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1 66.0903 (11) (b) 4. Whoever induces any person who seeks to be or is employed
2 on any project of public works that is subject to this section to permit any part of the
3 wages to which the person is entitled under the contract governing the project to be
4 deducted from the person's pay is guilty of an offense under s. 946.15 (3), unless the
5 deduction would be permitted under 29 CFR 3.5 or 3.6 from a person who is working
6 on a project that is subject to 40 USC 276e 3142. C

7 **SECTION 1486.** 66.0903 (11) (b) 5. of the statutes is amended to read:

8 66.0903 (11) (b) 5. Any person employed on a project of public works that is D
9 subject to this section who knowingly permits any part of the wages to which he or
10 she is entitled under the contract governing the project to be deducted from his or her
11 pay is guilty of an offense under s. 946.15 (4), unless the deduction would be
12 permitted under 29 CFR 3.5 or 3.6 from a person who is working on a project that is
13 subject to 40 USC 276e 3142.

14 **SECTION 1486f.** 66.0903 (12) (d) of the statutes is amended to read:

15 66.0903 (12) (d) Any person submitting a bid or negotiating a contract on a
16 project of public works that is subject to this section shall, on the date the person
17 submits the bid or negotiates the contract, identify any construction business in
18 which the person, or a shareholder, officer or partner of the person, if the person is
19 a business, owns, or has owned at least a 25% interest on the date the person submits
20 the bid or negotiates the contract or at any other time within 3 years preceding the
21 date the person submits the bid or negotiates the contract, if the business has been
22 found to have failed to pay the prevailing wage rate determined under sub. (3) or to
23 have paid less than 1.5 times the hourly basic rate of pay for all hours worked in
24 excess of the prevailing hours of labor. ✓

25 **SECTION 1487.** 66.0904 of the statutes is created to read:



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

2 DEFINITIONS. In this section:

3 (a) "Area" means the county in which a proposed publicly funded private
4 construction project that is subject to this section is located or, if the department
5 determines that there is insufficient wage data in that county, "area" means those
6 counties that are contiguous to that county or, if the department determines that
7 there is insufficient wage data in those counties, "area" means those counties that
8 are contiguous to those counties or, if the department determines that there is
9 insufficient wage data in those counties, "area" means the entire state or, if the
10 department is requested to review a determination under sub. (4) (e), "area" means
11 the city, village, or town in which a proposed publicly funded private construction
12 project that is subject to this section is located.

13 (am) "Bona fide economic benefit" has the meaning given in s. 103.49 (1) (am). ✓

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

15 (c) "Direct financial assistance" means moneys, in the form of a grant or other
16 agreement or included as part of a contract, cooperative agreement, or any other
17 arrangement, including a redevelopment agreement under s. 66.1333 (5), economic
18 development agreement, contract under s. 66.1105 (3), or assistance provided under
19 s. 66.1109, that a local governmental unit directly provides or otherwise directly
20 makes available to assist in the erection, construction, repair, remodeling,
21 demolition, or improvement of a private facility. "Direct financial assistance" does
22 not include any of the following:
23

- 24 1. A public works contract, a supply procurement contract, a contract of
25 insurance or guaranty, a collective bargaining agreement, or any other contract

1 under which moneys are not directly provided or otherwise directly made available
2 for that assistance.

3 2. Any moneys allocated by the city of Milwaukee for the purchase of public
4 access easements that are located entirely in the Milwaukee Riverwalk Site Plan
5 Review Overlay District established by the city of Milwaukee, as amended to June
6 1, 2009, or for the construction of dockwalls, walkways, plazas, parks, private
7 roadways open to the public, or similar improvements, or for any other public
8 infrastructure improvements, that are located entirely in that district, if the work
9 on those improvements is subject to s. 66.0903 or is exempted from that section under
10 s. 66.0903 (6). ✓

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

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

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

14 (fm) "Minor service and maintenance work" means a publicly funded private
15 construction project that is limited to minor crack filling, chip or slurry sealing, or
16 other minor pavement patching, not including overlays, that has a projected life span
17 of no longer than 5 years; the depositing of gravel on an existing gravel road applied
18 solely to maintain the road; road shoulder maintenance; cleaning of drainage or
19 sewer ditches or structures; or any other limited, minor work on private facilities or
20 equipment that is routinely performed to prevent breakdown or deterioration. ✓

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

22 (h) 1. Except as provided in subd. 2., "prevailing wage rate" for any trade or
23 occupation engaged in the erection, construction, remodeling, repairing, demolition,
24 or improvement of any publicly funded private construction project in any area
25 means the hourly basic rate of pay, plus the hourly contribution for health insurance



1 benefits, vacation benefits, pension benefits, and any other bona fide economic
2 benefit, paid directly or indirectly, for a majority of the hours worked in the trade or
3 occupation on projects in the area.

4 2. If there is no rate at which a majority of the hours worked in the trade or
5 occupation on projects in the area is paid, "prevailing wage rate" for any trade or
6 occupation engaged in the erection, construction, remodeling, repairing, demolition,
7 or improvement of any publicly funded private construction project in any area
8 means the average hourly basic rate of pay, weighted by the number of hours worked,
9 plus the average hourly contribution, weighted by the number of hours worked, for
10 health insurance benefits, vacation benefits, pension benefits, and any other bona
11 fide economic benefit, paid directly or indirectly for all hours worked at the hourly
12 basic rate of pay of the highest-paid 51 percent of hours worked in that trade or
13 occupation on projects in that area.

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14 unit. ^{no R} "Publicly funded private construction project" does not include a project
15 of public works, as defined in s. 66.0903 (1) (h), or a housing project involving the
16 erection, construction, repair, remodeling, demolition, or improvement of any of the
17 following: ✓

18 1. An owner-occupied residential property, if the project is supported by
19 affordable housing grants, home improvement grants, or grants from a local housing
20 trust fund.

21 2. A residential property containing 4 dwelling units or less.

22 3. A residential property that contains no retail, office, or commercial
23 components, if the project is intended to increase the supply of affordable housing in
24 a community.

1 (im) "Supply and installation contract" means a contract under which the
2 material is installed by the supplier, the material is installed by means of simple
3 fasteners or connectors such as screws or nuts and bolts and no other work is
4 performed on the site of the publicly funded private construction project, and the
5 total labor cost to install the material does not exceed 20 percent of the total cost of
6 the contract. ✓

7 (j) "Truck driver" has the meaning given in s. 103.49 (1) (g).

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

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

1 contract or subcontract, except that for a minor subcontract, as determined by the
2 department, the department shall prescribe by rule the method of notifying the
3 minor subcontractor of the prevailing wage rates and prevailing hours of labor
4 applicable to the minor subcontract. The prevailing wage rates and prevailing hours
5 of labor applicable to a contract or subcontract may not be changed during the time
6 that the contract or subcontract is in force.

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

12 1. All laborers, workers, mechanics, and truck drivers employed on the site of
13 a publicly funded private construction project that is subject to this section in the
14 performance of erection, construction, remodeling, repair, demolition, or
15 improvement activities for which direct financial assistance is received. ✓

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

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

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

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

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

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

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

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

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

19 (c) In determining prevailing wage rates under par. (a) or (b), the department
20 may not use data from projects that are subject to this section, s. 66.0903, 103.49, or
21 103.50 or 40 USC 3142 unless the department determines that there is insufficient
22 wage data in the area to determine those prevailing wage rates, in which case the
23 department may use data from projects that are subject to this section, s. 66.0903,
24 103.49, or 103.50 or 40 USC 3142.

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

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

24 (5) NONAPPLICABILITY. This section does not apply to any of the following:

1 (a) A publicly funded private construction project that receives less than
2 \$1,000,000 in direct financial assistance from a local governmental unit.

3 (b) A publicly funded private construction project in which the labor for the
4 project is provided by unpaid volunteers.

5 (c) Minor service or maintenance work, warranty work, or work under a supply
6 and installation contract. ✓

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

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

23 (b) Upon completion of a publicly funded private construction project that is
24 subject to this section and before receiving final payment for his or her work on the
25 private construction project, each agent or subcontractor shall furnish the contractor

1 with an affidavit stating that the agent or subcontractor has complied fully with the
2 requirements of this section. A contractor may not authorize final payment until the
3 affidavit is filed in proper form and order.

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

20 **(8) RECORDS; INSPECTION; ENFORCEMENT.** (a) Each contractor, subcontractor, or
21 agent performing work on a publicly funded private construction project that is
22 subject to this section shall keep full and accurate records clearly indicating the
23 name and trade or occupation of every person performing the work described in sub.
24 (3) and an accurate record of the number of hours worked by each of those persons
25 and the actual wages paid for the hours worked.

1 (am) 1. Except as provided in this subdivision, by no later than the end of the
2 first week of a month following a month in which a contractor, subcontractor, or
3 contractor's or subcontractor's agent performs work on a publicly funded private
4 construction project that is subject to this section, the contractor, subcontractor, or
5 agent shall submit to the department in an electronic format a certified record of the
6 information specified in par. (a) for that preceding month. This requirement does not
7 apply to a contractor, subcontractor, or agent if all persons employed by the
8 contractor, subcontractor, or agent who are performing the work described in sub. (3)
9 are covered under a collective bargaining agreement and the wage rates for those
10 persons under the collective bargaining agreement are not less than the prevailing
11 wage rate. In that case, the contractor, subcontractor, or agent shall submit to the
12 department in an electronic format a copy of all collective bargaining agreements
13 that are pertinent to the project by no later than the end of the first week of the first
14 month in which the contractor, subcontractor, or agent performs work on the project
15 of public works.

16 2. The department shall post on its Internet site all certified records and
17 collective bargaining agreements submitted to the department under subd. 1.,
18 except that the department may not post on that site the name of or any other
19 personally identifiable information relating to any employee of a contractor,
20 subcontractor, or agent that submits information to the department under subd. 1.
21 In this subdivision, "personally identifiable information" does not include an
22 employee's trade or occupation, his or her hours of work, or the wages paid for those
23 hours worked.

24 (b) The department or the local governmental unit providing direct financial
25 assistance for a publicly funded private construction project may demand and

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

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



1 request knew, or should have known, that there was no reasonable basis for believing
2 that a violation of this section had been committed.

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

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10 **(9) LIABILITY AND PENALTIES.** (a) 1. Any contractor, subcontractor, or contractor's
11 or subcontractor's agent who fails to pay the prevailing wage rate determined by the
12 department under sub. (4) or who pays less than 1.5 times the hourly basic rate of
13 pay for all hours worked in excess of the prevailing hours of labor is liable to any
14 affected employee in the amount of his or her unpaid wages or his or her unpaid
15 overtime compensation and in an additional amount as liquidated damages as
16 provided in subd. 2., 3., or 4., whichever is applicable.

17 2. If the department determines upon inspection under sub. (8) (b) or (c) that
18 a contractor, subcontractor, or contractor's or subcontractor's agent has failed to pay
19 the prevailing wage rate determined by the department under sub. (4) or has paid
20 less than 1.5 times the hourly basic rate of pay for all hours worked in excess of the
21 prevailing hours of labor, the department shall order the contractor to pay to any
22 affected employee the amount of his or her unpaid wages or his or her unpaid
23 overtime compensation and an additional amount equal to 100 percent of the amount
24 of those unpaid wages or that unpaid overtime compensation as liquidated damages
25 within a period specified by the department in the order.

1 3. In addition to or in lieu of recovering the liability specified in subd. 1. as
2 provided in subd. 2., any employee for and in behalf of that employee and other
3 employees similarly situated may commence an action to recover that liability in any
4 court of competent jurisdiction. In an action that is commenced before the end of any
5 period specified by the department under subd. 2., if the court finds that a contractor,
6 subcontractor, or contractor's or subcontractor's agent has failed to pay the
7 prevailing wage rate determined by the department under sub. (4) or has paid less
8 than 1.5 times the hourly basic rate of pay for all hours worked in excess of the
9 prevailing hours of labor, the court shall order the contractor, subcontractor, or agent
10 to pay to any affected employee the amount of his or her unpaid wages or his or her
11 unpaid overtime compensation and an additional amount equal to 100 percent of the
12 amount of those unpaid wages or that unpaid overtime compensation as liquidated
13 damages.

14 4. In an action that is commenced after the end of any period specified by the
15 department under subd. 2., if the court finds that a contractor, subcontractor, or
16 contractor's or subcontractor's agent has failed to pay the prevailing wage rate
17 determined by the department under sub. (4) or has paid less than 1.5 times the
18 hourly basic rate of pay for all hours worked in excess of the prevailing hours of labor,
19 the court shall order the contractor, subcontractor, or agent to pay to any affected
20 employee the amount of his or her unpaid wages or his or her unpaid overtime
21 compensation and an additional amount equal to 200 percent of the amount of those
22 unpaid wages or that unpaid overtime compensation as liquidated damages.

23 5. No employee may be a party plaintiff to an action under subd. 3. or 4. unless
24 the employee consents in writing to become a party and the consent is filed in the
25 court in which the action is brought. Notwithstanding s. 814.04 (1), the court shall,

1 in addition to any judgment awarded to the plaintiff, allow reasonable attorney fees
2 and costs to be paid by the defendant. ✓

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

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

16 3. Any person employed on a publicly funded private construction project that
17 is subject to this section who knowingly permits a contractor, subcontractor, or
18 contractor's or subcontractor's agent to pay him or her less than the prevailing wage
19 rate set forth in the contract governing the project, who gives up, waives, or returns
20 any part of the compensation to which he or she is entitled under the contract, or who
21 gives up, waives, or returns any part of the compensation to which he or she is
22 normally entitled for work on a project that is not subject to this section ✓ during a
23 week in which the person works both on a publicly funded private construction
24 project that is subject to this section and on a project that is not subject to this section,
25 is guilty of an offense under s. 946.15 (2).

1 4. Whoever induces any person who seeks to be or is employed on any publicly
2 funded private construction project that is subject to this section to permit any part
3 of the wages to which the person is entitled under the contract governing the project
4 to be deducted from the person's pay is guilty of an offense under s. 946.15 (3), unless
5 the deduction would be permitted under 29 CFR 3.5 or 3.6 from a person who is
6 working on a project that is subject to 40 USC 3142.

7 5. Any person employed on a publicly funded private construction project that
8 is subject to this section who knowingly permits any part of the wages to which he
9 or she is entitled under the contract governing the project to be deducted from his or
10 her pay is guilty of an offense under s. 946.15 (4), unless the deduction would be
11 permitted under 29 CFR 3.5 or 3.6 from a person who is working on a project that is
12 subject to 40 USC 3142.

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

16 **(10) DEPARTMENT.** (a) Except as provided under pars. (b) and (c), the department
17 shall notify any owner or developer applying for a determination under sub. (4) and
18 any owner or developer that is exempt under sub. (6) of the names of all persons
19 whom the department has found to have failed to pay the prevailing wage rate
20 determined under sub. (4) or has found to have paid less than 1.5 times the hourly
21 basic rate of pay for all hours worked in excess of the prevailing hours of labor at any
22 time in the preceding 3 years. The department shall include with each name the
23 address of the person and shall specify when the person failed to pay the prevailing
24 wage rate and when the person paid less than 1.5 times the hourly basic rate of pay
25 for all hours worked in excess of the prevailing hours of labor. An owner or developer

1 may not award any contract to the person unless otherwise recommended by the
2 department or unless 3 years have elapsed from the date on which the department
3 issued its findings or date of final determination by a court of competent jurisdiction,
4 whichever is later.

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

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

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

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