental unit, or  
3 who gives up any part of the compensation to which he or she is normally entitled  
4 for work on a project on which a prevailing wage rate and prevailing fringe benefit  
5 rate determination has not been issued under s. 66.0903 (3) or (6), 103.49 (3), ~~103.50~~  
6 ~~(3)~~ or 229.8275 (3) or on which a prevailing wage rate determination has not been  
7 issued by that department under s. 103.50 (3) during a week in which the person  
8 works part-time on a project on which a prevailing wage rate or prevailing fringe  
9 benefit rate determination has been issued and part-time on a project on which a  
10 prevailing wage rate determination or prevailing fringe benefit rate has not been  
11 issued, is guilty of a Class C misdemeanor.

12 **History:** 1979 c. 269; 1995 a. 27 s. 9130 (4); 1995 a. 215; 1997 a. 3; 1999 a. 150, 167; 2001 a. 30, 109.

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

13 946.15 (3) Any employer or labor organization, or any agent or employee of an  
14 employer or labor organization, who induces any person who seeks to be or is  
15 employed on a project on which a prevailing wage rate and prevailing fringe benefit  
16 rate determination has been issued by the department of workforce development  
17 under s. 66.0903 (3), 103.49 (3), ~~103.50 (3)~~ or 229.8275 (3) or by a local governmental  
18 unit, as defined in s. 66.0903 (1) (d), under s. 66.0903 (6) or on which a prevailing  
19 wage rate determination has been issued by that department under s. 103.50 (3) to  
20 permit any part of the wages or fringe benefits to which that person is entitled under  
21 the prevailing wage rate or prevailing fringe benefit rate determination issued by the  
22 department or local governmental unit to be deducted from the person's pay is guilty

1 of a Class I felony, unless the deduction would be permitted under 29 CFR 3.5 or 3.6  
2 from a person who is working on a project that is subject to 40 USC ~~276e~~ 3141 to 3148.

3 **History:** 1979 c. 269; 1995 a. 27 s. 9130 (4); 1995 a. 215; 1997 a. 3; 1999 a. 150, 167; 2001 a. 30, 109.

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

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

15 **History:** 1979 c. 269; 1995 a. 27 s. 9130 (4); 1995 a. 215; 1997 a. 3; 1999 a. 150, 167; 2001 a. 30, 109.

(END)

**Basford, Sarah**

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**From:** Solie, Denise  
**Sent:** Tuesday, May 24, 2005 4:54 PM  
**To:** LRB.Legal  
**Subject:** Draft review: LRB 05-2926/1 Topic: Prevailing wage rate; require separate determinations for wages and fringe benefits

It has been requested by <Solie, Denise> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-2926/1 Topic: Prevailing wage rate; require separate determinations for wages and fringe benefits

**Northrop, Lori**

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**From:** Solie, Denise  
**Sent:** Wednesday, May 25, 2005 8:35 AM  
**To:** Malaise, Gordon  
**Subject:** Submitted: LRB 05-2926/1 Topic: Prevailing wage rate; require separate determinations for wages and fringe benefits?body=

Gordon,

We need the jacket for this bill today, please, before 11:00 am.  
JCRAR report is attached.  
Please call me if questions. Thanks!



JCRAR CR 04-081  
Report.doc

**Denise Kuchta Solie**  
*JCRAR Committee Clerk*  
*Rep. Mark Gottlieb*  
*(608) 267-2369*