

2007 DRAFTING REQUEST

Bill

Received: **01/09/2008**

Received By: **gmalaise**

Wanted: **As time permits**

Identical to LRB:

For: **Robert Wirch (608) 267-8979**

By/Representing: **Jennifer Bishop**

This file may be shown to any legislator: **NO**

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

Subject: **Employ Priv - prevailing wage**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Wirch@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Prevailing wage; applicability to publicly funded private construction projects; submission of payroll information; inspection of payroll records

Instructions:

See Attached

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 01/10/2008	bkraft 01/24/2008		_____			S&L
/1			rschlue 01/24/2008	_____	lparisi 01/24/2008		S&L
/2	gmalaise 02/22/2008	bkraft 02/22/2008	jfrantze 02/22/2008	_____	sbasford 02/22/2008	mbarman 03/03/2008	

FE Sent For: "12" @ intro. 3-12-08
<END>

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FE Sent For:

12bjk 2/22

[Handwritten signatures]

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/?	gmalaise	1 bjk 1/24					
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FE Sent For:

<END>

Malaise, Gordon

From: Champagne, Rick
Sent: Tuesday, January 08, 2008 11:32 AM
To: Malaise, Gordon
Subject: FW: Draft for Senator Wirch - Prevailing Wage Law

This your's Gordon?

From: Duerst, Christina
Sent: Monday, January 07, 2008 3:45 PM
To: Champagne, Rick
Subject: FW: Draft for Senator Wirch - Prevailing Wage Law

Rick,
I was not sure if this is yours, please let me know.

From: Bishop, Jennifer
Sent: Monday, January 07, 2008 3:38 PM
To: LRB.Legal
Subject: Draft for Senator Wirch - Prevailing Wage Law

We are looking at making some changes to the prevailing wage law -- in one piece of legislation.

We would like the following changes:

1. A requirement of submission of certified payroll records to verify contractor compliance.
 - a. Currently, contractors and subcontractors are required to sign an affidavit of compliance following work performed on a project stating that they paid the proper hourly rate of pay and benefit level by work classification as determined for the project by DWD. There isn't however a verification procedure in place to ensure that proper payment was actually made. The Federal Davis-Bacon rules requires contractors awarded work on federally sponsored projects to submit payroll records as a condition of contract. Payroll is the only record that demonstrated that the determined wage rate has in fact been paid.
2. Extend prevailing wage law to all NEW TIF districts and other creative financing methods. (Prospective)
 - a. State prevailing wage law does not apply to local development projects generated through public subsidies or other financing authority. While these projects are not "public" in the sense that upon completion they will be owned or operated by a public entity, they are projects that would not otherwise occur without significant public assistance. Because public assistance is at the core of these often major development projects, and because the subsequent development greatly influences and impacts the local construction market, prevailing wage ought to apply. The City of Madison and the City of Eau Claire have local prevailing wage ordinances that apply the law to TIF district projects and other government supported projects.
3. Remove the fee assessed on investigations that fail to produce a contractor violation and replace with a fee assessment for investigations deemed frivolous.
 - a. Currently, if the department mounts an investigation based on an employee or third party complaint against an employer, if that investigation fails to produce a violation against the contractor, the individual or third party is assessed a fee for the cost of the investigation. This approach creates a disincentive to potential claimants fearful of the financial penalty caused by an unsuccessful outcome. The intent of this provision should be to protect legitimate employers from harassment and unfounded accusations, not to prevent legitimate claims from being filed. To meet that preferred standard, the fee should only be assessed for investigations deemed to be frivolous.

If there are any questions, please feel free to contact me.

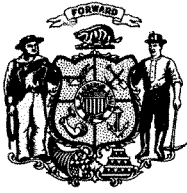
Thank you,

Jennifer
Office of Sen. Wirch

4.23 PREVAILING WAGE ON BUILDING OR WORK FINANCED IN WHOLE OR IN PART WITH CITY FINANCIAL ASSISTANCE.

- (1) Purpose and Intent . It is the policy of the City to assure equitable wages for all building or work which is financed in whole or in part with City financial assistance. The Common Council finds that extending prevailing wages to workers employed on such projects preserves and promotes the public health, safety, prosperity, and general welfare of the people of the City of Madison.
- (2) On any projects for which the City contributes financial assistance and which are “public works,” “building or work,” or “erection, construction, remodeling, repairing” as those terms are defined in Sec. 23.01(1)(a) of these ordinances and such work is performed by “employees working on the project” or “laborers, workers, and mechanics” as those terms are defined in Sec. 23.01(1)(a), all employees shall be compensated at the rates established pursuant to Sec. 23.01(1) of these ordinances, Sec. 66.0903, Wis.Stats., and Sec. DWD 290 of the Wisconsin Administrative Code as therein provided. In the event of a difference in the required rates or provisions, the higher wage or more stringent provision established by the City or the State shall be required.
- (3) “City financial assistance” means any grant, cooperative agreement, loan, contract (other than a public works contract, a supply procurement contract, a contract of insurance or guaranty or a collective bargaining agreement) or any other arrangement by which the City provides or otherwise makes available assistance, in the form of
 - (a) Funds.
 - (b) Services of City personnel.
 - (c) Real and personal property or any interest in or use of such property, including:
 1. Transfers or leases of such property for less than the fair market value, or for reduced consideration; and
 2. Proceeds from a subsequent transfer or lease of such property if the City’s share of its fair market value is not returned to the City.
 - (d) The sale and lease of, and the permission to use (on other than a casual or transient basis) City property or any interest in such property, the furnishing of services without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by the sale, lease or furnishing of services to the recipient, and
 - (e) Any City agreement, arrangement or other contract which has as one of its purposes the provision of financial assistance, including purchase of service agreements.
 - (f) “City financial assistance” includes, but is not limited to, redevelopment contracts, economic development agreements, revenue or loan agreements with an eligible participant or authorized developer under Sec. 66.1103, Wis. Stats., contracts with developers or other entities authorized by Secs. 66.1333(5) and 66.1105(3), Wis. Stats., and assistance provided under Sec. 66.1109, Wis. Stats.
- (4) All contracts or agreements for such projects shall include the following provision:

Prevailing Wages . The Contractor shall pay its employees the wage rates established by Sec. 4.23, Madison General Ordinances, and its referenced sections and shall require in its contracts and subcontracts for work on the project, adherence by those contractors, subcontractors and agents to the wage rates established by this Section 4.23 and its referenced sections. The



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-3798/0
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Lbjk
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SA ✓
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1 AN ACT ...; relating to: payment of the prevailing wage rate to laborers, workers,
2 mechanics, and truck drivers employed on a publicly funded private
3 construction project, submission of certain payroll information on a weekly
4 basis by a contractor, subcontractor, or agent performing work on a project that
5 is subject to the prevailing wage law to the local governmental unit, state
6 agency, or owner or developer authorizing the work, inspection of the payroll
7 records of contractors, subcontractors, and agents performing work on projects
8 that are subject to the prevailing wage law, granting rule-making authority,
9 and providing penalties.

Analysis by the Legislative Reference Bureau

Under current law, certain laborers, workers, mechanics, and truck drivers employed on a state or local project of public works must be paid at the rate paid for a majority of the hours worked in the person's trade or occupation in the county in which the project is located, as determined by the department of workforce development (DWD), and may not be required or permitted to work a greater number of hours per day and per week than the prevailing hours of labor, that is, no more than ten hours per day and 40 hours per week, unless they are paid 1.5 times their basic rate of pay (overtime pay) for all hours worked in excess of the prevailing hours of labor, (prevailing wage law).

6

* This bill requires all laborers, workers, mechanics, and truck drivers working on the site of a publicly funded private construction project to be paid not less than the prevailing wage rate and to be paid overtime pay for all hours worked in excess of the prevailing hours of labor. ✓ The bill defines a "publicly funded private construction project" as a construction project, other than a project of public works, that receives financial assistance from a local governmental unit and "financial assistance" as any grant, cooperative agreement, loan, contract, or any other arrangement by which a local governmental unit provides or otherwise makes available assistance in any of the following forms: ✓

1. Funding. ✓
2. The services of employees of the local governmental unit. ✓
3. Real or personal property of the local governmental unit or of any interest in or permission to use that property, including a transfer or lease of that property for less than fair market value or for reduced consideration. ✓
4. Proceeds from a subsequent transfer or lease of real or personal property transferred or leased from the local governmental unit, if the local governmental unit's share of the fair market value of the property is not returned to the local governmental unit. ✓
5. Services furnished without consideration, at a nominal consideration, or at a consideration that is reduced for the purpose of assisting the recipient or in recognition of the public interest to be served by the furnishing of those services to the recipient. ✓
6. A redevelopment contract, economic development agreement, industrial development revenue agreement, contract for the development or redevelopment of a tax incremental district or a blighted area, or assistance provided to develop, redevelopment, maintain, operate, or promote a business improvement district. ✓
7. Any other agreement, arrangement, or contract that has as one of its purposes the provision of financial assistance. ✓

Current law requires each contractor, subcontractor, and contractor's or subcontractor's agent performing work on a project that is subject to the prevailing wage law to keep records indicating the name and trade or occupation of every person performing work that is subject to the prevailing wage law and an accurate record of the number of hours worked by each of those persons and the actual wages paid for those hours worked. ✓

This bill requires a contractor, subcontractor, or agent performing work on a project that is subject to the prevailing wage law to submit, on a weekly basis, to the contracting local governmental unit, state agency, or private owner or developer authorizing the work a certified record indicating for the preceding week the name and trade or occupation of every person performing work that is subject to the prevailing wage law and an accurate record of the number of hours worked by each of those persons and the actual wages paid for those hours worked. ✓

Current law requires DWD, if requested by any person, to inspect the payroll records of any contractor, subcontractor, or agent performing work on a project that is subject to the prevailing wage law to ensure compliance with that law. If the contractor, subcontractor, or agent is found to be in compliance with that law and if

the person making the request is a person performing work that is subject to that law, DWD must charge the person the actual cost of the inspection. If the contractor, subcontractor, or agent is found to be in compliance with that law and if the person making the request is not a person performing work that is subject to that law, DWD must charge the person \$250 or the actual cost of the inspection, whichever is greater. ✓

This bill requires DWD to charge a person making a request for the inspection of the payroll records of a contractor, subcontractor, or agent performing work on a project that is subject to the prevailing wage law, as affected by the bill, only if DWD finds that the contractor, subcontractor, or agent is in compliance with that law and that the request is frivolous. In order to find that a request is frivolous, DWD must find that the person making the request made the request in bad faith, solely for the purpose of harassing or maliciously injuring the contractor, subcontractor, or agent, or that the person making the request knew, or should have known, that there was no reasonable basis for believing that a violation of the prevailing wage law had been committed. ✓

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:

X

✓

1 **SECTION 1.** 19.36 (12) of the statutes is amended to read:

2 ✓ **19.36 (12)** INFORMATION RELATING TO CERTAIN EMPLOYEES. Unless access is
3 specifically authorized or required by statute, an authority shall not provide access
4 to a record prepared or provided by an employer performing work on a project to
5 which s. 66.0903, 66.0904, 103.49, or 103.50 applies, or on which the employer is
6 otherwise required to pay prevailing wages, if that record contains the name or other
7 personally identifiable information relating to an employee of that employer, unless
8 the employee authorizes the authority to provide access to that information. In this
9 subsection, "personally identifiable information" does not include an employee's
10 work classification, hours of work, or wage or benefit payments received for work on
11 such a project.

X

History: 1981 c. 335; 1985 a. 236; 1991 a. 39, 269, 317; 1993 a. 93; 1995 a. 27; 2001 a. 16; 2003 a. 33, 47; 2005 a. 59, 253.

12 **SECTION 2.** 66.0903 (3) (av) of the statutes is amended to read:

1 ✓ 66.0903 (3) (av) In determining prevailing wage rates under par. (am) or (ar),
 2 the department may not use data from projects that are subject to this section, s.
 3 66.0904, 103.49, or 103.50 or 40 USC 276a unless the department determines that
 4 there is insufficient wage data in the area to determine those prevailing wage rates,
 5 in which case the department may use data from projects that are subject to this
 6 section, s. 66.0904, 103.49, or 103.50 or 40 USC 276a.

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 3.** 66.0903 (10) (a) of the statutes is amended to read:

8 ✓ 66.0903 (10) (a) Each contractor, subcontractor, or contractor's or
 9 subcontractor's agent performing work on a project that is subject to this section
 10 shall keep full and accurate records clearly indicating the name and trade or
 11 occupation of every person performing the work described in sub. (4) and an accurate
 12 record of the number of hours worked by each of those persons and the actual wages
 13 paid for the hours worked. By no later than the end of the week following a week in
 14 which a contractor, subcontractor, or contractor's or subcontractor's agent performs
 15 work on a project that is subject to this section, the contractor, subcontractor, or agent
 16 shall submit to the contracting local governmental unit a certified record of the
 17 information specified in the preceding sentence for that preceding week.

18 **SECTION 4.** 66.0903 (10) (c) of the statutes is amended to read:

19 ✓ 66.0903 (10) (c) If requested by any person, the department shall inspect the
 20 payroll records of any contractor, subcontractor, or agent performing work on a
 21 project that is subject to this section to ensure compliance with this section. If In the
 22 case of a request made by a person performing the work specified in sub. (4), if the
 23 department finds that the contractor, subcontractor, or agent subject to the
 24 inspection is ~~found to be~~ in compliance and ~~if the person making the request is a~~

1 ~~person performing the work specified in sub. (4) that the request~~ ^{is} ~~if~~ ^{is} frivolous, the
 2 department shall charge the person making the request the actual cost of the
 3 inspection. If In the case of a request made by a person not performing the work
 4 specified in sub. (4), if the department finds that the contractor, subcontractor, or
 5 agent subject to the inspection is found to be in compliance and if the person making
 6 the request is not a person performing the work specified in sub. (4) that the request
 7 is frivolous, the department shall charge the person making the request \$250 or the
 8 actual cost of the inspection, whichever is greater. In order to find that a request is
 9 frivolous, the department must find that the person making the request made the
 10 request in bad faith, solely for the purpose of harassing or maliciously injuring the
 11 contractor, subcontractor, or agent subject to the inspection, or that the person
 12 making the request knew, or should have known, that there was no reasonable basis
 13 for believing that a violation of this section had been committed.

14 SECTION 5. 66.0904 of the statutes is created to read:

15 **66.0904 Wage rates; publicly funded private construction projects. (1)**

16 DEFINITIONS. In this section:

17 (a) "Area" means the county in which a proposed publicly funded private
 18 construction project that is subject to this section is located or, if the department
 19 determines that there is insufficient wage data in that county, "area" means those
 20 counties that are contiguous to that county or, if the department determines that
 21 there is insufficient wage data in those counties, "area" means those counties that
 22 are contiguous to those counties or, if the department determines that there is
 23 insufficient wage data in those counties, "area" means the entire state or, if the
 24 department is requested to review a determination under sub. (4) (e), "area" means

1 the city, village, or town in which a proposed publicly funded private construction
2 project that is subject to this section is located.

3 (b) "Department" means the department of workforce development.

4 (c) "Financial assistance" means any grant, cooperative agreement, loan,
5 contract, other than a public works contract, a supply procurement contract, a
6 contract of insurance or guaranty, or a collective bargaining agreement, or any other
7 arrangement by which a local governmental unit provides or otherwise makes
8 available assistance in any of the following forms:

9 1. Funding.

10 2. The services of employees of the local governmental unit.

11 3. Real or personal property of the local governmental unit or of any interest
12 in or permission to use, other than on a casual or transient basis, that property,
13 including a transfer or lease of that property for less than fair market value or for
14 reduced consideration.

15 4. Proceeds from a subsequent transfer or lease of real or personal property
16 transferred or leased from the local governmental unit, if the local governmental
17 unit's share of the fair market value of the property is not returned to the local
18 governmental unit.

19 5. Services furnished without consideration, at a nominal consideration, or at
20 a consideration that is reduced for the purpose of assisting the recipient or in
21 recognition of the public interest to be served by the furnishing of those services to
22 the recipient.

23 6. A redevelopment contract, economic development agreement, revenue
24 agreement under s. 66.1103, contract under s. 66.1105 (3) or 66.1333 (5), or
25 assistance provided under s. 66.1109.

1 7. Any other agreement, arrangement, or contract, including a purchase of
2 services agreement, that has as one of its purposes the provision of financial
3 assistance.

4 (d) "Hourly basic rate of pay" has the meaning given in s. 103.49 (1) (b).

5 (e) "Insufficient wage data" has the meaning given in s. 103.49 (1) (bg).

6 (f) "Local governmental unit" has the meaning given in s. 66.0903 (1) (d).

7 (g) "Multiple-trade publicly funded private construction project" means a
8 publicly funded private construction project in which no single trade accounts for
9 more than 85% or more of the total labor cost of the project.

10 (h) "Prevailing hours of labor" has the meaning given in s. 103.49 (1) (c).

11 (i) 1. Except as provided in subd. 2., "prevailing wage rate" for any trade or
12 occupation engaged in the erection, construction, remodeling, repairing, or
13 demolition of any publicly funded private construction project in any area means the
14 hourly basic rate of pay, plus the hourly contribution for health insurance benefits,
15 vacation benefits, pension benefits, and any other bona fide economic benefit, paid
16 directly or indirectly, for a majority of the hours worked in the trade or occupation
17 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 wage rate" for any trade or
20 occupation engaged in the erection, construction, remodeling, repairing, or
21 demolition of any publicly funded private construction project in any area means the
22 average hourly basic rate of pay, weighted by the number of hours worked, plus the
23 average hourly contribution, weighted by the number of hours worked, for health
24 insurance benefits, vacation benefits, pension benefits, and any other bona fide
25 economic benefit, paid directly or indirectly for all hours worked at the hourly basic

percent

1 rate of pay of the highest-paid 51% of hours worked in that trade or occupation on
2 projects in that area. ✓

3 (j) (i) "Publicly funded private construction project" means a construction project, ✓
4 other than a project of public works, that receives financial assistance from a local
5 governmental unit. ✓

6 (k) (i) "Single-trade publicly funded private construction project" means a publicly
7 funded private construction project in which a single trade accounts for 85% or more
8 of the total labor cost of the project. ✓

9 (l) (k) "Truck driver" has the meaning given in s. 103.49 (1) (g). ✓

10 (2) PREVAILING WAGE RATES AND HOURS OF LABOR. (a) Any owner or developer of real
11 property who enters into a contract for the erection, construction, remodeling,
12 repairing, or demolition of any publicly funded private construction project on that
13 real property shall include in the contract a stipulation that no person performing
14 the work described in sub. (3) may be permitted to work a greater number of hours
15 per day or per week than the prevailing hours of labor, except that any such person
16 may be permitted or required to work more than the prevailing hours of labor per day
17 and per week if he or she is paid for all hours worked in excess of the prevailing hours
18 of labor at a rate of at least 1.5 times his or her hourly basic rate of pay; nor may he
19 or she be paid less than the prevailing wage rate determined under sub. (4) in the
20 same or most similar trade or occupation in the area in which the publicly funded
21 private construction project is situated. ✓

22 (b) A reference to the prevailing wage rates determined under sub. (4) and the
23 prevailing hours of labor shall be published in any notice issued for the purpose of
24 securing bids for the publicly funded private construction project. If any contract or
25 subcontract for a publicly funded private construction project that is subject to this

1 section is entered into, the prevailing wage rates determined under sub. (4) and the
 2 prevailing hours of labor shall be physically incorporated into and made a part of the
 3 contract or subcontract, except that for a minor subcontract, as determined by the
 4 department, the department shall prescribe by rule the method of notifying the
 5 minor subcontractor of the prevailing wage rates and prevailing hours of labor
 6 applicable to the minor subcontract. The prevailing wage rates and prevailing hours
 7 of labor applicable to a contract or subcontract may not be changed during the time
 8 that the contract or subcontract is in force.

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

14 1. All laborers, workers, mechanics, and truck drivers employed on the site of
 15 a publicly funded private construction project that is subject to this section.

16 2. All laborers, workers, mechanics, and truck drivers employed in the
 17 manufacturing or furnishing of materials, articles, supplies, or equipment on the site
 18 of a publicly funded private construction project that is subject to this section or from
 19 a facility dedicated exclusively, or nearly so, to a publicly funded private construction
 20 project that is subject to this section by a contractor, subcontractor, agent, or other
 21 person performing any work on the site of the project.

22 (b) Notwithstanding par. (a) 1., a laborer, worker, mechanic, or truck driver who
 23 is regularly employed to process, manufacture, pick up, or deliver materials or
 24 products from a commercial establishment that has a fixed place of business from
 25 which the establishment regularly supplies processed or manufactured materials or

1 products is not entitled to receive the prevailing wage rate determined under sub.
2 (4) or to receive at least 1.5 times his or her hourly basic rate of pay for all hours
3 worked in excess of the prevailing hours of labor unless any of the following apply: ✓

4 1. The laborer, worker, mechanic, or truck driver is employed to go to the source
5 of mineral aggregate such as sand, gravel, or stone that is to be immediately
6 incorporated into the work, and not stockpiled or further transported by truck, pick
7 up that mineral aggregate, and deliver that mineral aggregate to the site of a publicly
8 funded private construction project that is subject to this section by depositing the
9 material substantially in place, directly or through spreaders from the transporting
10 vehicle. ✓

11 2. The laborer, worker, mechanic, or truck driver is employed to go to the site
12 of a publicly funded private construction project that is subject to this section, pick
13 up excavated material or spoil from the site of the project, and transport that
14 excavated material or spoil away from the site of the project. ✓

15 (c) A truck driver who is an owner-operator of a truck shall be paid separately
16 for his or her work and for the use of his or her truck. ✓

17 (4) INVESTIGATION; DETERMINATION. (a) Before the owner or developer of any
18 publicly funded private construction project enters into a contract or solicits bids on
19 a contract for the performance of any work to which this section applies, the owner
20 or developer shall apply to the department to determine the prevailing wage rate for
21 each trade or occupation required in the work under contemplation in the area in
22 which the work is to be done. The department shall conduct investigations and hold
23 public hearings as necessary to define the trades or occupations that are commonly
24 employed on publicly funded private construction projects that are subject to this
25 section and to inform itself as to the prevailing wage rates in all areas of the state

1 for those trades or occupations in order to determine the prevailing wage rate for
2 each trade or occupation. The department shall issue its determination within 30
3 days after receiving the request and shall file the determination with the owner or
4 developer applying for the determination and with the local governmental unit
5 providing financial assistance for the project. For the information of the employes
6 working on the project, the prevailing wage rates determined by the department, the
7 prevailing hours of labor, and the provisions of subs. (2) and (9) shall be kept posted
8 by the owner or developer in at least one conspicuous and easily accessible place on
9 the site of the project.

10 (b) The department shall, by January 1 of each year, compile the prevailing
11 wage rates for each trade or occupation in each area. The compilation shall, in
12 addition to the current prevailing wage rates, include future prevailing wage rates
13 when those prevailing wage rates can be determined for any trade or occupation in
14 any area and shall specify the effective date of those future prevailing wage rates.
15 If a publicly funded private construction project that is subject to this section extends
16 into more than one area there shall be but one standard of prevailing wage rates for
17 the entire private construction project.

18 (c) In determining prevailing wage rates under par. (a) or (b), the department
19 may not use data from projects that are subject to this section, s. 66.0903, 103.49, or
20 103.50 or 40 USC 276a unless the department determines that there is insufficient
21 wage data in the area to determine those prevailing wage rates, in which case the
22 department may use data from projects that are subject to this section, s. 66.0903,
23 103.49, or 103.50 or 40 USC 276a.

24 (d) Any person may request a recalculation of any portion of an initial
25 determination within 30 days after the initial determination date if the person

1 submits evidence with the request showing that the prevailing wage rate for any
 2 given trade or occupation included in the initial determination does not represent the
 3 prevailing wage rate for that trade or occupation in the area. The evidence shall
 4 include wage rate information reflecting work performed by persons working in the
 5 contested trade or occupation in the area during the current survey period. The
 6 department shall affirm or modify the initial determination within 15 days after the
 7 date on which the department receives the request for recalculation.

8 (e) In addition to the recalculation under par. (d), the owner or developer that
 9 requested the determination under this subsection may request a review of any
 10 portion of the determination within 30 days after the date of issuance of the
 11 determination if the owner or developer submits evidence with the request showing
 12 that the prevailing wage rate for any given trade or occupation included in the
 13 determination does not represent the prevailing wage rate for that trade or
 14 occupation in the city, village, or town in which the proposed publicly funded private
 15 construction project is located. That evidence shall include wage rate information
 16 for the contested trade or occupation on at least 3 similar projects located in the city,
 17 village, or town where the proposed publicly funded private construction project is
 18 located on which some work has been performed during the current survey period
 19 and which were considered by the department in issuing its most recent compilation
 20 under par. (b). The department shall affirm or modify the determination within 15
 21 days after the date on which the department receives the request for review.

22 (5) NONAPPLICABILITY. This section does not apply to any single-trade publicly
 23 funded private construction project for which the estimated cost of completion is less
 24 than \$30,000 or an amount determined by the department under s. 66.0903 (5) or to
 25 any multiple-trade publicly funded private construction project for which the

1 estimated cost of completion is less than \$150,000 or an amount determined by the
2 department under s. 66.0903 (5).

3 (6) EXEMPTIONS. The department, upon petition of any owner or developer
4 contracting for a publicly funded private construction project that is subject to this
5 section, shall issue an order exempting the owner or developer from applying to the
6 department for a determination under sub. (4) when it is shown that the project is
7 also subject to an ordinance or other enactment of a local governmental unit that sets
8 forth standards, policy, procedure, and practice resulting in standards as high or
9 higher than those under this section.

10 (7) COMPLIANCE. (a) When the department finds that an owner or developer
11 has not requested a determination under sub. (4) (a) or that an owner, developer,
12 contractor, or subcontractor has not physically incorporated a determination into a
13 contract or subcontract as required under sub. (2) (b) or has not notified a minor
14 subcontractor of a determination in the manner prescribed by the department by
15 rule promulgated under sub. (2) (b), the department shall notify the owner,
16 developer, contractor, or subcontractor of the noncompliance and shall file the
17 determination with the owner, developer, contractor, or subcontractor within 30 days
18 after the notice.

19 (b) Upon completion of a publicly funded private construction project that is
20 subject to this section and before receiving final payment for his or her work on the
21 private construction project, each agent or subcontractor shall furnish the contractor
22 with an affidavit stating that the agent or subcontractor has complied fully with the
23 requirements of this section. A contractor may not authorize final payment until the
24 affidavit is filed in proper form and order.

1 (c) Upon completion of a publicly funded private construction project that is
2 subject to this section and before receiving final payment for his or her work on the
3 project, each contractor shall file with the owner or developer contracting for the
4 work an affidavit stating that the contractor has complied fully with the
5 requirements of this section and that the contractor has received an affidavit under
6 par. (b) from each of the contractor's agents and subcontractors. An owner or
7 developer may not authorize a final payment until the affidavit is filed in proper form
8 and order. If an owner or developer authorizes a final payment before the affidavit
9 is filed in proper form and order or if the department determines, based on the
10 greater weight of the credible evidence, that any person performing the work
11 specified in sub. (3) has been or may have been paid less than the prevailing wage
12 rate or less than 1.5 times the hourly basic rate of pay for all hours worked in excess
13 of the prevailing hours of labor and requests that the owner or developer withhold
14 all or part of the final payment, but the owner or developer fails to do so, the owner
15 or developer is liable for all back wages payable up to the amount of the final
16 payment.

17 (8) RECORDS; INSPECTION; ENFORCEMENT. (a) Each contractor, subcontractor, or
18 agent performing work on a publicly funded private construction project that is
19 subject to this section shall keep full and accurate records clearly indicating the
20 name and trade or occupation of every person performing the work described in sub.
21 (3) and an accurate record of the number of hours worked by each of those persons
22 and the actual wages paid for the hours worked. By no later than the end of the week
23 following a week in which a contractor, subcontractor, or contractor's or
24 subcontractor's agent performs work on a project that is subject to this section, the
25 contractor, subcontractor, or agent shall submit to the contracting owner or

1 developer a certified record of the information specified in the preceding sentence for
2 that preceding week. ✓

3 (b) The department or the local governmental unit providing financial
4 assistance for a publicly funded private construction project may demand and
5 examine, and every contractor, subcontractor, and contractor's or subcontractor's
6 agent shall keep, and furnish upon request by the department or local governmental
7 unit, copies of payrolls and other records and information relating to the wages paid
8 to persons performing the work described in sub. (3) for work to which this section
9 applies. The department may inspect records in the manner provided in ch. 103. ✓
10 Every contractor, subcontractor, or agent performing work on a publicly funded
11 private construction project that is subject to this section is subject to the
12 requirements of ch. 103 relating to the examination of records. Section 111.322 (2m)
13 applies to discharge and other discriminatory acts arising in connection with any
14 proceeding under this section. ✓

15 (c) If requested by any person, the department shall inspect the payroll records
16 of any contractor, subcontractor, or contractor's or subcontractor's agent performing
17 work on a publicly funded private construction project that is subject to this section
18 to ensure compliance with this section. In the case of a request made by a person
19 performing the work specified in sub. (3), if the department finds that the contractor,
20 subcontractor, or agent subject to the inspection is in compliance and that the request
21 if frivolous, the department shall charge the person making the request the actual
22 cost of the inspection. In the case of a request made by a person not performing the
23 work specified in sub. (3), if the department finds that the contractor, subcontractor,
24 or agent subject to the inspection is in compliance and that the request is frivolous,
25 the department shall charge the person making the request \$250 or the actual cost

1 of the inspection, whichever is greater. In order to find that a request is frivolous,
2 the department must find that the person making the request made the request in
3 bad faith, solely for the purpose of harassing or maliciously injuring the contractor,
4 subcontractor, or agent subject to the inspection, or that the person making the
5 request knew, or should have known, that there was no reasonable basis for believing
6 that a violation of this section had been committed.

7 (d) Section 103.005 (5) (f), (11), (12), and (13) applies to this section, except that
8 s. 103.005 (12) (a) does not apply to any person who fails to provide any information
9 to the department to assist the department in determining prevailing wage rates
10 under sub. (4) (a) or (b). Section 111.322 (2m) applies to discharge and other
11 discriminatory acts arising in connection with any proceeding under this section,
12 including proceedings under sub. (9) (a).

13 **(9) LIABILITY AND PENALTIES.** (a) Any contractor, subcontractor, or contractor's
14 or subcontractor's agent who fails to pay the prevailing wage rate determined by the
15 department under sub. (4) or who pays less than 1.5 times the hourly basic rate of
16 pay for all hours worked in excess of the prevailing hours of labor is liable to any
17 affected employee in the amount of his or her unpaid wages or his or her unpaid
18 overtime compensation and in an additional equal amount as liquidated damages.
19 An action to recover the liability may be maintained in any court of competent
20 jurisdiction by any employee for and in behalf of that employee and other employees
21 similarly situated. No employee may be a party plaintiff to the action unless the
22 employee consents in writing to become a party and the consent is filed in the court
23 in which the action is brought. Notwithstanding s. 814.04 (1), the court shall, in
24 addition to any judgment awarded to the plaintiff, allow reasonable attorney fees
25 and costs to be paid by the defendant.

1 (b) 1. Except as provided in subds. 2., 4., and 6., any contractor, subcontractor,
2 or contractor's or subcontractor's agent who violates this section may be fined not
3 more than \$200 or imprisoned for not more than 6 months or both. Each day that
4 any violation continues is considered a separate offense.

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

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

22 (2).

23 4. Whoever induces any person who seeks to be or is employed on any publicly
24 funded private construction project that is subject to this section to permit any part
25 of the wages to which the person is entitled under the contract governing the project

SECTION 5

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

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

10 6. Subdivision 1. does not apply to any person who fails to provide any
 11 information to the department to assist the department in determining prevailing
 12 wage rates under sub. (4) (a) or (b).

13 (10) DEPARTMENT. (a) Except as provided under pars. (b) and (c), the department
 14 shall notify any owner or developer applying for a determination under sub. (4) and
 15 any owner or developer that is exempt under sub. (6) of the names of all persons
 16 whom the department has found to have failed to pay the prevailing wage rate
 17 determined under sub. (4) or has found to have paid less than 1.5 times the hourly
 18 basic rate of pay for all hours worked in excess of the prevailing hours of labor at any
 19 time in the preceding 3 years. The department shall include with each name the
 20 address of the person and shall specify when the person failed to pay the prevailing
 21 wage rate and when the person paid less than 1.5 times the hourly basic rate of pay
 22 for all hours worked in excess of the prevailing hours of labor. An owner or developer
 23 may not award any contract to the person unless otherwise recommended by the
 24 department or unless 3 years have elapsed from the date on which the department

1 issued its findings or date of final determination by a court of competent jurisdiction,
2 whichever is later.

3 (b) The department may not include in a notification under par. (a) the name
4 of any person on the basis of having let work to a person whom the department has
5 found to have failed to pay the prevailing wage rate determined under sub. (4) or has
6 found to have paid less than 1.5 times the hourly basic rate of pay for all hours worked
7 in excess of the prevailing hours of labor.

8 (c) This subsection does not apply to any contractor, subcontractor, or
9 contractor's or subcontractor's or agent that in good faith commits a minor violation
10 of this section, as determined on a case-by-case basis through administrative
11 hearings with all rights to due process afforded to all parties or that has not
12 exhausted or waived all appeals.

13 (d) Any person submitting a bid or negotiating a contract on a publicly funded
14 private construction project that is subject to this section shall, on the date on which
15 the person submits the bid, identify any construction business in which the person,
16 or a shareholder, officer, or partner of the person, if the person is a business, owns,
17 or has owned at least a 25% interest on the date the person submits the bid or at any
18 other time within 3 years preceding the date on which the person submits the bid or
19 negotiates the contract, if the business has been found to have failed to pay the
20 prevailing wage rate determined under sub. (4) or to have paid less than 1.5 times
21 the hourly basic rate of pay for all hours worked in excess of the prevailing hours of
22 labor.

23 (e) The department shall promulgate rules to administer this subsection.

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

1 ✓ 103.49 (3) (ar) In determining prevailing wage rates under par. (a) or (am), the
2 department may not use data from projects that are subject to this section, s. 66.0903,
3 66.0904, 103.50, or 229.8275 or 40 USC 276a unless the department determines that
4 there is insufficient wage data in the area to determine those prevailing wage rates,
5 in which case the department may use data from projects that are subject to this
6 section, s. 66.0903, 66.0904, 103.50, or 229.8275 or 40 USC 276a.

History: 1983 a. 27; 1985 a. 159; 1985 a. 332 ss. 41, 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; 2005 a. 335.

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

8 ✓ 103.49 (5) (a) Each contractor, subcontractor, or contractor's or subcontractor's
9 agent performing work on a project that is subject to this section shall keep full and
10 accurate records clearly indicating the name and trade or occupation of every person
11 performing the work described in sub. (2m) and an accurate record of the number of
12 hours worked by each of those persons and the actual wages paid for the hours
13 worked. By no later than the end of the week following a week in which a contractor,
14 subcontractor, or contractor's or subcontractor's agent performs work on a project
15 that is subject to this section, the contractor, subcontractor, or agent shall submit to
16 the state agency authorizing the work a certified record of the information specified
17 in the preceding sentence for that preceding week.

18 **SECTION 8.** 103.49 (5) (c) of the statutes is amended to read:

19 ✓ 103.49 (5) (c) If requested by any person, the department shall inspect the
20 payroll records of any contractor, subcontractor, or agent performing work on a
21 project that is subject to this section to ensure compliance with this section. If In the
22 case of a request made by a person performing the work specified in sub. (2m), if the
23 department finds that the contractor, subcontractor, or agent subject to the
24 inspection is found to be in compliance and if the person making the request is a

1 ~~person performing the work specified in sub. (2m)~~ that the request is frivolous, the
 2 department shall charge the person making the request the actual cost of the
 3 inspection. If In the case of a request made by a person not performing the work
 4 specified in sub. (2m), if the department finds that the contractor, subcontractor, or
 5 agent subject to the inspection is found to be in compliance and if the person making
 6 the request is not a person performing the work specified in sub. (2m) that the
 7 request is frivolous, the department shall charge the person making the request \$250
 8 or the actual cost of the inspection, whichever is greater. In order to find that a
 9 request is frivolous, the department must find that the person making the request
 10 made the request in bad faith, solely for the purpose of harassing or maliciously
 11 injuring the contractor, subcontractor, or agent subject to the inspection, or that the
 12 person making the request knew, or should have known, that there was no
 13 reasonable basis for believing that a violation of this section had been committed.

14 **SECTION 9.** 103.50 (4m) of the statutes is amended to read:

15 103.50 (4m) WAGE RATE DATA. In determining prevailing wage rates for projects
 16 that are subject to this section, the department shall use data from projects that are
 17 subject to this section, s. 66.0903, 66.0904, or 103.49 or 40 USC 276a.

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. 213, 225; 1997 a. 3, 35; 1999 a. 70; 1999 a. 150 ss. 629, 672; 2001 a. 30.

18 **SECTION 10.** 103.503 (title) of the statutes is amended to read:

19 103.503 (title) Substance abuse prevention on public works and
 20 publicly funded projects.

History: 2005 a. 181.

21 **SECTION 11.** 103.503 (1) (a) of the statutes is amended to read:

22 103.503 (1) (a) "Accident" means an incident caused, contributed to, or
 23 otherwise involving an employee that resulted or could have resulted in death,
 24 personal injury, or property damage and that occurred while the employee was

1 performing the work described in s. 66.0903 (4), 66.0904 (3), or 103.49 (2m) on a
2 project.

3 History: 2005 a. 181.

SECTION 12. 103.503 (1) (c) of the statutes is amended to read:

4 103.503 (1) (c) "Contracting agency" means a local governmental unit, as
5 defined in s. 66.0903 (1) (d), ~~or~~ a state agency, as defined in s. 103.49 (1) (f), or an
6 owner or developer under s. 66.0904 that has contracted for the performance of work
7 on a project.

8 History: 2005 a. 181.

SECTION 13. 103.503 (1) (e) of the statutes is amended to read:

9 103.503 (1) (e) "Employee" means a laborer, worker, mechanic, or truck driver
10 who performs the work described in s. 66.0903 (4), 66.0904 (3), or 103.49 (2m) on a
11 project.

12 History: 2005 a. 181.

SECTION 14. 103.503 (1) (g) of the statutes is amended to read:

13 103.503 (1) (g) "Project" mean a project of public works that is subject to s.
14 66.0903 or 103.49 or a publicly funded private construction project that is subject to
15 s. 66.0904.

16 History: 2005 a. 181.

SECTION 15. 103.503 (2) of the statutes is amended to read:

17 103.503 (2) SUBSTANCE ABUSE PROHIBITED. No employee may use, possess,
18 attempt to possess, distribute, deliver, or be under the influence of a drug, or use or
19 be under the influence of alcohol, while performing the work described in s. 66.0903
20 (4), 66.0904 (3), or 103.49 (2m) on a project. An employee is considered to be under
21 the influence of alcohol for purposes of this subsection if he or she has an alcohol
22 concentration that is equal to or greater than the amount specified in s. 885.235 (1g)
23 (d).

History: 2005 a. 181.

1 **SECTION 16.** 103.503 (3) (a) 2. of the statutes is amended to read:

2 ✓ 103.503 (3) (a) 2. A requirement that employees performing the work described
3 in s. 66.0903 (4), 66.0904 (3), or 103.49 (2m) on a project submit to random,
4 reasonable suspicion, and post-accident drug and alcohol testing and to drug and
5 alcohol testing before commencing work on a project, except that testing of an
6 employee before commencing work on a project is not required if the employee has
7 been participating in a random testing program during the 90 days preceding the
8 date on which the employee commenced work on the project.

9 History: 2005 a. 181.

9 **SECTION 17.** 104.001 (3) (am) of the statutes is created to read:

10 ✓ 104.001 (3) (am) The requirement that employees employed on a publicly
11 funded private construction project for which a city, village, town, or county provides
12 financial assistance, as defined in s. 66.0904 (1) (c), be paid at the prevailing wage
13 rate, as defined in s. 66.0904 (1) (i), as required under s. 66.0904.

14 **SECTION 18.** 109.09 (1) of the statutes is amended to read:

15 ✓ 109.09 (1) The department shall investigate and attempt equitably to adjust
16 controversies between employers and employees as to alleged wage claims. The
17 department may receive and investigate any wage claim which is filed with the
18 department, or received by the department under s. 109.10 (4), no later than 2 years
19 after the date the wages are due. The department may, after receiving a wage claim,
20 investigate any wages due from the employer against whom the claim is filed to any
21 employee during the period commencing 2 years before the date the claim is filed.
22 The department shall enforce this chapter and ss. 66.0903, 66.0904, 103.02, 103.49,
23 103.82, 104.12, and 229.8275. In pursuance of this duty, the department may sue the
24 employer on behalf of the employee to collect any wage claim or wage deficiency and

1 ss. 109.03 (6) and 109.11 (2) and (3) shall apply to such actions. Except for actions
 2 under s. 109.10, the department may refer such an action to the district attorney of
 3 the county in which the violation occurs for prosecution and collection and the
 4 district attorney shall commence an action in the circuit court having appropriate
 5 jurisdiction. Any number of wage claims or wage deficiencies against the same
 6 employer may be joined in a single proceeding, but the court may order separate
 7 trials or hearings. In actions that are referred to a district attorney under this
 8 subsection, any taxable costs recovered by the district attorney shall be paid into the
 9 general fund of the county in which the violation occurs and used by that county to
 10 meet its financial responsibility under s. 978.13 (2) (b) for the operation of the office
 11 of the district attorney who prosecuted the action.

History: 1975 c. 380; 1979 c. 32 s. 92 (9); 1985 a. 29, 220; 1989 a. 113; 1991 a. 146; 1993 a. 86, 453; 1995 a. 227; 1997 a. 27, 237; 1999 a. 9; 1999 a. 150 s. 672; 1999 a. 167; 2001 a. 10; 2003 a. 63; 2005 a. 434.

12 **SECTION 19.** 111.322 (2m) (c) of the statutes is amended to read:

13 ✓ 111.322 (2m) (c) The individual files a complaint or attempts to enforce a right
 14 under s. 66.0903, 66.0904, 103.49, or 229.8275 or testifies or assists in any action or
 15 proceeding under s. 66.0903, 66.0904, 103.49, or 229.8275.

History: 1981 c. 334; 1989 a. 228, 359; 1997 a. 237; 1999 a. 150 s. 672; 1999 a. 167, 176.

16 **SECTION 20.** 227.01 (13) (t) of the statutes is amended to read:

17 ✓ 227.01 (13) (t) Ascertains and determines prevailing wage rates under ss.
 18 66.0903, 66.0904, 103.49, 103.50, and 229.8275, except that any action or inaction
 19 which ascertains and determines prevailing wage rates under ss. 66.0903, 66.0904,
 20 103.49, 103.50, and 229.8275 is 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; 2005 a. 217, 418; 2007 a. 20.

21 **SECTION 21.** 946.15 of the statutes is amended to read:

22 ✓ **946.15 Public and publicly funded construction contracts at less than**
 23 **full rate.** (1) Any employer, or any agent or employee of an employer, who induces

1 any person who seeks to be or is employed pursuant to a public contract as defined
2 in s. 66.0901 (1) (c) or who seeks to be or is employed on a project on which a prevailing
3 wage rate determination has been issued by the department of workforce
4 development under s. 66.0903 (3), 66.0904 (4), 103.49 (3), 103.50 (3), or 229.8275 (3)
5 or by a local governmental unit, as defined in s. 66.0903 (1) (d), under s. 66.0903 (6)
6 or 66.0904 (6) to give up, waive, or return any part of the compensation to which that
7 person is entitled under his or her contract of employment or under the prevailing
8 wage rate determination issued by the department or local governmental unit, or
9 who reduces the hourly basic rate of pay normally paid to an employee for work on
10 a project on which a prevailing wage rate determination has not been issued under
11 s. 66.0903 (3) or (6), 66.0904 (4) or (6), 103.49 (3), 103.50 (3), or 229.8275 (3) during
12 a week in which the employee works both on a project on which a prevailing wage
13 rate determination has been issued and on a project on which a prevailing wage rate
14 determination has not been issued, is guilty of a Class I felony.

15 (2) Any person employed pursuant to a public contract as defined in s. 66.0901
16 (1) (c) or employed on a project on which a prevailing wage rate determination has
17 been issued by the department of workforce development under s. 66.0903 (3),
18 66.0904 (4), 103.49 (3), 103.50 (3), or 229.8275 (3) or by a local governmental unit,
19 as defined in s. 66.0903 (1) (d), under s. 66.0903 (6) or 66.0904 (6) who gives up,
20 waives, or returns to the employer or agent of the employer any part of the
21 compensation to which the employee is entitled under his or her contract of
22 employment or under the prevailing wage determination issued by the department
23 or local governmental unit, or who gives up any part of the compensation to which
24 he or she is normally entitled for work on a project on which a prevailing wage rate
25 determination has not been issued under s. 66.0903 (3) or (6), 66.0904 (4), 103.49 (3),

SECTION 21

1 103.50 (3), or 229.8275 (3) during a week in which the person works part-time on a
 2 project on which a prevailing wage rate determination has been issued and
 3 part-time on a project on which a prevailing wage rate determination has not been
 4 issued, is guilty of a Class C misdemeanor.

5 (3) Any employer or labor organization, or any agent or employee of an
 6 employer or labor organization, who induces any person who seeks to be or is
 7 employed on a project on which a prevailing wage rate determination has been issued
 8 by the department of workforce development under s. 66.0903 (3), 66.0904 (4), 103.49
 9 (3), 103.50 (3), or 229.8275 (3) or by a local governmental unit, as defined in s. 66.0903
 10 (1) (d), under s. 66.0903 (6) or 66.0904 (6) to permit any part of the wages to which
 11 that person is entitled under the prevailing wage rate determination issued by the
 12 department or local governmental unit to be deducted from the person's pay is guilty
 13 of a Class I felony, unless the deduction would be permitted under 29 CFR 3.5 or 3.6
 14 from a person who is working on a project that is subject to 40 USC 276c.

15 (4) Any person employed on a project on which a prevailing wage rate
 16 determination has been issued by the department of workforce development under
 17 s. 66.0903 (3), 66.0904 (4), 103.49 (3), 103.50 (3), or 229.8275 (3) or by a local
 18 governmental unit, as defined in s. 66.0903 (1) (d), under s. 66.0903 (6) or 66.0904
 19 (6) who permits any part of the wages to which that person is entitled under the
 20 prevailing wage rate determination issued by the department or local governmental
 21 unit to be deducted from his or her pay is guilty of a Class C misdemeanor, unless the
 22 deduction would be permitted under 29 CFR 3.5 or 3.6 from a person who is working
 23 on a project that is subject to 40 USC 276c.

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

24 **SECTION 22. Initial applicability.**

1 (1) PREVAILING WAGES AND HOURS ON PRIVATE PROJECTS IN TAX INCREMENTAL
 2 DISTRICTS. The treatment of sections 19.36 (12), 66.0903 (3) (av), 66.0904, 103.49 (3)
 3 (ar), 103.50 (4m), 103.503 (title), (1) (a), (c), (e), and (g), (2), and (3) (a) 2., 104.001 (3)
 4 (am), 109.09 (1), 111.322 (2m) (c), 227.01 (13) (t), and 946.15 of the statutes first
 5 applies to contracts for the erection, construction, remodeling, repairing, or
 6 demolition of publicly funded private construction projects, as defined in section
 7 66.0904 (1) (j) of the statutes, as created by this act, entered into, or extended,
 8 modified or renewed, on the effective date of this subsection.

9 (2) INSPECTION OF PAYROLL RECORDS. The treatment of sections 66.0903 (10) (c)
 10 and 103.49 (10) (c) of the statutes first applies to requests for the inspection of payroll
 11 records made on the effective date of this subsection.

12 (3) PREVAILING WAGE RECORDS. The treatment of sections 66.0903 (10) (a) and
 13 103.49 (10) (a) of the statutes first applies to work performed on the effective date of
 14 this subsection, except that, if that worked is performed under a contract that
 15 contains provisions that are inconsistent with those sections, the treatment of those
 16 sections first applies to work performed on the day on which that contract expires or
 17 is extended, modified, or renewed.

18 (END)

Malaise, Gordon

From: Bishop, Jennifer
Sent: Wednesday, February 20, 2008 12:55 PM
To: Malaise, Gordon
Subject: Prevailing wage draft LRB 3798

Hi Gordon - -

I'm wondering if you'd be able to meet with me and a couple of labor people to discuss the prevailing wage draft (LRB 3798) on Friday morning. Let me know if this is possible! Here are some changes to narrow the scope of the bill:

- 1) Eliminate items 2, 5 and 7 under definitions of financial assistance. Apparently, while these provisions may be consistent with local ordinance, the practice is much tighter. The change helps focus the bill on financial or less than market value exchanges.
- 2) Under financial assistance, item 3, limit to transfer or lease of property for less than market value or reduced consideration, rather than "including."

Let me know if Friday works for you!

Thanks,

Jennifer
Office of Sen. Wirch