

2005 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB49)

Received: 05/02/2005

Received By: gmalaise

Wanted: Today

Identical to LRB:

For: James Kreuser (608) 266-5504

By/Representing: A. J. Wilson

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.Kreuser@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Minimum wage; increase; permitting local living wage ordinances

Instructions:

Draft substitute amendment that: 1) incorporates into statute Governor's proposed minimum wage increase; and 2) permits cities, village, towns, and counties to enact local living wage ordinances.

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	_____	lnorthro 05/02/2005	lnorthro 05/02/2005	

FE Sent For:

<END>

2005 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB49)

Received: **05/02/2005**

Received By: **gmalaise**

Wanted: **Today**

Identical to LRB:

For: **James Kreuser (608) 266-5504**

By/Representing: **A. J. Wilson**

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.Kreuser@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Minimum wage; increase; permitting local living wage ordinances

Instructions:

Draft substitute amendment that: 1) incorporates into statute Governor's proposed minimum wage increase; and 2) permits cities, village, towns, and counties to enact local living wage ordinances.

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	1 WJ 5/2	5/2	5/2			

FE Sent For:

<END>

2005

Date (time) needed Today!

LRBs 0104 11

**SUBSTITUTE AMENDMENT
[TO A BILL]**

GMM : Wlj : _____

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 #.

50104/1

LRB-47197/A

GMM:wlj:jf

body!

2005 ASSEMBLY BILL 77

February 3, 2005 - Introduced by Representatives SHERIDAN, STICKI, TURNER, SHERMAN, KREUSER, RICHARDS, POCAN, KESSLER, BOYLE, BLACK, HEBL, MOLEPSKE, NELSON, VRUWINK, BERCEAU, SCHNEIDER, YOUNG, PARISI, SHILLING, TOLES, VAN AKKEREN, FIELDS, COLON, A. WILLIAMS, ZEPNICK, POPE-ROBERTS, GRIGSBY, BENEDICT, SEIDEL, KRUSICK, STEINBRINK and LEHMAN, cosponsored by Senators HANSEN, ROBSON, BRESKE, CARPENTER, COGGS, DECKER, ERPENBACH, JAUCH, LASSA, MILLER, PEALE, RISSER, TAYLOR and WIRCH. Referred to Committee on Labor.

permitted
to enact living wage ordinances
cities, villages, towns, and counties

1
2
3
4
5
6
7
8

AN ACT to renumber 104.01 (1); to renumber and amend 104.045, 104.08 (1), 104.08 (2) and 104.08 (3); to amend 49.141 (1) (g), 104.01 (intro.), 104.01 (5), 104.01 (8), 104.02, 104.03, 104.04, 104.05, 104.06, 104.07 (1), 104.07 (2), 104.10, 104.11, 104.12, 234.94 (5), 234.94 (8), 800.09 (1) (b), 800.095 (4) (b) 3. and 895.035 (2m) (c); and to create 104.01 (1d), 104.01 (5g), 104.01 (5m), 104.01 (7m), 104.035, 104.045 (2) and (3), 104.08 (1m) (b) and 104.08 (3) (a) of the statutes relating to: a state minimum wage granting rule-making authority and providing a penalty.

Repealed

Analysis by the Legislative Reference Bureau

Currently, the state minimum wage law requires that employers pay a living wage to their employees. Under that law, the Department of Workforce Development (DWD) has provided, by rule, minimum wages for various types of employees, including employees, generally; opportunity employees, which are defined as employees under 20 years of age in their first 90 days of employment with a particular employer; tipped employees; agricultural employees; camp counselors; golf caddies; students employed at independent colleges and universities for less than 20 hours per week; student learners employed in bona fide school training programs; and individuals who are unable to earn the standard minimum wage

ASSEMBLY BILL 77

Substitute amendment

because of a disability. DWD has exempted, by rule, from the minimum wage law employees who perform less than 15 hours per week of casual employment, such as baby-sitting or lawn mowing, in and around an employer's home; employees who provide companionship services to elderly or infirm individuals; and elementary and secondary school students performing work-like activities in their schools. DWD has also promulgated rules providing allowances against the minimum wage for employers that provide meals or lodging for their employees.

Under this ~~bill~~, DWD will continue to provide the exemptions listed above and separate minimum wages for students employed at independent colleges and universities for less than 20 hours per week, student learners employed in bona fide school training programs, and individuals who are unable to earn the standard minimum wages because of a disability. For other employees, however, the ~~bill~~ sets the minimum wages as follows:

Employees generally

Current minimum wage	\$5.15 per hour
Minimum wage on enactment	\$5.70 per hour
Minimum wage on October 1, 2005	\$6.50 per hour

Minor employees

Current minimum wage	\$5.15 per hour
Minimum wage on enactment	\$5.30 per hour
Minimum wage on October 1, 2005	\$5.90 per hour

Opportunity employees

Current minimum wage	\$4.25 per hour
Minimum wage on enactment	\$5.30 per hour
Minimum wage on October 1, 2005	\$5.90 per hour

Tipped employees

Current minimum wage	\$2.33 per hour for nonopportunity employees \$2.13 per hour for opportunity employees
Minimum wage on enactment	No change

ASSEMBLY BILL 77*Agricultural employees*

Current minimum wage	\$4.05 per hour for adults \$3.70 per hour for minors
Minimum wage on enactment	\$5.15 per hour for adults \$4.25 per hour for minors

Adult camp counselors

Current minimum wage	\$140 per week if meals and lodging not furnished \$110 per week if meals, but not lodging, furnished \$91 per week if meals and lodging furnished
Minimum wage on enactment	\$215 per week if meals and lodging not furnished \$164 per week if meals, but not lodging, furnished \$129 per week if meals and lodging furnished
Minimum wage on October 1, 2005	\$270 per week if meals and lodging not furnished \$217 per week if meals, but not lodging, furnished \$171 per week if meals and lodging furnished
Minimum wage on October 1, 2006	\$315 per week if meals and lodging not furnished \$240 per week if meals, but not lodging, furnished \$189 per week if meals and lodging furnished

Minor camp counselors

ASSEMBLY BILL 77

Current minimum wage	\$123 per week if meals and lodging not furnished \$92 per week if meals, but not lodging, furnished \$74 per week if meals and lodging furnished
Minimum wage on enactment	\$175 per week if meals and lodging not furnished \$133 per week if meals, but not lodging, furnished \$105 per week if meals and lodging furnished
Minimum wage on October 1, 2005	\$225 per week if meals and lodging not furnished \$171 per week if meals, but not lodging, furnished \$135 per week if meals and lodging furnished
Minimum wage on October 1, 2006	\$275 per week if meals and lodging not furnished \$209 per week if meals, but not lodging, furnished \$165 per week if meals and lodging furnished

Golf caddies

Current minimum wage	\$5.95 for 18 holes \$3.35 for nine holes
Minimum wage on enactment	\$10.50 for 18 holes \$5.90 for nine holes

Substitute amendment

The ~~bill~~ also increases the allowance against the minimum wage that an employer who provides room and board for an employee may take, as follows:

Employees generally

Lodging

ASSEMBLY BILL 77

Current allowance	\$41.20 per week or \$5.90 per day
Allowance on enactment	\$45.60 per week or \$6.50 per day
Allowance on October 1, 2005	\$52 per week or \$7.40 per day
Meals	
Current allowance	\$61.80 per week or \$2.95 per meal
Allowance on enactment	\$68.40 per week or \$3.25 per meal
Allowance on October 1, 2005	\$78 per week or \$3.70 per meal

Minor employees

Lodging	
Current allowance	\$41.20 per week or \$5.90 per day
Allowance on enactment	\$42.40 per week or \$6.05 per day
Allowance on October 1, 2005	\$47.20 per week or \$6.75 per day
Meals	
Current allowance	\$61.80 per week or \$2.95 per meal
Allowance on enactment	\$63.60 per week or \$3 per meal
Allowance on October 1, 2005	\$70.80 per week or \$3.35 per meal

Opportunity employees

Lodging

ASSEMBLY BILL 77

Meals

Current allowance \$44.40 per week or \$2.10 per meal

Allowance on enactment \$51 per week or \$2.40 per meal

Insert A ✓

~~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. 49.141 (1) (g) of the statutes is amended to read:

2 49.141 (1) (g) "Minimum wage" means the state minimum hourly wage under
3 ~~ch. 104 s. 104.035 (1)~~ or the federal minimum hourly wage under 29 USC 206 (a) (1),
4 whichever is applicable.

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

6 **104.01 Definitions.** (intro.) ~~The following terms as used in ss. 104.01 to~~
7 ~~104.12 shall be construed as follows~~ In this chapter:

8 SECTION 3. 104.01 (1) of the statutes is renumbered 104.01 (1m).

9 SECTION 4. 104.01 (1d) of the statutes is created to read:

10 104.01 (1d) "Agricultural employee" means an employee who is employed in
11 farming, as defined in s. 102.04 (3).

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

13 104.01 (5) ~~The term "living wage" shall mean~~ "Living wage" means
14 compensation for labor paid, whether by time, piecework, or otherwise, sufficient to
15 enable the employee receiving it to maintain himself or herself under conditions
16 consistent with his or her welfare.

17 SECTION 6. 104.01 (5g) of the statutes is created to read:

Insert 7-4

ASSEMBLY BILL 77

1 104.01 (5g) "Minor employee" means a minor who is paid at the applicable
2 minimum wage rate for minors.

3 **SECTION 7.** 104.01 (5m) of the statutes is created to read:

4 104.01 (5m) "Opportunity employee" means a person under 20 years of age who
5 is in the first 90 consecutive days of employment with his or her employer.

6 **SECTION 8.** 104.01 (7m) of the statutes is created to read:

7 104.01 (7m) "Tipped employee" means an employee who in the course of
8 employment customarily and regularly receives money or other gratuities from
9 persons other than the employee's employer.

10 **SECTION 9.** 104.01 (8) of the statutes is amended to read:

11 104.01 (8) ~~The term "wage" and the term "wages" shall each mean "Wage"~~
12 means any compensation for labor measured by time, piece, or otherwise.

13 **SECTION 10.** 104.02 of the statutes is amended to read:

14 **104.02 Living-wage prescribed Living wage required.** Every wage paid
15 or agreed to be paid by any employer to any employee, except as otherwise provided
16 in s. 104.07, shall be not less than a ~~living-wage~~ living wage.

17 **SECTION 11.** 104.03 of the statutes is amended to read:

18 **104.03 Unlawful wages.** Any employer paying, offering to pay, or agreeing
19 to pay any employee a wage lower or less in value than a ~~living-wage~~ living wage is
20 guilty of a violation of ~~ss. 104.01 to 104.12~~ this chapter.

21 **SECTION 12.** 104.035 of the statutes is created to read:

22 **104.035 Minimum wage. (1) EMPLOYEES GENERALLY. (a) *Minimum rates.***
23 Except as provided in subs. (2) to (8), the minimum wage is as follows:

24 1. For wages earned before October 1, 2005, \$5.70 per hour.

25 2. For wages earned beginning on October 1, 2005, \$6.50 per hour.

ASSEMBLY BILL 77

1 (b) *Allowances for meals and lodging.* Except as provided in subs. (2) (b) and
2 (4) (b), if an employer furnishes an employee with meals or lodging in accordance
3 with rules promulgated by the department under s. 104.045 (2), the employer may
4 deduct the following amounts from the wages of the employee:

5 1. For lodging furnished before October 1, 2005, \$45.60 per week or \$6.50 per
6 day and for meals furnished before October 1, 2005, \$68.40 per week or \$3.25 per
7 meal.

8 2. For lodging furnished beginning on October 1, 2005, \$52 per week or \$7.40
9 per day and for meals furnished beginning on October 1, 2005, \$78 per week or \$3.70
10 per meal.

11 (2) MINOR AND OPPORTUNITY EMPLOYEES. (a) *Minimum rates.* Except as provided
12 in subs. (3) to (8), the minimum wage for a minor employee or an opportunity
13 employee is as follows:

14 1. For wages earned before October 1, 2005, \$5.30 per hour.

15 2. For wages earned beginning on October 1, 2005, \$5.90 per hour.

16 (b) *Allowances for meals and lodging.* Except as provided in sub. (4) (b), if an
17 employer furnishes a minor employee or an opportunity employee with meals or
18 lodging in accordance with rules promulgated by the department under s. 104.045
19 (2), the employer may deduct the following amounts from the wages of the employee:

20 1. For lodging furnished before October 1, 2005, \$42.40 per week or \$6.05 per
21 day and for meals furnished before October 1, 2005, \$63.60 per week or \$3 per meal.

22 2. For lodging furnished beginning on October 1, 2005, \$47.20 per week or \$6.75
23 per day and for meals furnished beginning on October 1, 2005, \$70.80 per week or
24 \$3.35 per meal.

ASSEMBLY BILL 77

1 **(3) TIPPED EMPLOYEES.** (a) *Minimum rates.* Except as provided in subs. (4) to
2 (8), if an employer of a tipped employee establishes by the employer's payroll records
3 that, when adding the tips received by the tipped employee in a week to the wages
4 paid to the tipped employee in that week, the tipped employee receives not less than
5 the applicable minimum wage specified in sub. (1) or (2), the minimum wage for the
6 tipped employee is as follows:

7 1. For wages earned by a tipped employee who is not an opportunity employee,
8 \$2.33 per hour.

9 2. For wages earned by a tipped employee who is an opportunity employee,
10 \$2.13 per hour.

11 (b) *Allowances for meals and lodging.* If an employer furnishes a tipped
12 employee with meals or lodging in accordance with rules promulgated by the
13 department under s. 104.045 (2), the employer may deduct the applicable amounts
14 specified in subs. (1) (b) or (2) (b) from the wages of the tipped employee.

15 **(4) AGRICULTURAL EMPLOYEES.** (a) *Minimum rates.* Except as provided in subs.
16 (7) and (8), the minimum wage for an agricultural employee is as follows:

17 1. For wages earned by an adult agricultural employee, \$5.15 per hour.

18 2. For wages earned by a minor agricultural employee, \$4.25 per hour.

19 (b) *Allowances for meals and lodging.* If an employer furnishes an agricultural
20 employee with meals or lodging in accordance with rules promulgated by the
21 department under s. 104.045 (2), the employer may deduct the following amounts
22 from the wages of the employee:

23 1. For lodging furnished to an adult agricultural employee, \$41.20 per week or
24 \$5.90 per day and for meals furnished to an adult agricultural employee, \$61.80 per
25 week or \$2.95 per meal.

ASSEMBLY BILL 77

1 2. For lodging furnished to a minor agricultural employee, \$34 per week or
2 \$4.85 per day and for meals furnished to a minor agricultural employee, \$51 per week
3 or \$2.40 per meal.

4 **(5) CAMP COUNSELORS.** (a) *Minimum rates for adult counselors.* The minimum
5 wage for a counselor at a seasonal recreational or educational camp, including a day
6 camp, who is an adult is as follows:

7 1. For wages earned before October 1, 2005, \$215 per week if meals and lodging
8 are not furnished, \$164 per week if only meals are furnished, and \$129 per week if
9 both meals and lodging are furnished.

10 2. For wages earned beginning on October 1, 2005, \$270 per week if meals and
11 lodging are not furnished, \$217 per week if only meals are furnished, and \$171 per
12 week if both meals and lodging are furnished.

13 3. For wages earned beginning on October 1, 2006, \$315 per week if meals and
14 lodging are not furnished, \$240 per week if only meals are furnished, and \$189 per
15 week if both meals and lodging are furnished.

16 (b) *Minimum rates for minor counselors.* The minimum wage for a counselor
17 at a seasonal recreational or educational camp, including a day camp, who is a minor
18 is as follows:

19 1. For wages earned before October 1, 2005, \$175 per week if meals and lodging
20 are not furnished, \$133 per week if only meals are furnished, and \$105 per week if
21 both meals and lodging are furnished.

22 2. For wages earned beginning on October 1, 2005, \$225 per week if meals and
23 lodging are not furnished, \$171 per week if only meals are furnished, and \$135 per
24 week if both meals and lodging are furnished.

ASSEMBLY BILL 77

1 3. For wages earned beginning on October 1, 2006, \$275 per week if meals and
2 lodging are not furnished, \$209 per week if only meals are furnished, and \$165 per
3 week if both meals and lodging are furnished.

4 **(6) GOLF CADDIES.** The minimum wage for a golf caddy is as follows:

5 (a) For 18 holes, \$10.50.

6 (b) For 9 holes, \$5.90.

7 **(7) MINIMUM WAGE ESTABLISHED BY DEPARTMENT.** The department shall
8 promulgate rules providing the minimum wage for all of the following:

9 (a) An employee or worker with a disability covered under a license under s.
10 104.07.

11 (b) A student learner.

12 (c) A student employed by an independent college or university for less than
13 20 hours per week.

14 **(8) EMPLOYMENT EXEMPTED BY DEPARTMENT.** The department shall promulgate
15 rules exempting from the minimum wage requirements under subs. (1) to (7) all of
16 the following:

17 (a) A person engaged in casual employment in and around an employer's home
18 on an irregular or intermittent basis for not more than 15 hours per week.

19 (b) A person who resides with and who provides companionship and care, not
20 including practical or professional nursing, as defined in s. 441.001 (3) and (4), and
21 not more than 15 hours per week of general household work for an employer who, due
22 to advanced age or physical or mental disability, cannot care for his or her own needs.

23 (c) An elementary or secondary school student performing student work-like
24 activities in the student's school.

ASSEMBLY BILL 77

1 (9) DEPARTMENT MAY REVISE. The department may promulgate rules to increase
2 a minimum wage or an allowance for meals and lodging provided under subs. (1) to
3 (7).

4 SECTION 13. 104.04 of the statutes is amended to read:

5 **104.04 Classifications; department's authority.** The department shall
6 investigate, ascertain, determine, and fix such reasonable classifications, and shall
7 impose general or special orders, determining the ~~living wage~~ living wage, and shall
8 carry out the purposes of ss. ~~104.01 to 104.12.~~ Such this chapter. Those
9 investigations, classifications, and orders shall be made as provided under s.
10 103.005, and the penalties specified in s. 103.005 (12) shall apply to and be imposed
11 for any violation of ss. ~~104.01 to 104.12~~ this chapter. In determining the ~~living wage~~
12 living wage, the department may consider the effect that an increase in the
13 ~~living wage~~ living wage might have on the economy of the state, including the effect
14 of a ~~living wage~~ living wage increase on job creation, retention, and expansion, on
15 the availability of entry-level jobs, and on regional economic conditions within the
16 state. The department may not establish a different minimum wage for men and
17 women. ~~Said~~ Those orders shall be subject to review in the manner provided in ch.
18 227.

19 SECTION 14. 104.045 of the statutes is renumbered 104.045 (intro.) and
20 amended to read:

21 **104.045 ~~Tipped employees~~ Tips, meals, lodging, and hours worked.**
22 (intro.) The department shall ~~by rule determine what amount of~~ promulgate rules
23 governing all of the following:

24 (1) The counting of tips or similar gratuities may be counted toward fulfillment
25 of the employer's obligation under this chapter.

ASSEMBLY BILL 77

1 **SECTION 15.** 104.045 (2) and (3) of the statutes are created to read:

2 104.045 (2) The deduction of meals or lodging provided by an employer to an
3 employee from the employer's obligation under this chapter.

4 (3) The determination of hours worked by an employee during which the
5 employee is entitled to a living wage under this chapter.

6 **SECTION 16.** 104.05 of the statutes is amended to read:

7 **104.05 Complaints; investigation.** The department shall, within 20 days
8 after the filing of a verified complaint of any person ~~setting forth~~ alleging that the
9 wages paid to any employee ~~in any occupation~~ are not sufficient to enable the
10 employee to maintain himself or herself under conditions consistent with his or her
11 welfare, investigate and determine whether there is reasonable cause to believe that
12 the wage paid to ~~any~~ the employee is not a ~~living wage~~ living wage.

13 **SECTION 17.** 104.06 of the statutes is amended to read:

14 **104.06 Wage council; determination.** If, upon investigation, the
15 department finds that there is reasonable cause to believe that the wages paid to any
16 employee are not a ~~living wage~~, it living wage, the department shall appoint a wage
17 council, selected so as fairly to represent employers, employees, and the public, to
18 assist in its investigations and determinations. The ~~living wage~~ department may
19 use the results of an investigation under this section to establish a living wage. A
20 living wage so determined ~~upon~~ shall be the ~~living wage~~ living wage for all
21 employees within the same class as established by the ~~classification of the~~
22 department under s. 104.04.

23 **SECTION 18.** 104.07 (1) of the statutes is amended to read:

24 104.07 (1) The department shall ~~make~~ promulgate rules and, except as
25 provided under subs. (5) and (6), grant licenses, to any employer who employs any

ASSEMBLY BILL 77

1 employee ~~who is~~ unable to earn the living wage theretofore determined upon,
2 permitting such person to a living wage so that the employee may work for a wage
3 which shall be that is commensurate with the employee's ability and each. Each
4 license so granted shall establish a wage for the licensee employees of the licensee
5 who are unable to earn a living wage.

6 **SECTION 19.** 104.07 (2) of the statutes is amended to read:

7 104.07 (2) The department shall ~~make~~ promulgate rules and, except as
8 provided under subs. (5) and (6), grant licenses to sheltered workshops to permit the
9 employment of workers with disabilities who are unable to earn the living wage at
10 a living wage so that those workers may work for a wage that is commensurate with
11 their ability abilities and productivity. A license granted to a sheltered workshop
12 under this section may be issued for the entire workshop or a department of the
13 workshop.

14 **SECTION 20.** 104.08 (1) of the statutes is renumbered 104.08 (2m) and amended
15 to read:

16 104.08 (2m) ~~All persons~~ Any person working in an ~~occupation~~ trade industry
17 for which a living wage living wage has been established for minors, and who shall
18 have has no trade, shall, if employed in an ~~occupation which is a trade industry,~~ be
19 indentured under the provisions of s. 106.01.

20 **SECTION 21.** 104.08 (1m) (b) of the statutes is created to read:

21 104.08 (1m) (b) "Trade industry" means an industry involving physical labor
22 and characterized by mechanical skill and training such as render a period of
23 instruction reasonably necessary.

24 **SECTION 22.** 104.08 (2) of the statutes is renumbered 104.08 (1m) (intro.) and
25 amended to read:

ASSEMBLY BILL 77

1 104.08 **(1m)** (intro.) A “trade” or a “trade industry” within the meaning of ss.
2 ~~104.01 to 104.12 shall be a trade or~~ In this section:

3 (a) “Trade” means an industry occupation involving physical labor and
4 characterized by mechanical skill and training such as render a period of instruction
5 reasonably necessary. ~~The department shall investigate, determine and declare~~
6 ~~what occupations and industries are included within the phrase a “trade” or a “trade~~
7 ~~industry”.~~

8 **SECTION 23.** 104.08 (3) of the statutes is renumbered 104.08 (3) (b) and
9 amended to read:

10 104.08 **(3)** (b) The department may make exceptions to the operation of subs.
11 ~~(1) and (2) (1m) and (2m)~~ where conditions make their application unreasonable.

12 **SECTION 24.** 104.08 (3) (a) of the statutes is created to read:

13 104.08 **(3)** (a) The department shall investigate, determine, and declare what
14 occupations and industries are included within a trade or a trade industry.

15 **SECTION 25.** 104.10 of the statutes is amended to read:

16 **104.10 Penalty for intimidating witness.** Any employer who discharges or
17 threatens to discharge, or who in any way discriminates, or threatens to
18 discriminate, against any employee because the employee has testified or is about
19 to testify, or because the employer believes that the employee may testify, in any
20 investigation or proceeding relative to the enforcement of ss. ~~104.01 to 104.12,~~ is
21 ~~guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of~~
22 \$25 this chapter may be fined \$500 for each offense.

23 **SECTION 26.** 104.11 of the statutes is amended to read:

24 **104.11 Definition of violation.** Each day during which any an employer
25 ~~shall employ~~ employs a person for whom a ~~living wage~~ living wage has been fixed

ASSEMBLY BILL 77

1 ~~established~~ at a wage less than the ~~living-wage fixed~~ established living wage shall
2 constitute a separate and distinct violation of ~~ss. 104.01 to 104.12~~ this chapter.

3 **SECTION 27.** 104.12 of the statutes is amended to read:

4 **104.12 Complaints.** Any person may register with the department a
5 complaint that the wages paid to employees for whom a ~~living-wage~~ living wage has
6 been established are less than that rate, and the department shall investigate the
7 matter and take all proceedings necessary to enforce the payment of a wage not less
8 than the ~~living-wage~~ a living wage. Section 111.322 (2m) applies to discharge and
9 other discriminatory acts arising in connection with any proceeding under this
10 section.

11 **SECTION 28.** 234.94 (5) of the statutes is amended to read:

12 234.94 (5) "Primary employment" means work ~~which~~ that pays at least the
13 minimum wage as established under ~~ch. 104 s. 104.035 (1)~~ or under federal law,
14 whichever is greater, offers adequate fringe benefits, including health insurance,
15 and is not seasonal or part time.

16 **SECTION 29.** 234.94 (8) of the statutes is amended to read:

17 234.94 (8) "Target group" means a population group for which the
18 unemployment level is at least 25% higher than the statewide unemployment level,
19 or a population group for which the average wage received is less than 1.2 times the
20 minimum wage as established under ~~ch. 104 s. 104.035 (1)~~ or under federal law,
21 whichever is greater. No population group is required to be located within a
22 contiguous geographic area to be considered a target group.

23 **SECTION 30.** 800.09 (1) (b) of the statutes is amended to read:

24 800.09 (1) (b) If the defendant agrees to perform community service work in
25 lieu of making restitution or paying the forfeiture, assessments, and costs, or both,

ASSEMBLY BILL 77

1 the court may order that the defendant perform community service work for a public
2 agency or a nonprofit charitable organization that is designated by the court.
3 Community service work may be in lieu of restitution only if also agreed to by the
4 public agency or nonprofit charitable organization and by the person to whom
5 restitution is owed. The court may utilize any available resources, including any
6 community service work program, in ordering the defendant to perform community
7 service work. The number of hours of community service work required may not
8 exceed the number determined by dividing the amount owed on the forfeiture by the
9 minimum wage established under ~~ch. 104 for adults in nonagriculture, nontipped~~
10 ~~employment s. 104.035 (1)~~. The court shall ensure that the defendant is provided a
11 written statement of the terms of the community service order and that the
12 community service order is monitored.

13 **SECTION 31.** 800.095 (4) (b) 3. of the statutes is amended to read:

14 800.095 (4) (b) 3. That the defendant perform community service work for a
15 public agency or a nonprofit charitable organization designated by the court, except
16 that the court may not order the defendant to perform community service work
17 unless the defendant agrees to perform community service work and, if the
18 community service work is in lieu of restitution, unless the person to whom the
19 restitution is owed agrees. The court may utilize any available resources, including
20 any community service work program, in ordering the defendant to perform
21 community service work. The number of hours of community service work required
22 may not exceed the number determined by dividing the amount owed on the
23 forfeiture, or restitution, or both, by the minimum wage established under ~~ch. 104~~
24 ~~for adults in nonagriculture, nontipped employment s. 104.035 (1)~~. The court shall

ASSEMBLY BILL 77

1 ensure that the defendant is provided a written statement of the terms of the
2 community service order and that the community service order is monitored.

3 **SECTION 32.** 895.035 (2m) (c) of the statutes is amended to read:

4 895.035 (2m) (c) The court assigned to exercise jurisdiction under chs. 48 and
5 938 may order that the juvenile perform community service work for a public agency
6 or nonprofit charitable organization that is designated by the court in lieu of making
7 restitution or paying the forfeiture or surcharge. If the parent agrees to perform
8 community service work in lieu of making restitution or paying the forfeiture or
9 surcharge, the court may order that the parent perform community service work for
10 a public agency or a nonprofit charitable organization that is designated by the court.
11 Community service work may be in lieu of restitution only if also agreed to by the
12 public agency or nonprofit charitable organization and by the person to whom
13 restitution is owed. The court may utilize any available resources, including any
14 community service work program, in ordering the juvenile or parent to perform
15 community service work. The number of hours of community service work required
16 may not exceed the number determined by dividing the amount owed on the
17 restitution, forfeiture, or surcharge by the minimum wage established under ch. 104
18 ~~for adults in nonagriculture, nontipped employment s. 104.035 (1).~~ The court shall
19 ensure that the juvenile or parent is provided with a written statement of the terms
20 of the community service order and that the community service order is monitored.

21 **SECTION 33. Effective date.**

22 (1) MINIMUM WAGE. This act takes effect on the first day of the 3rd month
23 beginning after publication.

24 (END)



1 for adults in nonagriculture, nontipped employment s. 104.035 (1). The court shall
2 ensure that the juvenile or parent is provided with a written statement of the terms
3 of the community service order and that the community service order is monitored.

4 SECTION 1zt. 938.17(2) (a) 1. of the statutes is amended to read:".

5 3. Page 3, line 13: after that line insert:

6 SECTION ~~4m~~ Effective dates. This act takes effect on the day after
7 publication, except as follows:

8 (1) MINIMUM WAGE. The treatment of sections 49.141 (1) (g), 104.01 (intro.), (1),
9 (1d), (5), (5g), (5m), (7m), and (8), 104.02, 104.03, 104.035, 104.04, 104.05, 104.06,
10 104.07 (1) and (2), 104.08 (1), (1m) (b), and (2), 104.10, 104.11, 104.12, 234.94 (5) and
11 (8), 800.09 (1) (b), 800.095 (4) (b) 3., and 895.035 (2m) (c) of the statutes, the
12 renumbering and amendment of sections 104.045 and 104.08 (3) of the statutes, and
13 the creation of sections 104.045 (2) and (3) and 104.08 (3) (a) of the statutes take effect
14 on the first day of the 3rd month beginning after publication.

15 (END)

2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0104/ins
GMM.....

(INSERT 7-4)

SECTION ~~104~~ 104.001 of the statutes is created to read:

104.001 Local living wage ordinances. (1) DECLARATION OF POLICY. The right of all persons to earn compensation for their labor, whether by time, piecework, or otherwise, that is sufficient to enable them to maintain themselves under conditions that are consistent with their welfare is a matter both of statewide concern and of local interest. The enactment of this chapter by the legislature does not preempt a city, village, town, or county from considering the subject matter of a living wage and does not exempt cities, villages, town^S, or counties from their duty, ~~or~~ ^{or} deprive them of their right, to enact ordinances providing for a living wage. *

(2) LOCAL LIVING WAGE ORDINANCES PERMITTED. A city, village, town, or county may enact an ordinance providing for a living wage within its boundaries, except that a county ordinance enacted under this subsection does not apply within a city, village, or town that has enacted or enacts an ordinance under this subsection. An ordinance enacted under this subsection may strictly conform to this chapter and any rules promulgated under this chapter or may provide for a living wage that is higher than the living wage established under this chapter or under any rules promulgated under this chapter. An ordinance enacted under this subsection may also be more inclusive than this chapter or any rules promulgated under this chapter with respect to the different types of employees covered under the ordinance.

(INSERT 7-4)

(INSERT A)

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 permits a city, village, town, or county to enact an ordinance providing for a living wage within its boundaries (local living wage ordinance). A local living wage ordinance may strictly conform to the state minimum wage law or may provide for a living wage that is higher than the living wage established under the state minimum wage law. A local living wage ordinance may also be more inclusive than the state minimum wage law with respect to the different types of employees covered under the ordinance.

(END OF INSERT)