

2015 DRAFTING REQUEST

Bill

Received: 1/30/2015 Received By: mduchek
Wanted: As time permits Same as LRB: -0698
For: Leah Vukmir (608) 266-2512 By/Representing: Luke
May Contact: Drafter: mduchek
Subject: Employ Priv - prevailing wage Addl. Drafters: gmalaise

Extra Copies:

Submit via email: YES
Requester's email: Sen.Vukmir@legis.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Prevailing wage requirement for state and local public works and highway projects; repeal of

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>
/1	mduchek 2/6/2015	csicilia 2/6/2015			sbasford 2/2/2015		State S&L
/2					srose 2/6/2015	sbasford 2/20/2015	State S&L

FE Sent For:

<END>

→ At Intro.

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/1	mduchek 1/30/2015	kfollett 2/1/2015			sbasford 2/2/2015		State S&L

FE Sent For: 1/2 gjs 2/6/15 1/2 gjs 2/6/15 1/2 gjs 2/6/15
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/1	mduchek	1/1/15 2/1/15		==			State S&L

FE Sent For:

<END>

Kunkel, Mark

From: Shovers, Marc
Sent: Saturday, January 24, 2015 6:06 PM
To: Kunkel, Mark
Subject: RE: UW and the Building Commission, LRB -0971/P2

You the Man!

From: Kunkel, Mark
Sent: Saturday, January 24, 2015 5:47 PM
To: Shovers, Marc
Subject: RE: UW and the Building Commission, LRB -0971/P2

I will do that.

From: Shovers, Marc
Sent: Saturday, January 24, 2015 4:41 PM
To: Kunkel, Mark
Subject: RE: UW and the Building Commission, LRB -0971/P2

Are you going to fix the references in my parts that listed "tuition, fees, and aux. revenues", or would you like me to do that?

From: Kunkel, Mark
Sent: Saturday, January 24, 2015 3:10 PM
To: Schwanz, Nathan E - DOA
Cc: Shovers, Marc
Subject: RE: UW and the Building Commission, LRB -0971/P2

Okay, will do.

From: Schwanz, Nathan E - DOA [<mailto:Nathan.Schwanz@wisconsin.gov>]
Sent: Saturday, January 24, 2015 3:00 PM
To: Kunkel, Mark
Cc: Shovers, Marc
Subject: RE: UW and the Building Commission, LRB -0971/P2

Mark,
We think your idea is good. Seems like a cleaner and clearer way to describe the different fund sources.

Nathan

From: Kunkel, Mark [<mailto:Mark.Kunkel@legis.wisconsin.gov>]
Sent: Friday, January 23, 2015 3:19 PM
To: Schwanz, Nathan E - DOA
Cc: Shovers, Marc - LEGIS
Subject: RE: UW and the Building Commission, LRB -0971/P2

Regarding the former PR funding, why not refer instead to projects that are funded without any GPR? The result would be 2 categories of projects: 1) those funded with any GPR and 2) those funded without any GPR. For projects funded with any GPR, item 1 would apply. For those projects funded without GPR, the rule in item 3 would apply, unless the project is funded entirely with gifts and grants, in which case the rule in item 2 would apply.

From: Schwanz, Nathan E - DOA [<mailto:Nathan.Schwanz@wisconsin.gov>]

Sent: Thursday, January 22, 2015 11:50 AM

To: Shovers, Marc

Cc: Kunkel, Mark; Hynek, Sara - DOA

Subject: RE: UW and the Building Commission, LRB -0971/P2

Marc,

Thank you for taking time to chat with me about the Building Commission and Capital Projects process and the changes we would like to make in respect to the UW Authority.

As promised, here is the summary of how we would like the UW Authority to be treated in relation to the Building Commission and Capital Projects. Mark K., I think item number 4 deals with sections you have drafted as it deals with the lease agreement. Please let me know if you have any questions about this.

1. Processes for GPR funded projects will remain as they are now.
2. Projects funded with gifts and grants will be entirely exempt from the Building Commission and state processes regardless of project cost.
 - a. The authority will issue bonds, if necessary, on its own.
3. Projects funded with tuition, fees and auxiliary revenues (formerly PR) will be exempt from the Building Commission and state processes regardless of project cost, *except* that projects with a cost of \$760,000 or more will be required to go through DOA for *only* the bidding process.
 - a. We need to determine how we refer to the PR funds. I don't know if tuition, fees and auxiliary revenues is sufficient reference to these funds. Mark K., what are your thoughts on this?
 - b. DOA will conduct the bid letting and select the lowest, qualified bid and then the UW Authority will assume complete control of the project. DOA conducting the bidding process should not inhibit the UW Authority's ability to conduct all other aspects of the project.
 - c. The authority will issue bonds, if necessary, on its own.
4. Renovations or projects to state-owned facilities or on state-owned land need to be approved by the Building Commission if the cost of the project is more than \$760,000. This impacts paragraph 4 of Section 347 in P2.
 - a. These projects should only need Building Commission approval. If it is funded with GPR, then it will need to follow point #1 above. If the project is funded with gifts and grants or tuition, fee and auxiliary (PR) revenues, points #2 and 3, respectively, should be followed.
 - i. No legislative approval should be needed for these projects.

Again, thank you for your help with this and please do not hesitate to contact me if you have any questions.

Nathan

From: Shovers, Marc [<mailto:Marc.Shovers@legis.wisconsin.gov>]

Sent: Wednesday, January 21, 2015 3:00 PM

To: Schwanz, Nathan E - DOA

Cc: Kunkel, Mark - LEGIS

Subject: UW and the Building Commission, LRB -0971/P2

Hi Nathan:

You have asked about UW's current relationship with the building commission and how the draft will affect that relationship. As I understand it, this is the situation under current law. Generally under current law, the building commission oversees the state building program which applies to facilities required for state agencies, including educational institutions. See s. 13.48 (1).

The UW System may not accept any gift, grant, or bequest of real property with a value in excess of \$150,000 or any similar transfer of a building or structure that's built to benefit the system, without the approval of the building commission. See s. 13.48 (2) (b) 1m.

Generally, if the UW System contemplates a project under the state building program, it must report the project to the building commission. The building commission must make formal recommendations (on a biennial basis) to DOA for the state's long-range building program and the building commission must also issue a report on the state's long-range building program. The building commission's recommendations must get legislative approval to go into effect. See s. 13.48 (4), (6), and (7). Also under current law, the UW System may not enter into a construction/reconstruction/remodeling contract worth more than \$185,000 without prior approval of the building commission, which must also supervise construction (see s. 13.48 (10)), although this general provision does not apply to any contract for a building project that's worth less than \$500,000 that is funded entirely by gifts and grants to the UW System. See s. 13.48 (10) (c).

Among other changes, the bill, LRB -0971/P2, repeals s. 13.48 (10) (c), so the limitations in that paragraph do not apply to contracts involving funding from gifts or grants of any amount. See bill sections 14 and 15, which amend s. 13.48 (10) (a) and (c). The bill also requires the Authority to report any project it is thinking about under the state building program to the building commission, and requires the building commission to make recommendations for projects to DOA, which is the same as current law. See bill sections 11, 12, and 13, which amend s. 13.48 (4), (6), and (7).

So with a couple of minor exceptions, the bill does not make many changes to the relationship the Authority will have with the Building Commission.

On a related matter, DOA is required to furnish engineering, architectural, project management and other building construction management services at the request of a state agency, which includes the UW System. See s. 16.85 (2) (b). Under the bill, however, this statute does not apply to the Authority. See bill section 127, which amends s. 16.85 (2). DOA is however still required to review and approve plans and specifications for buildings constructed to benefit the Authority, and review the progress of construction. See bill section 128, which amends s. 16.85 (12). Under the bill, DOA is also required to review and approve the bidding process for certain projects that cost at least \$100,000. See bill section 128, which amends s. 16.85 (12).

I hope this addresses your questions. Please let me know if you have any other concerns about this issue.

Marc

Marc Shovers
Senior Legislative Attorney
Legislative Reference Bureau

608-266-0129

marc.shovers@legis.wisconsin.gov

Kunkel, Mark

From: Schwanz, Nathan E - DOA <Nathan.Schwanz@wisconsin.gov>
Sent: Sunday, January 25, 2015 1:05 PM
To: Kunkel, Mark
Subject: RE: Additional Draft Changes

I'm not sure. I will check with the Facilities folks and see what they think. I probably won't hear from them until tomorrow.

From: Kunkel, Mark <Mark.Kunkel@legis.wisconsin.gov>
Sent: Sunday, January 25, 2015 12:56 PM
To: Schwanz, Nathan E - DOA
Subject: RE: Additional Draft Changes

Regarding item 13, do you also want to repeal the appropriations in s. 20.866 (2) (z) 1m., 2m., and 3m., which relate to s. 13.48 (25), (25m) and (25p)?

From: Schwanz, Nathan E - DOA [mailto:Nathan.Schwanz@wisconsin.gov]
Sent: Saturday, January 24, 2015 6:43 PM
To: Kunkel, Mark
Cc: Hynek, Sara - DOA
Subject: Additional Draft Changes

Mark,

Here are additional items for revision in P2.

1. 20.285(1)(u) and 20.285(1)(w) also need to be repealed. They are SEG appropriations and there is no reason to keep them in ch. 20 once the UW is an authority.
2. Section 230: 20.866(2)(z)4m should be repealed when the UW becomes an authority. Related to this, a provision needs to be included in the lease agreement that the UW is responsible for maintenance and upkeep for state-owned facilities and properties that are leased to the authority. We would like this to be clearly stated and added to Section 347 of P2.
3. Section 279: 36.01(1) needs to read as follows:
"In recognition of its constitutional obligation to provide by law for the establishment of a state university at or near the seat of state government, and for connecting with the same, from time to time, such colleges in different parts of the state as the interests of education may require, there is hereby created a state system of higher education, provided by the authority, to be known as the University of Wisconsin System; which enables students of all ages, backgrounds and levels of income to participate in the search for knowledge and individual development; fosters diversity of educational opportunity; promotes service to the public; and promotes internal coordination and the wisest possible use of resources. The principal office and one university shall be located at or near the seat of state government."
4. To address the issue of the UW authority being able to collect forfeitures, we would like to have the UW authority added to pre-existing municipal statutes in ch. 66. I think the impacted section are 66.0101-66.0115. Adding the UW authority to these sections will allow them to enact ordinances and collect forfeitures while not creating a due process concern. Additionally, we would like to create UW authority's police power under the municipal police authority statutes in ch. 66 and ch. 62. This would remove the UW authority's police power from ch 175 as created in P2. These changes were recommendations from DOA Legal based on requests and concerns that the UW has while balancing the fact they cannot have rulemaking power as an authority. If you have any questions about these changes please let me know.

5. Section 347: Currently, all DOA leases greater than 5 years must be approved under current law by the State Building Commission. We would like to exempt the lease between the UW authority and the state from needing Building Commission approval so that only JFC will be required to approve the lease.
6. Sections 585-585: The language in these sections needs to reflect that the residence halls and dorms are owned by the state. The state will continue to own them but lease them to the UW authority. There is no need to apply these sections to residence halls and dorms built and owned by the UW authority since the sections apply to residence halls and dorms built prior to January 7, 2006.
7. UW employees will not be subject to SELRA but we would like to have the following change made to subject them to MERA: Amend 66.0508(1) as follows:

“In this section, ‘local governmental unit’ means any city, village, town, county, metropolitan sewerage district, long-term care district, local cultural arts district under subch. V of ch. 229, the University of Wisconsin System Authority or any other political subdivision of the state, or instrumentality of one or more political subdivisions of the state.”
8. To address the issue of sovereign immunity, we would like the following changes to be made:
 - a. Amend 893.82 to add subsection (2)(d)4 to read: “officers and employees of the University of Wisconsin System Authority.”
 - b. Amend 893.80 to add subsection (10) to read: “for purposes of this section a ‘political corporation’ shall not include the University of Wisconsin System authority.” (The purpose of this amendment is to avoid any confusion as to whether section 893.80 or 893.82 applies to UW)
 - c. Amend 895.46 to add subsection (5)(c) to read: “officers and employees of the University of Wisconsin System Authority.”

As a note to these changes, as you pointed out in your email, there is no telling what a federal court will do regarding these provisions.
9. Since UW authority employees will not be state employees the authority will not be able to opt into the state’s worker comp program. The next draft should reflect this.
10. Section 139: We would like the 6 mo notice to be changed to 1 year.
11. Section 228: We would like the amendment on line 22 of page 62 removed.
12. Section 229: We would like the amendment on line 5 of page 63 removed. This item and item #11 are to allow projects currently enumerated and in progress to continue to completion.
13. We would like 13.48(25), 13.48(25m), 13.48(25r) and 13.48(25p) repealed. I was told by Facilities Development that these are outdated statutes and can be repealed.

Nathan Schwanz
 Executive Policy & Budget Analyst
 State Budget Office
 608-266-2843



In 1-30
 Out 2-2
State of Wisconsin
2015 - 2016 LEGISLATURE

Companion RMR
 156/11
 LRB-0698/21
 MED&GMM:wlj:rs

2015 BILL

Companion
 - no changes

1 **AN ACT to repeal** 19.36 (12), 66.0903, 84.41 (3), 103.49, 103.50, 104.001 (3) (a),
 2 106.04, 111.322 (2m) (c), 227.01 (13) (t), 229.682 (2), 229.8275 and 946.15; **to**
 3 **consolidate, renumber and amend** 104.001 (3) (intro.) and (b); and **to**
 4 **amend** 19.36 (3), 59.20 (3) (a), 66.0129 (5), 103.005 (12) (a), 103.503 (1) (a),
 5 103.503 (1) (c), 103.503 (1) (e), 103.503 (1) (g), 103.503 (2), 103.503 (3) (a) 2.,
 6 103.503 (5), 109.09 (1), 111.322 (2m) (a), 111.322 (2m) (b), 111.322 (2m) (d),
 7 230.13 (1) (intro.), 233.13 (intro.) and 978.05 (6) (a) of the statutes; **relating to:**
 8 elimination of the requirement that laborers, workers, mechanics, and truck
 9 drivers employed on the site of a project of public works be paid the prevailing
 10 wage.

Analysis by the Legislative Reference Bureau

Generally, under the current prevailing wage laws, laborers, workers, mechanics, and truck drivers employed on the site of certain projects of public works 1) must be paid at the rate paid for a majority of the hours worked in the person's trade or occupation in the area in which the project is located, as determined by the Department of Workforce Development; and 2) may not be required or permitted to

BILL

work a greater number of hours per day and per week than the prevailing hours of labor, which is no more than 10 hours per day and 40 hours per week, unless they are paid 1.5 times their basic rate of pay (commonly referred to as overtime pay) for all hours worked in excess of the prevailing hours of labor. The prevailing wage laws include three separate laws: one that applies to certain projects of public works to which the state or any state agency is a party (state prevailing wage law), one that applies to certain projects of public works undertaken by local governments (local prevailing wage law), and one that applies to projects under a contract based on bids to which the state is a party for the construction or improvement of highways (highway prevailing wage law). Projects to which the prevailing wage laws do not apply include: 1) single-trade projects of public works for which the estimated project cost of completion is less than \$48,000; 2) multiple-trade projects of public works for which the estimated project cost of completion is less than \$100,000; and 3) with respect to the local prevailing wage law, multiple-trade projects of public works erected, constructed, repaired, remodeled, or demolished by a private contractor for a city or village having a population of less than 2,500 or for a town for which the estimated project cost of completion is less than \$234,000. Also under current law, no local government may enact or administer a prevailing wage law ordinance or any similar ordinance.

This bill eliminates the state prevailing wage law, the local prevailing wage law, and the highway prevailing wage law, as well as the prohibition against local governments enacting or administering their own prevailing wage laws or similar ordinances.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 19.36 (3) of the statutes is amended to read:

2 19.36 (3) CONTRACTORS' RECORDS. ~~Subject to sub. (12), each~~ Each authority shall
3 make available for inspection and copying under s. 19.35 (1) any record produced or
4 collected under a contract entered into by the authority with a person other than an
5 authority to the same extent as if the record were maintained by the authority. This
6 subsection does not apply to the inspection or copying of a record under s. 19.35 (1)
7 (am).

8 **SECTION 2.** 19.36 (12) of the statutes is repealed.

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1 **SECTION 3.** 59.20 (3) (a) of the statutes is amended to read:

2 59.20 (3) (a) Every sheriff, clerk of the circuit court, register of deeds, treasurer,
3 comptroller, register of probate, clerk, and county surveyor shall keep his or her office
4 at the county seat in the offices provided by the county or by special provision of law;
5 or if there is none, then at such place as the board directs. The board may also require
6 any elective or appointive county official to keep his or her office at the county seat
7 in an office to be provided by the county. All such officers shall keep their offices open
8 during the usual business hours of any day except Sunday, as the board directs. With
9 proper care, the officers shall open to the examination of any person all books and
10 papers required to be kept in his or her office and permit any person so examining
11 to take notes and copies of such books, records, papers, or minutes therefrom except
12 as authorized in par. (c) and ss. 19.36 (10) ~~to (12)~~ and (11) and 19.59 (3) (d) or under
13 ch. 69.

14 **SECTION 4.** 66.0129 (5) of the statutes is amended to read:

15 66.0129 (5) BIDS FOR CONSTRUCTION. The nonprofit corporation shall let all
16 contracts exceeding \$1,000 for the construction, maintenance or repair of hospital
17 facilities to the lowest responsible bidder after advertising for bids by the publication
18 of a class 2 notice under ch. 985. ~~Sections Section 66.0901 and 66.0903 apply~~ applies
19 to bids and contracts under this subsection.

20 **SECTION 5.** 66.0903 of the statutes is repealed.

21 **SECTION 6.** 84.41 (3) of the statutes is repealed.

22 **SECTION 7.** 103.005 (12) (a) of the statutes is amended to read:

23 103.005 (12) (a) If any employer, employee, owner, or other person violates chs.
24 103 to 106, or fails or refuses to perform any duty required under chs. 103 to 106,
25 within the time prescribed by the department, for which no penalty has been

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1 specifically provided, or fails, neglects, or refuses to obey any lawful order given or
2 made by the department or any judgment or decree made by any court in connection
3 with chs. 103 to 106, for each such violation, failure, or refusal, the employer,
4 employee, owner, or other person shall forfeit not less than \$10 nor more than \$100
5 for each offense. ~~This paragraph does not apply to any person who fails to provide
6 any information to the department to assist the department in determining
7 prevailing wage rates or prevailing hours of labor under s. 103.49 (3) (a) or (am) or
8 103.50 (3) or (4).~~

9 **SECTION 8.** 103.49 of the statutes is repealed.

10 **SECTION 9.** 103.50 of the statutes is repealed.

11 **SECTION 10.** 103.503 (1) (a) of the statutes is amended to read:

12 103.503 (1) (a) "Accident" means an incident caused, contributed to, or
13 otherwise involving an employee that resulted or could have resulted in death,
14 personal injury, or property damage and that occurred while the employee was
15 performing the work described in s. 66.0903 (4), 2013 stats., or s. 103.49 (2m), 2013
16 stats., on a project of public works or while the employee was performing work on a
17 public utility project.

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

19 103.503 (1) (c) "Contracting agency" means a local governmental unit, as
20 defined in s. 66.0903 (1) (d), 2013 stats., or a state agency, as defined in s. 103.49 (1)
21 (f), 2013 stats., that has contracted for the performance of work on a project of public
22 works or a public utility that has contracted for the performance of work on a public
23 utility project.

24 **SECTION 12.** 103.503 (1) (e) of the statutes is amended to read:

BILL

1 103.503 (1) (e) “Employee” means a laborer, worker, mechanic, or truck driver
2 who performs the work described in s. 66.0903 (4), 2013 stats., or s. 103.49 (2m), 2013
3 stats., on a project of public works or on a public utility project.

4 **SECTION 13.** 103.503 (1) (g) of the statutes is amended to read:

5 103.503 (1) (g) “Project of public works” means a project of public works that
6 is would be subject to s. 66.0903, 2013 stats., or s. 103.49, 2013 stats., if the project
7 were erected, constructed, repaired, remodeled, or demolished prior to the effective
8 date of this paragraph ... [LRB inserts date].

9 **SECTION 14.** 103.503 (2) of the statutes is amended to read:

10 103.503 (2) SUBSTANCE ABUSE PROHIBITED. No employee may use, possess,
11 attempt to possess, distribute, deliver, or be under the influence of a drug, or use or
12 be under the influence of alcohol, while performing the work described in s. 66.0903
13 (4), 2013 stats., or 103.49 (2m), 2013 stats., on a project of public works or while
14 performing work on a public utility project. An employee is considered to be under
15 the influence of alcohol for purposes of this subsection if he or she has an alcohol
16 concentration that is equal to or greater than the amount specified in s. 885.235 (1g)
17 (d).

18 **SECTION 15.** 103.503 (3) (a) 2. of the statutes is amended to read:

19 103.503 (3) (a) 2. A requirement that employees performing the work described
20 in s. 66.0903 (4), 2013 stats., or s. 103.49 (2m), 2013 stats., on a project of public works
21 or performing work on a public utility project submit to random, reasonable
22 suspicion, and post-accident drug and alcohol testing and to drug and alcohol testing
23 before commencing work on the project, except that testing of an employee before
24 commencing work on a project is not required if the employee has been participating

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1 in a random testing program during the 90 days preceding the date on which the
2 employee commenced work on the project.

3 **SECTION 16.** 103.503 (5) of the statutes is amended to read:

4 103.503 (5) LOCAL ORDINANCES; STRICT CONFORMITY REQUIRED. A local
5 governmental unit, as defined in s. 66.0903 (1) (d), 2013 stats., may enact an
6 ordinance regulating the conduct regulated under this section only if the ordinance
7 strictly conforms to this section.

8 **SECTION 17.** 104.001 (3) (intro.) and (b) of the statutes are consolidated,
9 renumbered 104.001 (3) and amended to read:

10 104.001 (3) This section does not affect ~~any of the following: (b) An an~~
11 ordinance that requires an employee of a county, city, village, or town, an employee
12 who performs work under a contract for the provision of services to a county, city,
13 village, or town, or an employee who performs work that is funded by financial
14 assistance from a county, city, village, or town, to be paid at a minimum wage rate
15 specified in the ordinance.

16 **SECTION 18.** 104.001 (3) (a) of the statutes is repealed.

17 **SECTION 19.** 106.04 of the statutes is repealed.

18 **SECTION 20.** 109.09 (1) of the statutes is amended to read:

19 109.09 (1) The department shall investigate and attempt equitably to adjust
20 controversies between employers and employees as to alleged wage claims. The
21 department may receive and investigate any wage claim ~~which~~ that is filed with the
22 department, or received by the department under s. 109.10 (4), no later than 2 years
23 after the date the wages are due. The department may, after receiving a wage claim,
24 investigate any wages due from the employer against whom the claim is filed to any
25 employee during the period commencing 2 years before the date the claim is filed.

BILL

1 The department shall enforce this chapter and ss. ~~66.0903~~, 103.02, ~~103.49~~, 103.82,
2 and 104.12, ~~and 229.8275~~. In pursuance of this duty, the department may sue the
3 employer on behalf of the employee to collect any wage claim or wage deficiency and
4 ss. 109.03 (6) and 109.11 (2) and (3) shall apply to such actions. Except for actions
5 under s. 109.10, the department may refer such an action to the district attorney of
6 the county in which the violation occurs for prosecution and collection and the
7 district attorney shall commence an action in the circuit court having appropriate
8 jurisdiction. Any number of wage claims or wage deficiencies against the same
9 employer may be joined in a single proceeding, but the court may order separate
10 trials or hearings. In actions that are referred to a district attorney under this
11 subsection, any taxable costs recovered by the district attorney shall be paid into the
12 general fund of the county in which the violation occurs and used by that county to
13 meet its financial responsibility under s. 978.13 (2) (b) for the operation of the office
14 of the district attorney who prosecuted the action.

15 **SECTION 21.** 111.322 (2m) (a) of the statutes is amended to read:

16 111.322 (2m) (a) The individual files a complaint or attempts to enforce any
17 right under s. 103.02, 103.10, 103.13, 103.28, 103.32, 103.34, 103.455, ~~103.50~~,
18 104.12, 109.03, 109.07, 109.075, 146.997, or 995.55, or ss. 101.58 to 101.599 or 103.64
19 to 103.82.

20 **SECTION 22.** 111.322 (2m) (b) of the statutes is amended to read:

21 111.322 (2m) (b) The individual testifies or assists in any action or proceeding
22 held under or to enforce any right under s. 103.02, 103.10, 103.13, 103.28, 103.32,
23 103.34, 103.455, ~~103.50~~, 104.12, 109.03, 109.07, 109.075, 146.997, or 995.55, or ss.
24 101.58 to 101.599 or 103.64 to 103.82.

25 **SECTION 23.** 111.322 (2m) (c) of the statutes is repealed.

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1 **SECTION 24.** 111.322 (2m) (d) of the statutes is amended to read:

2 111.322 **(2m)** (d) The individual's employer believes that the individual
3 engaged or may engage in any activity described in pars. (a) to ~~(e)~~ **(bm)**.

4 **SECTION 25.** 227.01 (13) (t) of the statutes is repealed.

5 **SECTION 26.** 229.682 (2) of the statutes is repealed.

6 **SECTION 27.** 229.8275 of the statutes is repealed.

7 **SECTION 28.** 230.13 (1) (intro.) of the statutes is amended to read:

8 230.13 (1) (intro.) Except as provided in sub. (3) and ss. 19.36 (10) ~~to (12)~~ and
9 (11) and 103.13, the director and the administrator may keep records of the following
10 personnel matters closed to the public:

11 **SECTION 29.** 233.13 (intro.) of the statutes is amended to read:

12 **233.13 Closed records.** (intro.) Except as provided in ss. 19.36 (10) ~~to (12)~~
13 and (11) and 103.13, the authority may keep records of the following personnel
14 matters closed to the public:

15 **SECTION 30.** 946.15 of the statutes is repealed.

16 **SECTION 31.** 978.05 (6) (a) of the statutes is amended to read:

17 978.05 **(6)** (a) Institute, commence or appear in all civil actions or special
18 proceedings under and perform the duties set forth for the district attorney under ch.
19 980 and ss. 17.14, 30.03 (2), 48.09 (5), 59.55 (1), 59.64 (1), 70.36, ~~103.50 (8)~~, 103.92
20 (4), 109.09, 343.305 (9) (a), 453.08, 806.05, 938.09, 938.18, 938.355 (6) (b) and (6g) (a),
21 946.86, 946.87, 961.55 (5), 971.14, and 973.075 to 973.077, perform any duties in
22 connection with court proceedings in a court assigned to exercise jurisdiction under
23 chs. 48 and 938 as the judge may request and perform all appropriate duties and
24 appear if the district attorney is designated in specific statutes, including matters
25 within chs. 782, 976 and 979 and ss. 51.81 to 51.85. Nothing in this paragraph limits

BILL

1 the authority of the county board to designate, under s. 48.09 (5), that the corporation
2 counsel provide representation as specified in s. 48.09 (5) or to designate, under s.
3 48.09 (6) or 938.09 (6), the district attorney as an appropriate person to represent the
4 interests of the public under s. 48.14 or 938.14.

SECTION 32. Initial applicability.

6 (1) ELIMINATION OF PREVAILING WAGE LAW. This act first applies, with respect to
7 a project of public works that is subject to bidding, to a project for which the request
8 for bids is issued on the effective date of this subsection and, with respect to a project
9 of public works that is not subject to bidding, to a project the contract for which is
10 entered into on the effective date of this subsection.

SECTION 33. Effective date.

12 (1) ELIMINATION OF PREVAILING WAGE LAW. This act takes effect on the January
13 1 after publication.

14 (END)



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-1561/1
MED&GMM:wlj:rs

2015 BILL

1 **AN ACT to repeal** 19.36 (12), 66.0903, 84.41 (3), 103.49, 103.50, 104.001 (3) (a),
2 106.04, 111.322 (2m) (c), 227.01 (13) (t), 229.682 (2), 229.8275 and 946.15; **to**
3 **consolidate, renumber and amend** 104.001 (3) (intro.) and (b); and **to**
4 **amend** 19.36 (3), 59.20 (3) (a), 66.0129 (5), 103.005 (12) (a), 103.503 (1) (a),
5 103.503 (1) (c), 103.503 (1) (e), 103.503 (1) (g), 103.503 (2), 103.503 (3) (a) 2.,
6 103.503 (5), 109.09 (1), 111.322 (2m) (a), 111.322 (2m) (b), 111.322 (2m) (d),
7 230.13 (1) (intro.), 233.13 (intro.) and 978.05 (6) (a) of the statutes; **relating to:**
8 elimination of the requirement that laborers, workers, mechanics, and truck
9 drivers employed on the site of a project of public works be paid the prevailing
10 wage.

Analysis by the Legislative Reference Bureau

Generally, under the current prevailing wage laws, laborers, workers, mechanics, and truck drivers employed on the site of certain projects of public works 1) must be paid at the rate paid for a majority of the hours worked in the person's trade or occupation in the area in which the project is located, as determined by the Department of Workforce Development; and 2) may not be required or permitted to

BILL

work a greater number of hours per day and per week than the prevailing hours of labor, which is no more than 10 hours per day and 40 hours per week, unless they are paid 1.5 times their basic rate of pay (commonly referred to as overtime pay) for all hours worked in excess of the prevailing hours of labor. The prevailing wage laws include three separate laws: one that applies to certain projects of public works to which the state or any state agency is a party (state prevailing wage law), one that applies to certain projects of public works undertaken by local governments (local prevailing wage law), and one that applies to projects under a contract based on bids to which the state is a party for the construction or improvement of highways (highway prevailing wage law). Projects to which the prevailing wage laws do not apply include: 1) single-trade projects of public works for which the estimated project cost of completion is less than \$48,000; 2) multiple-trade projects of public works for which the estimated project cost of completion is less than \$100,000; and 3) with respect to the local prevailing wage law, multiple-trade projects of public works erected, constructed, repaired, remodeled, or demolished by a private contractor for a city or village having a population of less than 2,500 or for a town for which the estimated project cost of completion is less than \$234,000. Also under current law, no local government may enact or administer a prevailing wage law ordinance or any similar ordinance.

This bill eliminates the state prevailing wage law, the local prevailing wage law, and the highway prevailing wage law, as well as the prohibition against local governments enacting or administering their own prevailing wage laws or similar ordinances.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 19.36 (3) of the statutes is amended to read:

2 19.36 (3) CONTRACTORS' RECORDS. ~~Subject to sub. (12), each~~ Each authority shall
3 make available for inspection and copying under s. 19.35 (1) any record produced or
4 collected under a contract entered into by the authority with a person other than an
5 authority to the same extent as if the record were maintained by the authority. This
6 subsection does not apply to the inspection or copying of a record under s. 19.35 (1)
7 (am).

8 **SECTION 2.** 19.36 (12) of the statutes is repealed.

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1 **SECTION 3.** 59.20 (3) (a) of the statutes is amended to read:

2 59.20 (3) (a) Every sheriff, clerk of the circuit court, register of deeds, treasurer,
3 comptroller, register of probate, clerk, and county surveyor shall keep his or her office
4 at the county seat in the offices provided by the county or by special provision of law;
5 or if there is none, then at such place as the board directs. The board may also require
6 any elective or appointive county official to keep his or her office at the county seat
7 in an office to be provided by the county. All such officers shall keep their offices open
8 during the usual business hours of any day except Sunday, as the board directs. With
9 proper care, the officers shall open to the examination of any person all books and
10 papers required to be kept in his or her office and permit any person so examining
11 to take notes and copies of such books, records, papers, or minutes therefrom except
12 as authorized in par. (c) and ss. 19.36 (10) ~~to (12)~~ and (11) and 19.59 (3) (d) or under
13 ch. 69.

14 **SECTION 4.** 66.0129 (5) of the statutes is amended to read:

15 66.0129 (5) BIDS FOR CONSTRUCTION. The nonprofit corporation shall let all
16 contracts exceeding \$1,000 for the construction, maintenance or repair of hospital
17 facilities to the lowest responsible bidder after advertising for bids by the publication
18 of a class 2 notice under ch. 985. ~~Sections Section 66.0901 and 66.0903 apply~~ applies
19 to bids and contracts under this subsection.

20 **SECTION 5.** 66.0903 of the statutes is repealed.

21 **SECTION 6.** 84.41 (3) of the statutes is repealed.

22 **SECTION 7.** 103.005 (12) (a) of the statutes is amended to read:

23 103.005 (12) (a) If any employer, employee, owner, or other person violates chs.
24 103 to 106, or fails or refuses to perform any duty required under chs. 103 to 106,
25 within the time prescribed by the department, for which no penalty has been

BILL

1 specifically provided, or fails, neglects, or refuses to obey any lawful order given or
2 made by the department or any judgment or decree made by any court in connection
3 with chs. 103 to 106, for each such violation, failure, or refusal, the employer,
4 employee, owner, or other person shall forfeit not less than \$10 nor more than \$100
5 for each offense. ~~This paragraph does not apply to any person who fails to provide~~
6 ~~any information to the department to assist the department in determining~~
7 ~~prevailing wage rates or prevailing hours of labor under s. 103.49 (3) (a) or (am) or~~
8 ~~103.50 (3) or (4).~~

9 **SECTION 8.** 103.49 of the statutes is repealed.

10 **SECTION 9.** 103.50 of the statutes is repealed.

11 **SECTION 10.** 103.503 (1) (a) of the statutes is amended to read:

12 103.503 (1) (a) "Accident" means an incident caused, contributed to, or
13 otherwise involving an employee that resulted or could have resulted in death,
14 personal injury, or property damage and that occurred while the employee was
15 performing the work described in s. 66.0903 (4), 2013 stats., or s. 103.49 (2m), 2013
16 stats., on a project of public works or while the employee was performing work on a
17 public utility project.

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

19 103.503 (1) (c) "Contracting agency" means a local governmental unit, as
20 defined in s. 66.0903 (1) (d), 2013 stats., or a state agency, as defined in s. 103.49 (1)
21 (f), 2013 stats., that has contracted for the performance of work on a project of public
22 works or a public utility that has contracted for the performance of work on a public
23 utility project.

24 **SECTION 12.** 103.503 (1) (e) of the statutes is amended to read:

BILL

1 103.503 (1) (e) “Employee” means a laborer, worker, mechanic, or truck driver
2 who performs the work described in s. 66.0903 (4), 2013 stats., or s. 103.49 (2m), 2013
3 stats., on a project of public works or on a public utility project.

4 **SECTION 13.** 103.503 (1) (g) of the statutes is amended to read:

5 103.503 (1) (g) “Project of public works” means a project of public works that
6 is would be subject to s. 66.0903, 2013 stats., or s. 103.49, 2013 stats., if the project
7 were erected, constructed, repaired, remodeled, or demolished prior to the effective
8 date of this paragraph ... [LRB inserts date].

9 **SECTION 14.** 103.503 (2) of the statutes is amended to read:

10 103.503 (2) SUBSTANCE ABUSE PROHIBITED. No employee may use, possess,
11 attempt to possess, distribute, deliver, or be under the influence of a drug, or use or
12 be under the influence of alcohol, while performing the work described in s. 66.0903
13 (4), 2013 stats., or 103.49 (2m), 2013 stats., on a project of public works or while
14 performing work on a public utility project. An employee is considered to be under
15 the influence of alcohol for purposes of this subsection if he or she has an alcohol
16 concentration that is equal to or greater than the amount specified in s. 885.235 (1g)
17 (d).

18 **SECTION 15.** 103.503 (3) (a) 2. of the statutes is amended to read:

19 103.503 (3) (a) 2. A requirement that employees performing the work described
20 in s. 66.0903 (4), 2013 stats., or s. 103.49 (2m), 2013 stats., on a project of public works
21 or performing work on a public utility project submit to random, reasonable
22 suspicion, and post-accident drug and alcohol testing and to drug and alcohol testing
23 before commencing work on the project, except that testing of an employee before
24 commencing work on a project is not required if the employee has been participating

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1 in a random testing program during the 90 days preceding the date on which the
2 employee commenced work on the project.

3 **SECTION 16.** 103.503 (5) of the statutes is amended to read:

4 103.503 (5) LOCAL ORDINANCES; STRICT CONFORMITY REQUIRED. A local
5 governmental unit, as defined in s. 66.0903 (1) (d), 2013 stats., may enact an
6 ordinance regulating the conduct regulated under this section only if the ordinance
7 strictly conforms to this section.

8 **SECTION 17.** 104.001 (3) (intro.) and (b) of the statutes are consolidated,
9 renumbered 104.001 (3) and amended to read:

10 104.001 (3) This section does not affect ~~any of the following: (b) An an~~
11 ordinance that requires an employee of a county, city, village, or town, an employee
12 who performs work under a contract for the provision of services to a county, city,
13 village, or town, or an employee who performs work that is funded by financial
14 assistance from a county, city, village, or town, to be paid at a minimum wage rate
15 specified in the ordinance.

16 **SECTION 18.** 104.001 (3) (a) of the statutes is repealed.

17 **SECTION 19.** 106.04 of the statutes is repealed.

18 **SECTION 20.** 109.09 (1) of the statutes is amended to read:

19 109.09 (1) The department shall investigate and attempt equitably to adjust
20 controversies between employers and employees as to alleged wage claims. The
21 department may receive and investigate any wage claim ~~which~~ that is filed with the
22 department, or received by the department under s. 109.10 (4), no later than 2 years
23 after the date the wages are due. The department may, after receiving a wage claim,
24 investigate any wages due from the employer against whom the claim is filed to any
25 employee during the period commencing 2 years before the date the claim is filed.

BILL

1 The department shall enforce this chapter and ss. ~~66.0903~~, 103.02, ~~103.49~~, 103.82,
2 and 104.12, ~~and 229.8275~~. In pursuance of this duty, the department may sue the
3 employer on behalf of the employee to collect any wage claim or wage deficiency and
4 ss. 109.03 (6) and 109.11 (2) and (3) shall apply to such actions. Except for actions
5 under s. 109.10, the department may refer such an action to the district attorney of
6 the county in which the violation occurs for prosecution and collection and the
7 district attorney shall commence an action in the circuit court having appropriate
8 jurisdiction. Any number of wage claims or wage deficiencies against the same
9 employer may be joined in a single proceeding, but the court may order separate
10 trials or hearings. In actions that are referred to a district attorney under this
11 subsection, any taxable costs recovered by the district attorney shall be paid into the
12 general fund of the county in which the violation occurs and used by that county to
13 meet its financial responsibility under s. 978.13 (2) (b) for the operation of the office
14 of the district attorney who prosecuted the action.

15 **SECTION 21.** 111.322 (2m) (a) of the statutes is amended to read:

16 111.322 (2m) (a) The individual files a complaint or attempts to enforce any
17 right under s. 103.02, 103.10, 103.13, 103.28, 103.32, 103.34, 103.455, ~~103.50~~,
18 104.12, 109.03, 109.07, 109.075, 146.997, or 995.55, or ss. 101.58 to 101.599 or 103.64
19 to 103.82.

20 **SECTION 22.** 111.322 (2m) (b) of the statutes is amended to read:

21 111.322 (2m) (b) The individual testifies or assists in any action or proceeding
22 held under or to enforce any right under s. 103.02, 103.10, 103.13, 103.28, 103.32,
23 103.34, 103.455, ~~103.50~~, 104.12, 109.03, 109.07, 109.075, 146.997, or 995.55, or ss.
24 101.58 to 101.599 or 103.64 to 103.82.

25 **SECTION 23.** 111.322 (2m) (c) of the statutes is repealed.

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1 **SECTION 24.** 111.322 (2m) (d) of the statutes is amended to read:

2 111.322 (2m) (d) The individual's employer believes that the individual
3 engaged or may engage in any activity described in pars. (a) to ~~(e)~~ (bm).

4 **SECTION 25.** 227.01 (13) (t) of the statutes is repealed.

5 **SECTION 26.** 229.682 (2) of the statutes is repealed.

6 **SECTION 27.** 229.8275 of the statutes is repealed.

7 **SECTION 28.** 230.13 (1) (intro.) of the statutes is amended to read:

8 230.13 (1) (intro.) Except as provided in sub. (3) and ss. 19.36 (10) ~~to (12)~~ and
9 (11) and 103.13, the director and the administrator may keep records of the following
10 personnel matters closed to the public:

11 **SECTION 29.** 233.13 (intro.) of the statutes is amended to read:

12 **233.13 Closed records.** (intro.) Except as provided in ss. 19.36 (10) ~~to (12)~~
13 and (11) and 103.13, the authority may keep records of the following personnel
14 matters closed to the public:

15 **SECTION 30.** 946.15 of the statutes is repealed.

16 **SECTION 31.** 978.05 (6) (a) of the statutes is amended to read:

17 978.05 (6) (a) Institute, commence or appear in all civil actions or special
18 proceedings under and perform the duties set forth for the district attorney under ch.
19 980 and ss. 17.14, 30.03 (2), 48.09 (5), 59.55 (1), 59.64 (1), 70.36, ~~103.50 (8)~~, 103.92
20 (4), 109.09, 343.305 (9) (a), 453.08, 806.05, 938.09, 938.18, 938.355 (6) (b) and (6g) (a),
21 946.86, 946.87, 961.55 (5), 971.14, and 973.075 to 973.077, perform any duties in
22 connection with court proceedings in a court assigned to exercise jurisdiction under
23 chs. 48 and 938 as the judge may request and perform all appropriate duties and
24 appear if the district attorney is designated in specific statutes, including matters
25 within chs. 782, 976 and 979 and ss. 51.81 to 51.85. Nothing in this paragraph limits

BILL

1 the authority of the county board to designate, under s. 48.09 (5), that the corporation
2 counsel provide representation as specified in s. 48.09 (5) or to designate, under s.
3 48.09 (6) or 938.09 (6), the district attorney as an appropriate person to represent the
4 interests of the public under s. 48.14 or 938.14.

SECTION 32. Initial applicability.

6 (1) ELIMINATION OF PREVAILING WAGE LAW. This act first applies, with respect to
7 a project of public works that is subject to bidding, to a project for which the request
8 for bids is issued on the effective date of this subsection and, with respect to a project
9 of public works that is not subject to bidding, to a project the contract for which is
10 entered into on the effective date of this subsection.

SECTION 33. Effective date.

12 (1) ELIMINATION OF PREVAILING WAGE LAW. This act takes effect on the January
13 1 after publication.

14 (END)



MONDAY 2/9
State of Wisconsin
2015 - 2016 LEGISLATURE

From - 069813

In 2-6
Out 2-9

1561/2
LRB-069813
MED&GMM:wj:rs
stays

2015 BILL

CA

No changes

Coer Cat

1 AN ACT *to repeal* 19.36 (12), 66.0903 (1) (a), (am), (b), (cm), (dr), (em), (hm) and
2 (im), 66.0903 (1m) (a) 1. to 3., 66.0903 (2) to (12), 84.41 (3), 103.49, 103.50,
3 104.001 (3) (a), 106.04, 111.322 (2m) (c), 227.01 (13) (t), 229.682 (2), 229.8275
4 and 946.15; *to renumber and amend* 66.0903 (1m) (a) (intro.); *to*
5 *consolidate, renumber and amend* 104.001 (3) (intro.) and (b); *to amend*
6 19.36 (3), 59.20 (3) (a), 66.0129 (5), 66.0903 (1) (c), 66.0903 (1) (f), 66.0903 (1)
7 (j), 66.0903 (1m) (b), 103.005 (12) (a), 103.503 (1) (a), 103.503 (1) (c), 103.503 (1)
8 (e), 103.503 (1) (g), 103.503 (2), 103.503 (3) (a) 2., 109.09 (1), 111.322 (2m) (a),
9 111.322 (2m) (b), 111.322 (2m) (d), 230.13 (1) (intro.), 233.13 (intro.) and 978.05
10 (6) (a); and *to repeal and recreate* 66.0903 (title) and 66.0903 (1) (g) of the
11 statutes; **relating to:** elimination of the requirement that laborers, workers,

BILL

1 mechanics, and truck drivers employed on the site of a project of public works
2 be paid the prevailing wage.

Analysis by the Legislative Reference Bureau

Generally, under the current prevailing wage laws, laborers, workers, mechanics, and truck drivers employed on the site of certain projects of public works 1) must be paid at the rate paid for a majority of the hours worked in the person's trade or occupation in the area in which the project is located, as determined by the Department of Workforce Development; and 2) may not be required or permitted to work a greater number of hours per day and per week than the prevailing hours of labor, which is no more than 10 hours per day and 40 hours per week, unless they are paid 1.5 times their basic rate of pay (commonly referred to as overtime pay) for all hours worked in excess of the prevailing hours of labor. The prevailing wage laws include three separate laws: one that applies to certain projects of public works to which the state or any state agency is a party (state prevailing wage law), one that applies to certain projects of public works undertaken by local governments (local prevailing wage law), and one that applies to projects under a contract based on bids to which the state is a party for the construction or improvement of highways (highway prevailing wage law). Projects to which the prevailing wage laws do not apply include: 1) single-trade projects of public works for which the estimated project cost of completion is less than \$48,000; 2) multiple-trade projects of public works for which the estimated project cost of completion is less than \$100,000; and 3) with respect to the local prevailing wage law, multiple-trade projects of public works erected, constructed, repaired, remodeled, or demolished by a private contractor for a city or village having a population of less than 2,500 or for a town for which the estimated project cost of completion is less than \$234,000. Also under current law, no local government may enact or administer a prevailing wage law ordinance or any similar ordinance.

This bill eliminates the state prevailing wage law, the local prevailing wage law, and the highway prevailing wage law but retains the prohibition against local governments enacting or administrating their own prevailing wage laws or similar ordinances.

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:

3 **SECTION 1.** 19.36 (3) of the statutes is amended to read:

BILL

1 19.36 (3) CONTRACTORS' RECORDS. ~~Subject to sub. (12), each~~ Each authority shall
2 make available for inspection and copying under s. 19.35 (1) any record produced or
3 collected under a contract entered into by the authority with a person other than an
4 authority to the same extent as if the record were maintained by the authority. This
5 subsection does not apply to the inspection or copying of a record under s. 19.35 (1)
6 (am).

7 **SECTION 2.** 19.36 (12) of the statutes is repealed.

8 **SECTION 3.** 59.20 (3) (a) of the statutes is amended to read:

9 59.20 (3) (a) Every sheriff, clerk of the circuit court, register of deeds, treasurer,
10 comptroller, register of probate, clerk, and county surveyor shall keep his or her office
11 at the county seat in the offices provided by the county or by special provision of law;
12 or if there is none, then at such place as the board directs. The board may also require
13 any elective or appointive county official to keep his or her office at the county seat
14 in an office to be provided by the county. All such officers shall keep their offices open
15 during the usual business hours of any day except Sunday, as the board directs. With
16 proper care, the officers shall open to the examination of any person all books and
17 papers required to be kept in his or her office and permit any person so examining
18 to take notes and copies of such books, records, papers, or minutes therefrom except
19 as authorized in par. (c) and ss. 19.36 (10) ~~to (12)~~ and (11) and 19.59 (3) (d) or under
20 ch. 69.

21 **SECTION 4.** 66.0129 (5) of the statutes is amended to read:

22 66.0129 (5) BIDS FOR CONSTRUCTION. The nonprofit corporation shall let all
23 contracts exceeding \$1,000 for the construction, maintenance or repair of hospital
24 facilities to the lowest responsible bidder after advertising for bids by the publication

BILL**SECTION 4**

1 of a class 2 notice under ch. 985. ~~Sections Section 66.0901 and 66.0903 apply~~ applies
2 to bids and contracts under this subsection.

3 **SECTION 5.** 66.0903 (title) of the statutes is repealed and recreated to read:

4 **66.0903 (title) Prevailing wage.**

5 **SECTION 6.** 66.0903 (1) (a), (am), (b), (cm), (dr), (em), (hm) and (im) of the
6 statutes are repealed.

7 **SECTION 7.** 66.0903 (1) (c) of the statutes is amended to read:

8 66.0903 (1) (c) “Hourly basic rate of pay” has the meaning given in s. 103.49
9 (1) (b), 2013 stats.

10 **SECTION 8.** 66.0903 (1) (f) of the statutes is amended to read:

11 66.0903 (1) (f) “Prevailing hours of labor” has the meaning given in s. 103.49
12 (1) (c), 2013 stats.

13 **SECTION 9.** 66.0903 (1) (g) of the statutes is repealed and recreated to read:

14 66.0903 (1) (g) “Prevailing wage rate” has the meaning given in s. 66.0903 (1)
15 (g), 2013 stats.

16 **SECTION 10.** 66.0903 (1) (j) of the statutes is amended to read:

17 66.0903 (1) (j) “Truck driver” has the meaning given in s. 103.49 (1) (g), 2013
18 stats.

19 **SECTION 11.** 66.0903 (1m) (a) (intro.) of the statutes is renumbered 66.0903 (1)
20 (h) and amended to read:

21 66.0903 (1) (h) ~~In this subsection, “publicly~~ Publicly funded private
22 construction project” means a construction project in which the developer, investor,
23 or owner of the project receives direct financial assistance from a local governmental
24 unit for the erection, construction, repair, remodeling, demolition, including any
25 alteration, painting, decorating, or grading, of a private facility, including land, a

BILL

1 building, or other infrastructure. “Publicly funded private construction project” does
2 not include a project of public works ~~or a housing project involving the erection,~~
3 ~~construction, repair, remodeling, or demolition of any of the following.~~

4 **SECTION 12.** 66.0903 (1m) (a) 1. to 3. of the statutes are repealed.

5 **SECTION 13.** 66.0903 (1m) (b) of the statutes is amended to read:

6 66.0903 (1m) (b) The legislature finds that the enactment of ordinances or
7 other enactments by local governmental units requiring laborers, workers,
8 mechanics, and truck drivers employed on projects of public works or on publicly
9 funded private construction projects to be paid the prevailing wage rate and to be
10 paid at least 1.5 times their hourly basic rate of pay for hours worked in excess of the
11 prevailing hours of labor would be logically inconsistent with, would defeat the
12 purpose of, and would go against the ~~spirit of this section and the repeal~~ repeals of
13 s. 66.0904, 2009 stats, and s. 66.0903 (2) to (12), 2013 stats. Therefore, this section
14 shall be construed as an enactment of statewide concern for the ~~purpose of providing~~
15 ~~uniform prevailing wage rate and prevailing hours of labor requirements throughout~~
16 the state purposes of facilitating broader participation with respect to bidding on
17 projects of public works, ensuring that wages accurately reflect market conditions,
18 providing local governments with the flexibility to reduce costs on capital projects,
19 and reducing spending at all levels of government in this state.

20 **SECTION 14.** 66.0903 (2) to (12) of the statutes are repealed.

21 **SECTION 15.** 84.41 (3) of the statutes is repealed.

22 **SECTION 16.** 103.005 (12) (a) of the statutes is amended to read:

23 103.005 (12) (a) If any employer, employee, owner, or other person violates chs.
24 103 to 106, or fails or refuses to perform any duty required under chs. 103 to 106,
25 within the time prescribed by the department, for which no penalty has been

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1 specifically provided, or fails, neglects, or refuses to obey any lawful order given or
2 made by the department or any judgment or decree made by any court in connection
3 with chs. 103 to 106, for each such violation, failure, or refusal, the employer,
4 employee, owner, or other person shall forfeit not less than \$10 nor more than \$100
5 for each offense. ~~This paragraph does not apply to any person who fails to provide~~
6 ~~any information to the department to assist the department in determining~~
7 ~~prevailing wage rates or prevailing hours of labor under s. 103.49 (3) (a) or (am) or~~
8 ~~103.50 (3) or (4).~~

9 **SECTION 17.** 103.49 of the statutes is repealed.

10 **SECTION 18.** 103.50 of the statutes is repealed.

11 **SECTION 19.** 103.503 (1) (a) of the statutes is amended to read:

12 103.503 (1) (a) "Accident" means an incident caused, contributed to, or
13 otherwise involving an employee that resulted or could have resulted in death,
14 personal injury, or property damage and that occurred while the employee was
15 performing the work described in s. 66.0903 (4), 2013 stats., or s. 103.49 (2m), 2013
16 stats., on a project of public works or while the employee was performing work on a
17 public utility project.

18 **SECTION 20.** 103.503 (1) (c) of the statutes is amended to read:

19 103.503 (1) (c) "Contracting agency" means a local governmental unit, as
20 defined in s. 66.0903 (1) (d), or a state agency, as defined in s. 103.49 (1) (f), 2013
21 stats., that has contracted for the performance of work on a project of public works
22 or a public utility that has contracted for the performance of work on a public utility
23 project.

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

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1 103.503 (1) (e) "Employee" means a laborer, worker, mechanic, or truck driver
2 who performs the work described in s. 66.0903 (4), 2013 stats., or s. 103.49 (2m), 2013
3 stats., on a project of public works or on a public utility project.

4 **SECTION 22.** 103.503 (1) (g) of the statutes is amended to read:

5 103.503 (1) (g) "Project of public works" means a project of public works that
6 is would be subject to s. 66.0903, 2013 stats., or s. 103.49, 2013 stats., if the project
7 were erected, constructed, repaired, remodeled, or demolished prior to the effective
8 date of this paragraph [LRB inserts date].

9 **SECTION 23.** 103.503 (2) of the statutes is amended to read:

10 103.503 (2) SUBSTANCE ABUSE PROHIBITED. No employee may use, possess,
11 attempt to possess, distribute, deliver, or be under the influence of a drug, or use or
12 be under the influence of alcohol, while performing the work described in s. 66.0903
13 (4), 2013 stats., or 103.49 (2m), 2013 stats., on a project of public works or while
14 performing work on a public utility project. An employee is considered to be under
15 the influence of alcohol for purposes of this subsection if he or she has an alcohol
16 concentration that is equal to or greater than the amount specified in s. 885.235 (1g)
17 (d).

18 **SECTION 24.** 103.503 (3) (a) 2. of the statutes is amended to read:

19 103.503 (3) (a) 2. A requirement that employees performing the work described
20 in s. 66.0903 (4), 2013 stats., or s. 103.49 (2m), 2013 stats., on a project of public works
21 or performing work on a public utility project submit to random, reasonable
22 suspicion, and post-accident drug and alcohol testing and to drug and alcohol testing
23 before commencing work on the project, except that testing of an employee before
24 commencing work on a project is not required if the employee has been participating

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1 in a random testing program during the 90 days preceding the date on which the
2 employee commenced work on the project.

3 **SECTION 25.** 104.001 (3) (intro.) and (b) of the statutes are consolidated,
4 renumbered 104.001 (3) and amended to read:

5 104.001 (3) This section does not affect any of the following: (b) ~~An an~~
6 ordinance that, subject to s. 66.0903, requires an employee of a county, city, village,
7 or town, an employee who performs work under a contract for the provision of
8 services to a county, city, village, or town, or an employee who performs work that is
9 funded by financial assistance from a county, city, village, or town, to be paid at a
10 minimum wage rate specified in the ordinance.

11 **SECTION 26.** 104.001 (3) (a) of the statutes is repealed.

12 **SECTION 27.** 106.04 of the statutes is repealed.

13 **SECTION 28.** 109.09 (1) of the statutes is amended to read:

14 109.09 (1) The department shall investigate and attempt equitably to adjust
15 controversies between employers and employees as to alleged wage claims. The
16 department may receive and investigate any wage claim ~~which~~ that is filed with the
17 department, or received by the department under s. 109.10 (4), no later than 2 years
18 after the date the wages are due. The department may, after receiving a wage claim,
19 investigate any wages due from the employer against whom the claim is filed to any
20 employee during the period commencing 2 years before the date the claim is filed.
21 The department shall enforce this chapter and ss. ~~66.0903~~, 103.02, ~~103.49~~, 103.82,
22 and 104.12, ~~and 229.8275~~. In pursuance of this duty, the department may sue the
23 employer on behalf of the employee to collect any wage claim or wage deficiency and
24 ss. 109.03 (6) and 109.11 (2) and (3) shall apply to such actions. Except for actions
25 under s. 109.10, the department may refer such an action to the district attorney of

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

10 **SECTION 29.** 111.322 (2m) (a) of the statutes is amended to read:

11 111.322 (2m) (a) The individual files a complaint or attempts to enforce any
12 right under s. 103.02, 103.10, 103.13, 103.28, 103.32, 103.34, 103.455, 103.50,
13 104.12, 109.03, 109.07, 109.075, 146.997, or 995.55, or ss. 101.58 to 101.599 or 103.64
14 to 103.82.

15 **SECTION 30.** 111.322 (2m) (b) of the statutes is amended to read:

16 111.322 (2m) (b) The individual testifies or assists in any action or proceeding
17 held under or to enforce any right under s. 103.02, 103.10, 103.13, 103.28, 103.32,
18 103.34, 103.455, ~~103.50~~, 104.12, 109.03, 109.07, 109.075, 146.997, or 995.55, or ss.
19 101.58 to 101.599 or 103.64 to 103.82.

20 **SECTION 31.** 111.322 (2m) (c) of the statutes is repealed.

21 **SECTION 32.** 111.322 (2m) (d) of the statutes is amended to read:

22 111.322 (2m) (d) The individual's employer believes that the individual
23 engaged or may engage in any activity described in pars. (a) to (e) (bm).

24 **SECTION 33.** 227.01 (13) (t) of the statutes is repealed.

25 **SECTION 34.** 229.682 (2) of the statutes is repealed.

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1 **SECTION 35.** 229.8275 of the statutes is repealed.

2 **SECTION 36.** 230.13 (1) (intro.) of the statutes is amended to read:

3 230.13 (1) (intro.) Except as provided in sub. (3) and ss. 19.36 (10) ~~to (12)~~ and
4 (11) and 103.13, the director and the administrator may keep records of the following
5 personnel matters closed to the public:

6 **SECTION 37.** 233.13 (intro.) of the statutes is amended to read:

7 **233.13 Closed records.** (intro.) Except as provided in ss. 19.36 (10) ~~to (12)~~
8 and (11) and 103.13, the authority may keep records of the following personnel
9 matters closed to the public:

10 **SECTION 38.** 946.15 of the statutes is repealed.

11 **SECTION 39.** 978.05 (6) (a) of the statutes is amended to read:

12 978.05 (6) (a) Institute, commence or appear in all civil actions or special
13 proceedings under and perform the duties set forth for the district attorney under ch.
14 980 and ss. 17.14, 30.03 (2), 48.09 (5), 59.55 (1), 59.64 (1), 70.36, ~~103.50 (8)~~, 103.92
15 (4), 109.09, 343.305 (9) (a), 453.08, 806.05, 938.09, 938.18, 938.355 (6) (b) and (6g) (a),
16 946.86, 946.87, 961.55 (5), 971.14, and 973.075 to 973.077, perform any duties in
17 connection with court proceedings in a court assigned to exercise jurisdiction under
18 chs. 48 and 938 as the judge may request and perform all appropriate duties and
19 appear if the district attorney is designated in specific statutes, including matters
20 within chs. 782, 976 and 979 and ss. 51.81 to 51.85. Nothing in this paragraph limits
21 the authority of the county board to designate, under s. 48.09 (5), that the corporation
22 counsel provide representation as specified in s. 48.09 (5) or to designate, under s.
23 48.09 (6) or 938.09 (6), the district attorney as an appropriate person to represent the
24 interests of the public under s. 48.14 or 938.14.

25 **SECTION 40. Initial applicability.**

Basford, Sarah

From: Fuller, Lucas
Sent: Thursday, February 19, 2015 2:55 PM
To: LRB.Legal
Subject: Draft Review: LRB -1561/2 Topic: Prevailing wage requirement for state and local public works and highway projects; repeal of

Please Jacket LRB -1561/2 for the SENATE.