

**2005 DRAFTING REQUEST**

**Assembly Substitute Amendment (ASA-AB49)**

Received: 05/02/2005

Received By: gmalaise

Wanted: 05/03/2005

Identical to LRB:

For: Stephen Nass (608) 266-5715

By/Representing: Mike Mikelsen

This file may be shown to any legislator: NO

Drafter: gmalaise

May Contact:

Addl. Drafters:

Subject: **Employ Priv - minimum wage**

Extra Copies:

Submit via email: YES

Requester's email: **Rep.Nass@legis.state.wi.us**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Minimum wage; preemption of local living wage ordinances

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**Instructions:**

Draft SSA1 to SB 147 as ASA to AB 49, but include AA! to AB 49.

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 05/02/2005	wjackson 05/02/2005		_____			
/1			pgreensl 05/02/2005	_____	lemery 05/02/2005	lemery 05/02/2005	

FE Sent For:

<END>

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/?	gmalaise	1 wlj 5/2	3/2 ps	5/2 ps/te			

FE Sent For:

<END>

2005

Date (time) needed

Tues 5/3 9:00AM

LRBs 0105, 1

SUBSTITUTE AMENDMENT [TO A BILL]

GMM : WLj : + Kjf

Use the appropriate components and routines developed for substitute amendments.

S A SUBSTITUTE AMENDMENT

TO 2005 SB AB 49 (LRB- )

AN ACT ... [generate catalog] to repeal ... ; to renumber ... ; to consolidate and renumber ... ; to renumber and amend ... ; to consolidate, renumber and amend ... ; to amend ... ; to repeal and recreate ... ; and to create ... of the statutes; relating to:

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

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

SECTION #.

50105/1

~~SENATE SUBSTITUTE AMENDMENT 1,~~  
~~TO 2005 SENATE BILL 147~~

~~April 6, 2005 – Offered by COMMITTEE ON VETERANS, HOMELAND SECURITY, MILITARY AFFAIRS, SMALL BUSINESS AND GOVERNMENT REFORM.~~

Regan

1 AN ACT *to renumber and amend* 104.08 (1), 104.08 (2) and 104.08 (3); *to amend*  
2 104.01 (intro.), 104.01 (5), 104.02, 104.03, 104.04, 104.05, 104.06, 104.07 (1),  
3 104.07 (2), 104.10, 104.11 and 104.12; and *to create* 104.001 and 104.08 (1m)  
4 (b) of the statutes; **relating to:** preemption of city, village, town, or county  
5 living wage ordinances.

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***Analysis by the Legislative Reference Bureau***

Under current constitutional and statutory home rule provisions, a city or village may determine its own local affairs subject only to the Wisconsin Constitution and to any enactment of the legislature that is of statewide concern and that affects every city or village with uniformity.

This substitute amendment states that the provision of a living wage that is uniform throughout the state is a matter of statewide concern, that the enactment of a living wage ordinance by a city, village, town, or county would be logically inconsistent with, would defeat the purpose of, and would go against the spirit of the state minimum wage law, under which an employer may not pay an employee less than a living wage, and that, therefore, the state minimum wage law shall be construed as an enactment of statewide concern for the purpose of providing a living wage that is uniform throughout the state. As such, the substitute amendment prohibits a city, village, town, or county from enacting an ordinance establishing a

living wage and provides that a city, village, town, or county living wage ordinance that is in effect on the effective date of the substitute amendment is void.

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

SECTION 1. 104.001 of the statutes is created to read:

**104.001 Statewide concern; uniformity.** (1) The legislature finds that the provision of a living wage that is uniform throughout the state is a matter of statewide concern and that the enactment of a living wage ordinance by a city, village, town, or county would be logically inconsistent with, would defeat the purpose of, and would go against the spirit of this chapter. Therefore, this chapter shall be construed as an enactment of statewide concern for the purpose of providing a living wage that is uniform throughout the state.

(2) A city, village, town, or county may not enact and administer an ordinance establishing a living wage. Any city, village, town, or county living wage ordinance that is in effect on the effective date of this subsection ... [revisor inserts date], is void.

any of the following: (a) The

(3) This section does not affect ~~the~~ requirement that employees employed on a public works project contracted for by a city, village, town, or county be paid at the prevailing wage rate, as defined in s. 66.0903 (1) (g), as required under s. 66.0903.

Insert 2-15

SECTION 2. 104.01 (intro.) of the statutes is amended to read:

**104.01 Definitions.** (intro.) The following terms as used in ss. 104.01 to 104.12 this chapter shall be construed as follows:

SECTION 3. 104.01 (5) of the statutes is amended to read:

104.01 (5) The term "living wage" shall mean "Living wage" means compensation for labor paid, whether by time, piecework, or otherwise, sufficient to

1 enable the employee receiving it the compensation to maintain himself or herself  
2 under conditions consistent with his or her welfare.

3 SECTION 4. 104.02 of the statutes is amended to read:

4 **104.02 Living-wage Living wage prescribed.** Every wage paid or agreed  
5 to be paid by any employer to any employee, except as otherwise provided in s.  
6 104.07, shall be not less than a ~~living-wage~~ living wage.

7 SECTION 5. 104.03 of the statutes is amended to read:

8 **104.03 Unlawful wages.** Any employer paying, offering to pay, or agreeing  
9 to pay any employee a wage lower or less in value than a ~~living-wage~~ living wage is  
10 guilty of a violation of ss. 104.01 to 104.12 this chapter.

11 SECTION 6. 104.04 of the statutes is amended to read:

12 **104.04 Classifications; department's authority.** The department shall  
13 investigate, ascertain, determine, and fix such reasonable classifications, and shall  
14 impose general or special orders, determining the ~~living-wage~~ living wage, and shall  
15 carry out the purposes of ss. 104.01 to 104.12 this chapter. Such investigations,  
16 classifications, and orders shall be made as provided under s. 103.005, and the  
17 penalties specified in s. 103.005 (12) shall apply to and be imposed for any violation  
18 of ss. 104.01 to 104.12 this chapter. In determining the ~~living-wage~~ living wage, the  
19 department may consider the effect that an increase in the ~~living-wage~~ living wage  
20 might have on the economy of the state, including the effect of a ~~living-wage~~ living  
21 wage increase on job creation, retention, and expansion, on the availability of  
22 entry-level jobs, and on regional economic conditions within the state. The  
23 department may not establish a different minimum wage for men and women. Said  
24 orders shall be subject to review in the manner provided in ch. 227.

25 SECTION 7. 104.05 of the statutes is amended to read:

1           **104.05 Complaints; investigation.** The department shall, within 20 days  
2 after the filing of a verified complaint of any person setting forth that the wages paid  
3 to any employee in any occupation are not sufficient to enable the employee to  
4 maintain himself or herself under conditions consistent with his or her welfare,  
5 investigate and determine whether there is reasonable cause to believe that the wage  
6 paid to any employee is not a ~~living-wage~~ living wage.

7           **SECTION 8.** 104.06 of the statutes is amended to read:

8           **104.06 Wage council; determination.** If, upon investigation, the  
9 department finds that there is reasonable cause to believe that the wages paid to any  
10 employee are not a ~~living-wage, it~~ living wage, the department shall appoint a wage  
11 council, selected so as fairly to represent employers, employees, and the public, to  
12 assist in its investigations and determinations. The ~~living-wage~~ living wage so  
13 determined upon shall be the ~~living-wage~~ living wage for all employees within the  
14 same class as established by the classification of the department.

15           **SECTION 9.** 104.07 (1) of the statutes is amended to read:

16           104.07 (1) The department shall make rules, and, except as provided under  
17 subs. (5) and (6), grant licenses, to any employer who employs any employee who is  
18 unable to earn the living-wage theretofore determined upon living wage determined  
19 by the department, permitting such person the employee to work for a wage which  
20 shall be that is commensurate with the employee's ability and each. Each license so  
21 granted shall establish a wage for the licensee.

22           **SECTION 10.** 104.07 (2) of the statutes is amended to read:

23           104.07 (2) The department shall make rules, and, except as provided under  
24 subs. (5) and (6), grant licenses to sheltered workshops, to permit the employment  
25 of workers with disabilities who are unable to earn the ~~living-wage~~ living wage at

1 a wage that is commensurate with their ability and productivity. A license granted  
2 to a sheltered workshop under this section subsection may be issued for the entire  
3 workshop or a department of the workshop.

4 **SECTION 11.** 104.08 (1) of the statutes is renumbered 104.08 (2m) and amended  
5 to read:

6 104.08 (2m) ~~All persons~~ Any person working in an occupation a trade industry  
7 for which a ~~living wage~~ living wage has been established for minors, and who shall  
8 have has no trade, shall, ~~if employed in an occupation which is a trade industry,~~ be  
9 indentured under ~~the provisions of s. 106.01.~~

10 **SECTION 12.** 104.08 (1m) (b) of the statutes is created to read:

11 104.08 (1m) (b) “Trade industry” means an industry involving physical labor  
12 and characterized by mechanical skill and training such as render a period of  
13 instruction reasonably necessary.

14 **SECTION 13.** 104.08 (2) of the statutes is renumbered 104.08 (1m) (intro.) and  
15 amended to read:

16 104.08 (1m) (intro.) ~~A “trade” or a “trade industry” within the meaning of ss.~~  
17 ~~104.01 to 104.12 shall be a trade or~~ In this section:

18 (a) “Trade” means an industry occupation involving physical labor and  
19 characterized by mechanical skill and training such as render a period of instruction  
20 reasonably necessary.

21 **(3) (a)** The department shall investigate, determine, and declare what  
22 occupations and industries are included within ~~the phrase~~ a “trade” or a “trade  
23 industry”~~.”~~

24 **SECTION 14.** 104.08 (3) of the statutes is renumbered 104.08 (3) (b) and  
25 amended to read:



1           104.08 (3) (b) The department may make exceptions to the operation of subs.  
2           (1) and (2) where sub. (2m) when conditions make ~~their~~ its application unreasonable.

3           **SECTION 15.** 104.10 of the statutes is amended to read:

4           **104.10 Penalty for intimidating witness.** Any employer who discharges or  
5           threatens to discharge, or in any way discriminates, or threatens to discriminate  
6           against any employee because the employee has testified or is about to testify, or  
7           because the employer believes that the employee may testify, in any investigation or  
8           proceeding relative to the enforcement of ~~ss. 104.01 to 104.12~~ this chapter, is guilty  
9           of a misdemeanor, and upon conviction thereof shall be punished by a fine of \$25 for  
10          each offense.

11          **SECTION 16.** 104.11 of the statutes is amended to read:

12          **104.11 Definition of violation.** Each day during which any employer shall  
13          employ a person for whom a ~~living-wage~~ living wage has been fixed at a wage less  
14          than the ~~living-wage~~ living wage fixed shall constitute a separate and distinct  
15          violation of ~~ss. 104.01 to 104.12~~ this chapter.

16          **SECTION 17.** 104.12 of the statutes is amended to read:

17          **104.12 Complaints.** Any person may register with the department a  
18          complaint that the wages paid to employees an employee for whom a ~~living-wage~~  
19          living wage has been established are less than that rate living wage, and the  
20          department shall investigate the matter and take all proceedings necessary to  
21          enforce the payment of a wage that is not less than the ~~living-wage~~ living wage.  
22          Section 111.322 (2m) applies to discharge and other discriminatory acts arising in  
23          connection with any proceeding under this section.

24          **SECTION 18. Initial applicability.**



Insert 2-15

**ASSEMBLY AMENDMENT 1,  
TO 2005 ASSEMBLY BILL 49**

April 22, 2005 - Offered by Representative NASS.

1 At the locations indicated, amend the bill as follows:

2 1. Page 3, line 5: delete that line and substitute:

3 "(5) This section does not affect any of the following:

4 (a) The requirement that employees employed on".

5 2. Page 3, line 7: after that line insert:

6 (b) An ordinance that requires an employee of a county, city, village, or town,  
7 an employee who performs work under a contract for the provision of services to a  
8 county, city, village, or town, or an employee who performs work that is funded by  
9 financial assistance from a county, city, village, or town, to be paid at a minimum  
10 wage rate specified in the ordinance.

11

(END)