



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-0950/P2
MIM:kjf

DOA:.....Kirschbaum, BB0119 - Prevailing wage

FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** the budget.

Analysis by the Legislative Reference Bureau

EMPLOYMENT

PREVAILING WAGE

1. Current law

Current law provides that laborers, workers, mechanics, and truck drivers employed on the site of certain state projects of public works 1) must be paid the prevailing wage rate; and 2) may not be required or allowed 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. Current law defines "prevailing wage rate" as the applicable prevailing wage rate determined by the U.S. Department of Labor under the federal Davis-Bacon Act. Current law provides for the enforcement and administration of the prevailing wage law by DOT for street or highway projects and by DOA for other projects.

2. Determination of prevailing wage rate; enforcement and administration of prevailing wage law

The bill creates a new definition for "prevailing wage rate" to replace the current definition. Under the bill, "prevailing wage rate" is defined as the hourly basic rate of pay, plus the hourly contribution for bona fide economic benefits, paid

for a majority of the hours worked in a trade or occupation in the area in which the project is located, except that, if there is no rate at which a majority of those hours is paid, "prevailing wage rate" means the average hourly basic rate of pay, plus the average hourly contribution for bona fide economic benefits, paid for the highest-paid 51 percent of hours worked in a trade or occupation in the area. The bill requires DWD to conduct investigations and hold public hearings as necessary to define the trades or occupations that are commonly employed on projects that are subject to the prevailing wage law and to inform itself of the prevailing wage rates in all areas of the state for those trades or occupations, in order to determine the prevailing wage rate for each trade or occupation. The bill contains certain other provisions regarding the calculation of prevailing wage rates by DWD, including provisions allowing persons to request recalculations or reviews of the prevailing wage rates determined by DWD. The bill also establishes a requirement that state agencies post prevailing wage rates and hours of labor on the sites of state projects other than street or highway projects.

3. Applicability of the prevailing wage law to local projects

This bill requires that laborers, workers, mechanics, and truck drivers employed on the site of certain local projects of public works be paid the prevailing wage and not be required or allowed to work a greater number of hours per day and per week than the prevailing hours of labor unless they are paid overtime for all hours worked in excess of the prevailing hours of labor.

4. Remedies for a violation of the prevailing wage law

The bill makes a contractor that fails to pay the prevailing wage rate or overtime pay to an employee as required under the prevailing wage law liable to the affected employee for not only the amount of unpaid wages and overtime pay, but also for liquidated damages in an amount equal to 100 percent of the unpaid wages and overtime pay.

5. Other changes

Current law allows an investigation to be conducted to determine compliance with the prevailing wage law upon request, but only if the requester is an individual who is an employee performing work on a prevailing wage project. The bill requires such an inspection on the request of any individual or entity.

Under current law, individuals who are employed to transport mineral aggregate to the site of a project or to transport excavated material or spoil away from the site of a project are not covered under the prevailing wage law. Subject to certain exceptions, the bill eliminates this exemption.

Finally, the bill includes, for both state and local projects of public works, provisions regarding coverage, compliance, enforcement, and penalties, including 1) requirements for affidavits to be filed by contractors affirming compliance with the prevailing wage law; 2) record retention requirements for contractors regarding wages paid to workers and provisions allowing for the inspection of those records by DWD; 3) liability and penalty provisions for certain violations; and 4) provisions prohibiting contracts from being awarded to persons who have failed to comply with the prevailing wage law.

TRANSPORTATION**HIGHWAYS****6. *Transportation projects***

Under current law, for certain highway projects for which DOT spends federal money, federal money must make up at least 70 percent of the funding for those projects. DOT is required to notify political subdivisions receiving aid for local projects whether the aid includes federal moneys and how those moneys must be spent. For certain projects that receive no federal money, DOT may not require political subdivisions to comply with any portion of DOT's facilities development manual other than design standards. Any local project funded with state funds under the surface transportation program or the local bridge program must be let through competitive bidding and by contract to the lowest responsible bidder. The bill repeals all of these requirements.

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 (12) of the statutes is created to read:

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

12 **SECTION 2.** 66.0129 (5) of the statutes is amended to read:

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

6 **SECTION 3.** 66.0903 (1) (a), (am), (b), (cm), (dr), (em), (hm) and (im) of the
7 statutes are created to read:

8 66.0903 (1) (a) “Area” means the county in which a proposed project of public
9 works that is subject to this section is located or, if the department determines that
10 there is insufficient wage data in that county, “area” means those counties that are
11 contiguous to that county or, if the department determines that there is insufficient
12 wage data in those counties, “area” means those counties that are contiguous to those
13 counties or, if the department determines that there is insufficient wage data in those
14 counties, “area” means the entire state or, if the department is requested to review
15 a determination under sub. (3) (br), “area” means the city, village, or town in which
16 a proposed project of public works that is subject to this section is located.

17 (am) “Bona fide economic benefit” has the meaning given in s. 103.49 (1) (am).

18 (b) “Department” means the department of workforce development.

19 (cm) “Insufficient wage data” has the meaning given in s. 103.49 (1) (bg).

20 (dr) “Minor service or maintenance work” means a project of public works that
21 is limited to minor crack filling, chip or slurry sealing, or other minor pavement
22 patching, not including overlays, that has a projected life span of no longer than 5
23 years or that is performed for a town and is not funded under s. 86.31, regardless of
24 projected life span; the depositing of gravel on an existing gravel road applied solely
25 to maintain the road; road shoulder maintenance; cleaning of drainage or sewer

1 ditches or structures; or any other limited, minor work on public facilities or
2 equipment that is routinely performed to prevent breakdown or deterioration.

3 (em) "Multiple-trade project of public works" has the meaning given in s.
4 103.49 (1) (br).

5 (hm) "Single-trade project of public works" has the meaning given in s. 103.49
6 (1) (em).

7 (im) "Supply and installation contract" has the meaning given in s. 103.49 (1)
8 (fm).

9 **SECTION 4.** 66.0903 (1) (c) of the statutes is amended to read:

10 66.0903 (1) (c) "Hourly basic rate of pay" has the meaning given in s. ~~16.856~~
11 103.49 (1) (b), 2015 stats.

12 **SECTION 5.** 66.0903 (1) (f) of the statutes is amended to read:

13 66.0903 (1) (f) "Prevailing hours of labor" has the meaning given in s. ~~16.856~~
14 103.49 (1) (e), 2015 stats. (c).

15 **SECTION 6.** 66.0903 (1) (g) of the statutes is repealed and recreated to read:

16 66.0903 (1) (g) 1. "Prevailing wage rate" has the meaning given in s. 103.49 (1)
17 (d).

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

19 66.0903 (1) (j) "Truck driver" ~~includes an owner-operator of a truck~~ has the
20 meaning given in s. 103.49 (1) (g).

21 **SECTION 8.** 66.0903 (1m) (b) of the statutes is amended to read:

22 66.0903 (1m) (b) The legislature finds that the enactment of ordinances or
23 other enactments by local governmental units requiring laborers, workers,
24 mechanics, and truck drivers employed on projects of public works or on publicly
25 funded private construction projects to be paid the prevailing wage rate and to be

1 paid at least 1.5 times their hourly basic rate of pay for hours worked in excess of the
2 prevailing hours of labor would be logically inconsistent with, would defeat the
3 purpose of, and would go against the repeals spirit of this section and the repeal of
4 s. 66.0904, 2009 stats., and s. 66.0903 (2) to (12), 2013 stats. Therefore, this section
5 shall be construed as an enactment of statewide concern for the ~~purposes of~~
6 ~~facilitating broader participation with respect to bidding on projects of public works,~~
7 ~~ensuring that wages accurately reflect market conditions, providing local~~
8 ~~governments with the flexibility to reduce costs on capital projects, and reducing~~
9 ~~spending at all levels of government in this state~~ purpose of providing uniform
10 prevailing wage rate and prevailing hours of labor requirements throughout the
11 state.

12 **SECTION 9.** 66.0903 (2) to (12) of the statutes are created to read:

13 66.0903 (2) APPLICABILITY. Subject to sub. (5), this section applies to any project
14 of public works erected, constructed, repaired, remodeled, or demolished for a local
15 governmental unit, including all of the following:

16 (a) A highway, street, bridge, building, or other infrastructure project.

17 (b) A project erected, constructed, repaired, remodeled, or demolished by one
18 local governmental unit for another local governmental unit under a contract under
19 s. 66.0301 (2), 83.03, 83.035, or 86.31 (2) (b) or under any other statute specifically
20 authorizing cooperation between local governmental units.

21 (c) A project in which the completed facility is leased, purchased, lease
22 purchased, or otherwise acquired by, or dedicated to, a local governmental unit in lieu
23 of the local governmental unit contracting for the erection, construction, repair,
24 remodeling, or demolition of the facility.

1 (d) A road, street, bridge, sanitary sewer, or water main project in which the
2 completed road, street, bridge, sanitary sewer, or water main is acquired by, or
3 dedicated to, a local governmental unit, including under s. 236.13 (2), for ownership
4 or maintenance by the local governmental unit.

5 (3) PREVAILING WAGE RATES AND HOURS OF LABOR. (am) A local governmental unit,
6 before making a contract by direct negotiation or soliciting bids on a contract for the
7 erection, construction, remodeling, repairing, or demolition of any project of public
8 works, shall apply to the department to determine the prevailing wage rate for each
9 trade or occupation required in the work contemplated. The department shall
10 conduct investigations and hold public hearings as necessary to define the trades or
11 occupations that are commonly employed on projects of public works that are subject
12 to this section and to inform itself of the prevailing wage rates in all areas of the state
13 for those trades or occupations, in order to determine the prevailing wage rate for
14 each trade or occupation. The department shall issue its determination within 30
15 days after receiving the request and shall file the determination with the requesting
16 local governmental unit.

17 (ar) The department shall, by January 1 of each year, compile the prevailing
18 wage rates for each trade or occupation in each area. The compilation shall, in
19 addition to the current prevailing wage rates, include future prevailing wage rates
20 when those prevailing wage rates can be determined for any trade or occupation in
21 any area and shall specify the effective date of those future prevailing wage rates.
22 If a project of public works extends into more than one area, the department shall
23 determine only one standard of prevailing wage rates for the entire project.

24 (av) In determining prevailing wage rates under par. (am) or (ar), the
25 department may not use data from projects that are subject to this section, s. 103.49

1 or 103.50, or 40 USC 3142 unless the department determines that there is
2 insufficient wage data in the area to determine those prevailing wage rates, in which
3 case the department may use data from projects that are subject to this section, s.
4 103.49 or 103.50, or 40 USC 3142. In determining prevailing wage rates under par.
5 (am) or (ar), the department may not use data from any construction work that is
6 performed by a local governmental unit or a state agency.

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

16 (br) In addition to the recalculation under par. (bm), the local governmental
17 unit that requested the determination under this subsection may request a review
18 of any portion of a determination within 30 days after the date of issuance of the
19 determination if the local governmental unit submits evidence with the request
20 showing that the prevailing wage rate for any given trade or occupation included in
21 the determination does not represent the prevailing wage rate for that trade or
22 occupation in the city, village, or town in which the proposed project of public works
23 is located. That evidence shall include wage rate information for the contested trade
24 or occupation on at least 3 similar projects located in the city, village, or town where
25 the proposed project of public works is located and on which some work has been

1 performed during the current survey period and which were considered by the
2 department in issuing its most recent compilation under par. (ar). The department
3 shall affirm or modify the determination within 15 days after the date on which the
4 department receives the request for review.

5 (dm) A local governmental unit that is subject to this section shall include a
6 reference to the prevailing wage rates determined by the department and to the
7 prevailing hours of labor in the notice published for the purpose of securing bids for
8 the project of public works. Except as otherwise provided in this paragraph, if any
9 contract or subcontract for a project of public works is entered into, the prevailing
10 wage rates determined by the department and the prevailing hours of labor shall be
11 physically incorporated into and made a part of the contract or subcontract. For a
12 minor subcontract, as determined by the department, the department shall
13 prescribe by rule the method of notifying the minor subcontractor of the prevailing
14 wage rates and prevailing hours of labor applicable to the minor subcontract. The
15 prevailing wage rates and prevailing hours of labor applicable to a contract or
16 subcontract may not be changed during the time that the contract or subcontract is
17 in force.

18 (e) No contractor, subcontractor, or contractor or subcontractor's agent that is
19 subject to this section may do any of the following:

20 1. Pay an individual performing the work described in sub. (4) less than the
21 prevailing wage rate in the same or most similar trade or occupation determined
22 under this subsection.

23 2. Allow an individual performing the work described in sub. (4) to work a
24 greater number of hours per day or per week than the prevailing hours of labor,
25 unless the contractor, subcontractor, or contractor or subcontractor's agent pays the

1 individual for all hours worked in excess of the prevailing hours of labor at a rate of
2 at least 1.5 times the individual's hourly basic rate of pay.

3 (4) COVERED EMPLOYEES. (a) Subject to par. (b), any person subject to this
4 section shall pay all of the following employees the prevailing wage rate determined
5 under sub. (3) and may not allow such employees to work a greater number of hours
6 per day or per week than the prevailing hours of labor, unless the person pays the
7 employee for all hours worked in excess of the prevailing hours of labor at a rate of
8 at least 1.5 times the employee's hourly basic rate of pay:

9 1. All laborers, workers, mechanics, and truck drivers employed on the site of
10 a project of public works that is subject to this section.

11 2. All laborers, workers, mechanics, and truck drivers employed in the
12 manufacturing or furnishing of materials, articles, supplies, or equipment on the site
13 of a project of public works that is subject to this section or from a facility dedicated
14 exclusively, or nearly so, to a project of public works that is subject to this section by
15 a contractor, subcontractor, agent, or other person performing any work on the site
16 of the project.

17 (b) A laborer, worker, mechanic, or truck driver who is employed to process,
18 manufacture, pick up, or deliver materials or products from a commercial
19 establishment that has a fixed place of business from which the establishment
20 supplies processed or manufactured materials or products or from a facility that is
21 not dedicated exclusively, or nearly so, to a project of public works that is subject to
22 this section is not entitled to receive the prevailing wage rate determined under sub.
23 (3) or to receive at least 1.5 times his or her hourly basic rate of pay for all hours
24 worked in excess of the prevailing hours of labor unless any of the following applies:

1 1. The laborer, worker, mechanic, or truck driver is employed to go to the source
2 of mineral aggregate such as sand, gravel, or stone and deliver that mineral
3 aggregate to the site of a project of public works that is subject to this section by
4 depositing the material directly in final place, from the transporting vehicle or
5 through spreaders from the transporting vehicle.

6 2. The laborer, worker, mechanic, or truck driver is employed to go to the site
7 of a project of public works that is subject to this section, pick up excavated material
8 or spoil from the site of the project, and transport that excavated material or spoil
9 away from the site of the project.

10 (c) A person subject to this section shall pay a truck driver who is an
11 owner-operator of a truck separately for his or her work and for the use of his or her
12 truck.

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

14 (a) A single-trade project of public works for which the estimated project cost
15 of completion is less than \$48,000, a multiple-trade project of public works for which
16 the estimated project cost of completion is less than \$100,000, or, in the case of a
17 multiple-trade project of public works erected, constructed, repaired, remodeled, or
18 demolished by a private contractor for a city or village having a population of less
19 than 2,500 or for a town, a multiple-trade project of public works for which the
20 estimated project cost of completion is less than \$234,000.

21 (b) Work performed on a project of public works for which the local
22 governmental unit contracting for the project is not required to compensate any
23 contractor, subcontractor, contractor's or subcontractor's agent, or individual for
24 performing the work.

1 (c) Minor service or maintenance work, warranty work, or work under a supply
2 and installation contract.

3 (f) A project of public works involving the erection, construction, repair,
4 remodeling, or demolition of a residential property containing 2 dwelling units or
5 less.

6 (g) A road, street, bridge, sanitary sewer, or water main project that is a part
7 of a development in which not less than 90 percent of the lots contain or will contain
8 2 dwelling units or less, as determined by the local governmental unit at the time of
9 approval of the development, and that, on completion, is acquired by, or dedicated to,
10 a local governmental unit, including under s. 236.13 (2), for ownership or
11 maintenance by the local governmental unit.

12 **(8) POSTING.** A local governmental unit that has contracted for a project of
13 public works shall post the prevailing wage rates determined by the department, the
14 prevailing hours of labor, and the provisions of subs. (10) (a) and (11) (a) in at least
15 one conspicuous place on the site of the project that is easily accessible by employees
16 working on the project, or, if there is no common site on the project, at the place
17 normally used by the local governmental unit to post public notices.

18 **(9) COMPLIANCE.** (a) When the department finds that a local governmental unit
19 has not requested a determination under sub. (3) (am) or that a local governmental
20 unit, contractor, or subcontractor has not physically incorporated a determination
21 into a contract or subcontract as required under this section or has not notified a
22 minor subcontractor of a determination in the manner prescribed by the department
23 by rule promulgated under sub. (3) (dm), the department shall notify the local
24 governmental unit, contractor, or subcontractor of the noncompliance and shall file

1 the determination with the local governmental unit, contractor, or subcontractor
2 within 30 days after the notice.

3 (b) Upon completion of a project of public works and before receiving final
4 payment for his or her work on the project, each agent or subcontractor shall furnish
5 the contractor with an affidavit stating that the agent or subcontractor has complied
6 fully with the requirements of this section. A contractor may not authorize final
7 payment until the affidavit is filed in proper form and order.

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

23 **(10) RECORDS; INSPECTION; ENFORCEMENT.** (a) Each contractor, subcontractor, or
24 contractor's or subcontractor's agent that performs work on a project of public works
25 that is subject to this section shall keep full and accurate records clearly indicating

1 the name and trade or occupation of every individual performing the work described
2 in sub. (4) and an accurate record of the number of hours worked by each of those
3 individuals and the actual wages paid for the hours worked.

4 (b) The department or the contracting local governmental unit may demand
5 and examine, and every contractor, subcontractor, and contractor's or
6 subcontractor's agent shall keep, and furnish upon request by the department or
7 local governmental unit, copies of payrolls and other records and information
8 relating to the wages paid to individuals performing the work described in sub. (4)
9 for work to which this section applies. The department may inspect records in the
10 manner provided in ch. 103. Every contractor, subcontractor, or agent performing
11 work on a project of public works that is subject to this section is subject to the
12 requirements of ch. 103 relating to the examination of records.

13 (c) If requested by any person, the department shall inspect the payroll records
14 of any contractor, subcontractor, or agent performing work on a project of public
15 works that is subject to this section as provided in this paragraph to ensure
16 compliance with this section. On receipt of such a request, the department shall
17 request that the contractor, subcontractor, or agent submit to the department a
18 certified record of the information specified in par. (a), other than personally
19 identifiable information relating to an employee of the contractor, subcontractor, or
20 agent, for no longer than a 4-week period. The department may request that a
21 contractor, subcontractor, or agent submit those records no more than once per
22 calendar quarter for each project of public works on which the contractor,
23 subcontractor, or agent is performing work. The department may not charge a
24 requester a fee for obtaining that information. Certified records submitted to the

1 department under this paragraph are open for public inspection and copying under
2 s. 19.35 (1).

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 a person who fails to provide any information to
5 the department to assist the department in determining prevailing wage rates under
6 sub. (3) (am) or (ar). 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. (11) (a).

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

16 2. If the department determines upon inspection under sub. (10) (b) or (c) that
17 a contractor, subcontractor, or contractor's or subcontractor's agent has failed to pay
18 the prevailing wage rate determined by the department under sub. (3) or has paid
19 less than 1.5 times the hourly basic rate of pay for all hours worked in excess of the
20 prevailing hours of labor, the department shall order the contractor to pay to any
21 affected employee the amount of his or her unpaid wages or his or her unpaid
22 overtime compensation and an additional amount equal to 100 percent of the amount
23 of those unpaid wages or that unpaid overtime compensation as liquidated damages
24 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 on 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. If the court finds that a contractor, subcontractor,
5 or contractor's or subcontractor's agent has failed to pay the prevailing wage rate
6 determined by the department under sub. (3) or has paid less than 1.5 times the
7 hourly basic rate of pay for all hours worked in excess of the prevailing hours of labor,
8 the court shall order the contractor, subcontractor, or agent to pay to any affected
9 employee the amount of his or her unpaid wages or his or her unpaid overtime
10 compensation and an additional amount equal to 100 percent of the amount of those
11 unpaid wages or that unpaid overtime compensation as liquidated damages.

12 5. No employee may be a party plaintiff to an action under subd. 3. unless the
13 employee consents in writing to become a party and the consent is filed in the court
14 in which the action is brought. Notwithstanding s. 814.04 (1), the court shall, in
15 addition to any judgment awarded to the plaintiff, allow reasonable attorney fees
16 and costs to be paid by the defendant.

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

21 2. Whoever induces any individual who seeks to be or is employed on any
22 project of public works that is subject to this section to give up, waive, or return any
23 part of the wages to which the individual is entitled under the contract governing the
24 project, or who reduces the hourly basic rate of pay normally paid to an individual
25 for work on a project that is not subject to this section during a week in which the

1 individual works both on a project of public works that is subject to this section and
2 on a project that is not subject to this section, by threat not to employ, by threat of
3 dismissal from employment, or by any other means is guilty of an offense under s.
4 946.15 (1).

5 3. Any individual employed on a project of public works that is subject to this
6 section who knowingly allows a contractor, subcontractor, or contractor's or
7 subcontractor's agent to pay him or her less than the prevailing wage rate set forth
8 in the contract governing the project, who gives up, waives, or returns any part of the
9 compensation to which he or she is entitled under the contract, or who gives up,
10 waives, or returns any part of the compensation to which he or she is normally
11 entitled for work on a project that is not subject to this section during a week in which
12 the individual works both on a project of public works that is subject to this section
13 and on a project that is not subject to this section, is guilty of an offense under s.
14 946.15 (2).

15 4. Whoever induces any individual who seeks to be or is employed on any
16 project of public works that is subject to this section to allow any part of the wages
17 to which the individual is entitled under the contract governing the project to be
18 deducted from the individual's pay is guilty of an offense under s. 946.15 (3), unless
19 the deduction would be allowed under 29 CFR 3.5 or 3.6 from an individual who is
20 working on a project that is subject to 40 USC 3142.

21 5. Any individual who is employed on a project of public works that is subject
22 to this section who knowingly allows any part of the wages to which he or she is
23 entitled under the contract governing the project to be deducted from his or her pay
24 is guilty of an offense under s. 946.15 (4), unless the deduction would be allowed

1 under 29 CFR 3.5 or 3.6 from an individual who is working on a project that is subject
2 to 40 USC 3142.

3 6. Subdivision 1. does not apply to any person who fails to provide any
4 information to the department to assist the department in determining prevailing
5 wage rates under sub. (3) (am) or (ar).

6 (12) DEPARTMENT. (a) Except as provided under pars. (b) and (c), the department
7 shall notify any local governmental unit applying for a determination under sub. (3)
8 of the names of all persons that the department has found to have failed to pay the
9 prevailing wage rate determined under sub. (3) or has found to have paid less than
10 1.5 times the hourly basic rate of pay for all hours worked in excess of the prevailing
11 hours of labor at any time in the preceding 3 years. The department shall include
12 with each name the address of the person and shall specify when the person failed
13 to pay the prevailing wage rate and when the person paid less than 1.5 times the
14 hourly basic rate of pay for all hours worked in excess of the prevailing hours of labor.
15 A local governmental unit may not award any contract to the person unless otherwise
16 recommended by the department or unless 3 years have elapsed from the date the
17 department issued its findings or the date of final determination by a court of
18 competent jurisdiction, whichever is later.

19 (b) The department may not include in a notification under par. (a) the name
20 of any person on the basis of having subcontracted a contract for a project of public
21 works to a person that the department has found to have failed to pay the prevailing
22 wage rate determined under sub. (3) or has found 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.

1 (c) This subsection does not apply to any contractor, subcontractor, or agent
2 who in good faith commits a minor violation of this section, as determined on a
3 case-by-case basis through administrative hearings with all rights to due process
4 afforded to all parties or who has not exhausted or waived all appeals.

5 (d) Any person submitting a bid or negotiating a contract on a project of public
6 works that is subject to this section shall, on the date the person submits the bid or
7 negotiates the contract, identify any construction business in which the person, or
8 a shareholder, officer, or partner of the person, if the person is a business, owns, or
9 has owned at least a 25 percent interest on the date the person submits the bid or
10 negotiates the contract or at any other time within 3 years preceding the date the
11 person submits the bid or negotiates the contract, if the business has been found to
12 have failed to pay the prevailing wage rate determined under sub. (3) or to have paid
13 less than 1.5 times the hourly basic rate of pay for all hours worked in excess of the
14 prevailing hours of labor.

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

16 **SECTION 10.** 84.41 (3) of the statutes is created to read:

17 84.41 (3) EMPLOYMENT REGULATIONS. Employment regulations set forth in s.
18 103.50 pertaining to wages and hours shall apply to all projects constructed under
19 s. 84.40 in the same manner as such laws apply to projects on other state highways.
20 Where applicable, the federal wages and hours law known as the Davis-Bacon act
21 shall apply.

22 **SECTION 11.** 84.54 of the statutes, as created by 2017 Wisconsin Act 368, is
23 repealed.

24 **SECTION 12.** 86.51 of the statutes, as created by 2017 Wisconsin Act 368, is
25 repealed.

1 **SECTION 13.** 103.005 (12) (a) of the statutes is amended to read:

2 103.005 (12) (a) If any employer, employee, owner, or other person violates chs.
3 103 to 106, or fails or refuses to perform any duty required under chs. 103 to 106,
4 within the time prescribed by the department, for which no penalty has been
5 specifically provided, or fails, neglects or refuses to obey any lawful order given or
6 made by the department or any judgment or decree made by any court in connection
7 with chs. 103 to 106, for each such violation, failure or refusal, the employer,
8 employee, owner or other person shall forfeit not less than \$10 nor more than \$100
9 for each offense. This paragraph does not apply to any person that fails to provide
10 any information to the department to assist the department in determining
11 prevailing wage rates or prevailing hours of labor under s. 103.49 (3) (a) or (am) or
12 103.50 (3) or (4).

13 **SECTION 14.** 103.49 of the statutes is created to read:

14 **103.49 Wage rate on state work. (1) DEFINITIONS.** In this section:

15 (a) “Area” means the county in which a proposed project of public works that
16 is subject to this section is located or, if the department determines that there is
17 insufficient wage data in that county, “area” means those counties that are
18 contiguous to that county or, if the department determines that there is insufficient
19 wage data in those counties, “area” means those counties that are contiguous to those
20 counties or, if the department determines that there is insufficient wage data in those
21 counties, “area” means the entire state or, if the department is requested to review
22 a determination under sub. (3) (c), “area” means the city, village, or town in which
23 a proposed project of public works that is subject to this section is located.

24 (am) “Bona fide economic benefit” means an economic benefit for which an
25 employer makes irrevocable contributions to a trust or fund created under 29 USC

1 186 (c) or to any other bona fide plan, trust, program, or fund no less often than
2 quarterly or, if an employer makes annual contributions to such a bona fide plan,
3 trust, program, or fund, for which the employer irrevocably escrows moneys at least
4 quarterly based on the employer's expected annual contribution.

5 (b) "Hourly basic rate of pay" means the hourly wage paid to any employee,
6 excluding any contributions or payments for health insurance benefits, vacation
7 benefits, pension benefits, and any other bona fide economic benefits, whether paid
8 directly or indirectly.

9 (bg) "Insufficient wage data" means less than 500 hours of work performed in
10 a particular trade or occupation on projects that are similar to a proposed project of
11 public works that is subject to this section.

12 (bj) "Minor service or maintenance work" means a project of public works that
13 is limited to minor crack filling, chip or slurry sealing, or other minor pavement
14 patching, not including overlays, that has a projected life span of no longer than 5
15 years; cleaning of drainage or sewer ditches or structures; or any other limited, minor
16 work on public facilities or equipment that is routinely performed to prevent
17 breakdown or deterioration.

18 (br) "Multiple-trade project of public works" means a project of public works
19 in which no single trade accounts for 85 percent or more of the total labor cost of the
20 project.

21 (c) "Prevailing hours of labor" for any trade or occupation in any area means
22 10 hours per day and 40 hours per week and may not include any hours worked on
23 a Saturday or Sunday or on any of the following holidays:

- 24 1. January 1.
- 25 2. The last Monday in May.

- 1 3. July 4.
- 2 4. The first Monday in September.
- 3 5. The 4th Thursday in November.
- 4 6. December 25.
- 5 7. The day before if January 1, July 4, or December 25 falls on a Saturday.
- 6 8. The day following if January 1, July 4, or December 25 falls on a Sunday.

7 (d) 1. Except as provided in subd. 2., “prevailing wage rate” for any trade or
8 occupation engaged in the erection, construction, remodeling, repairing, or
9 demolition of any project of public works in any area means the hourly basic rate of
10 pay, plus the hourly contribution for health insurance benefits, vacation benefits,
11 pension benefits, and any other bona fide economic benefit, paid directly or indirectly
12 for a majority of the hours worked in the trade or occupation on projects in the area.

13 2. If there is no rate at which a majority of the hours worked in the trade or
14 occupation on projects in the area is paid, “prevailing wage rate” for any trade or
15 occupation engaged in the erection, construction, remodeling, repairing, or
16 demolition of any project of public works in any area means the average hourly basic
17 rate of pay, weighted by the number of hours worked, plus the average hourly
18 contribution, weighted by the number of hours worked, for health insurance benefits,
19 vacation benefits, pension benefits, and any other bona fide economic benefit, paid
20 directly or indirectly for all hours worked at the hourly basic rate of pay of the
21 highest-paid 51 percent of hours worked in that trade or occupation on projects in
22 that area.

23 (em) “Single-trade project of public works” means a project of public works in
24 which a single trade accounts for 85 percent or more of the total labor cost of the
25 project.

1 (f) "State agency" means any office, department, independent agency,
2 institution of higher education, association, society, or other body in state
3 government created or authorized to be created by the constitution or any law,
4 including the legislature and the courts. "State agency" also includes the University
5 of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System
6 Authority, and the Wisconsin Aerospace Authority.

7 (fm) "Supply and installation contract" means a contract under which the
8 material is installed by the supplier, the material is installed by means of simple
9 fasteners or connectors such as screws or nuts and bolts, and no other work is
10 performed on the site of the project of public works, and the total labor cost to install
11 the material does not exceed 20 percent of the total cost of the contract.

12 (g) "Truck driver" includes an owner-operator of a truck.

13 **(1m) APPLICABILITY.** Subject to sub. (3g), this section applies to any project of
14 public works erected, constructed, repaired, remodeled, or demolished for the state
15 or a state agency, including all of the following:

16 (a) A project erected, constructed, repaired, remodeled, or demolished by one
17 state agency for another state agency under any contract or under any statute
18 specifically authorizing cooperation between state agencies.

19 (b) A project in which the completed facility is leased, purchased, lease
20 purchased, or otherwise acquired by, or dedicated to, the state in lieu of the state or
21 a state agency contracting for the erection, construction, repair, remodeling, or
22 demolition of the facility.

23 (c) A sanitary sewer or water main project in which the completed sanitary
24 sewer or water main is acquired by, or dedicated to, the state for ownership or
25 maintenance by the state.

1 **(2) PREVAILING WAGE RATES AND HOURS OF LABOR.** Any contract made for the
2 erection, construction, remodeling, repairing, or demolition of any project of public
3 works to which the state or any state agency is a party shall contain a stipulation that
4 no individual performing the work described in sub. (2m) may be allowed to work a
5 greater number of hours per day or per week than the prevailing hours of labor,
6 except that any such individual may be allowed or required to work more than such
7 prevailing hours of labor per day and per week if he or she is paid for all hours worked
8 in excess of the prevailing hours of labor at a rate of at least 1.5 times his or her hourly
9 basic rate of pay; nor may he or she be paid less than the prevailing wage rate
10 determined under sub. (3) in the same or most similar trade or occupation in the area
11 in which the project of public works is situated. The notice published for the purpose
12 of securing bids for the project must contain a reference to the prevailing wage rates
13 determined under sub. (3) and the prevailing hours of labor. Except as otherwise
14 provided in this subsection, if any contract or subcontract for a project of public works
15 that is subject to this section is entered into, the prevailing wage rates determined
16 under sub. (3) and the prevailing hours of labor shall be physically incorporated into
17 and made a part of the contract or subcontract. For a minor subcontract, as
18 determined by the department, the department shall prescribe by rule the method
19 of notifying the minor subcontractor of the prevailing wage rates and prevailing
20 hours of labor applicable to the minor subcontract. The prevailing wage rates and
21 prevailing hours of labor applicable to a contract or subcontract may not be changed
22 during the time that the contract or subcontract is in force.

23 **(2m) COVERED EMPLOYEES.** (a) Subject to par. (b), any person subject to this
24 section shall pay all of the following employees the prevailing wage rate determined
25 under sub. (3) and may not allow such employees to work a greater number of hours

1 per day or per week than the prevailing hours of labor, unless the person pays for all
2 hours worked in excess of the prevailing hours of labor at a rate of at least 1.5 times
3 the employees' hourly basic rate of pay:

4 1. All laborers, workers, mechanics, and truck drivers employed on the site of
5 a project of public works that is subject to this section.

6 2. All laborers, workers, mechanics, and truck drivers employed in the
7 manufacturing or furnishing of materials, articles, supplies, or equipment on the site
8 of a project of public works that is subject to this section or from a facility dedicated
9 exclusively, or nearly so, to a project of public works that is subject to this section by
10 a contractor, subcontractor, agent, or other person performing any work on the site
11 of the project.

12 (b) A laborer, worker, mechanic, or truck driver who is employed to process,
13 manufacture, pick up, or deliver materials or products from a commercial
14 establishment that has a fixed place of business from which the establishment
15 supplies processed or manufactured materials or products or from a facility that is
16 not dedicated exclusively, or nearly so, to a project of public works that is subject to
17 this section is not entitled to receive the prevailing wage rate determined under sub.
18 (3) or to receive at least 1.5 times his or her hourly basic rate of pay for all hours
19 worked in excess of the prevailing hours of labor unless any of the following applies:

20 1. The laborer, worker, mechanic, or truck driver is employed to go to the source
21 of mineral aggregate such as sand, gravel, or stone and deliver that mineral
22 aggregate to the site of a project of public works that is subject to this section by
23 depositing the material directly in final place, from the transporting vehicle or
24 through spreaders from the transporting vehicle.

1 2. The laborer, worker, mechanic, or truck driver is employed to go to the site
2 of a project that is subject to this section, pick up excavated material or spoil from
3 the site of the project of public works, and transport that excavated material or spoil
4 away from the site of the project.

5 (c) A person that is subject to this section shall pay a truck driver who is an
6 owner-operator of a truck separately for his or her work and for the use of his or her
7 truck.

8 **(3) INVESTIGATION; DETERMINATION.** (a) Before a state agency issues a request
9 for bids for any work to which this section applies, the state agency having the
10 authority to prescribe the specifications shall apply to the department to determine
11 the prevailing wage rate for each trade or occupation required in the work under
12 contemplation in the area in which the work is to be done. The department shall
13 conduct investigations and hold public hearings as necessary to define the trades or
14 occupations that are commonly employed on projects that are subject to this section
15 and to inform itself of the prevailing wage rates in all areas of the state for those
16 trades or occupations, in order to determine the prevailing wage rate for each trade
17 or occupation. The department shall issue its determination within 30 days after
18 receiving the request and shall file the determination with the requesting state
19 agency. A state agency that has contracted for a project of public works subject to this
20 section shall post the prevailing wage rates determined by the department, the
21 prevailing hours of labor, and the provisions of subs. (2) and (6m) in at least one
22 conspicuous place on the site of the project that is easily accessible by employees
23 working on the project.

24 (am) The department shall, by January 1 of each year, compile the prevailing
25 wage rates for each trade or occupation in each area. The compilation shall, in

1 addition to the current prevailing wage rates, include future prevailing wage rates
2 when those prevailing wage rates can be determined for any trade or occupation in
3 any area and shall specify the effective date of those future prevailing wage rates.
4 If a project of public works extends into more than one area, the department shall
5 determine only one standard of prevailing wage rates for the entire project.

6 (ar) In determining prevailing wage rates under par. (a) or (am), the
7 department may not use data from projects that are subject to this section, s. 66.0903,
8 103.50, or 229.8275, or 40 USC 3142 unless the department determines that there
9 is insufficient wage data in the area to determine those prevailing wage rates, in
10 which case the department may use data from projects that are subject to this
11 section, s. 66.0903, 103.50, or 229.8275, or 40 USC 3142. In determining prevailing
12 wage rates under par. (a) or (am), the department may not use data from any
13 construction work performed by a state agency or a local governmental unit, as
14 defined in s. 66.0903 (1) (d).

15 (b) Any person may request a recalculation of any portion of an initial
16 determination within 30 days after the initial determination date if the person
17 submits evidence with the request showing that the prevailing wage rate for any
18 given trade or occupation included in the initial determination does not represent the
19 prevailing wage rate for that trade or occupation in the area. The evidence shall
20 include wage rate information reflecting work performed by individuals working in
21 the contested trade or occupation in the area during the current survey period. The
22 department shall affirm or modify the initial determination within 15 days after the
23 date on which the department receives the request for recalculation.

24 (c) In addition to the recalculation under par. (b), the state agency that
25 requested the determination under this subsection may request a review of any

1 portion of a determination within 30 days after the date of issuance of the
2 determination if the state agency submits evidence with the request showing that
3 the prevailing wage rate for any given trade or occupation included in the
4 determination does not represent the prevailing wage rate for that trade or
5 occupation in the city, village, or town in which the proposed project of public works
6 is located. That evidence shall include wage rate information for the contested trade
7 or occupation on at least 3 similar projects located in the city, village, or town where
8 the proposed project of public works is located on which some work has been
9 performed during the current survey period and that were considered by the
10 department in issuing its most recent compilation under par. (am). The department
11 shall affirm or modify the determination within 15 days after the date on which the
12 department receives the request for review.

13 **(3g) NONAPPLICABILITY.** This section does not apply to any of the following:

14 (a) A single-trade project of public works for which the estimated project cost
15 of completion is less than \$48,000 or a multiple-trade project of public works for
16 which the estimated project cost of completion is less than \$100,000.

17 (b) Work performed on a project of public works for which the state or the state
18 agency contracting for the project is not required to compensate any contractor,
19 subcontractor, contractor's or subcontractor's agent, or individual for performing the
20 work.

21 (c) Minor service or maintenance work, warranty work, or work under a supply
22 and installation contract.

23 (f) A public highway, street, or bridge project.

1 (g) A project of public works involving the erection, construction, repair,
2 remodeling, or demolition of a residential property containing 2 dwelling units or
3 less.

4 (h) A road, street, bridge, sanitary sewer, or water main project that is a part
5 of a development in which not less than 90 percent of the lots contain or will contain
6 2 dwelling units or less, as determined by the local governmental unit at the time of
7 approval of the development, and that, on completion, is acquired by, or dedicated to,
8 the state for ownership or maintenance by the state.

9 **(4r) COMPLIANCE.** (a) When the department finds that a state agency has not
10 requested a determination under sub. (3) (a) or that a state agency, contractor, or
11 subcontractor has not physically incorporated a determination into a contract or
12 subcontract as required under sub. (2) or has not notified a minor subcontractor of
13 a determination in the manner prescribed by the department by rule promulgated
14 under sub. (2), the department shall notify the state agency, contractor or
15 subcontractor of the noncompliance and shall file the determination with the state
16 agency, contractor, or subcontractor within 30 days after the notice.

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

22 (c) Upon completion of a project of public works and before receiving final
23 payment for his or her work on the project, each contractor shall file with the state
24 agency authorizing the work an affidavit stating that the contractor has complied
25 fully with the requirements of this section and that the contractor has received an

1 affidavit under par. (b) from each of the contractor's agents and subcontractors. A
2 state agency may not authorize a final payment until the affidavit is filed in proper
3 form and order. If a state agency authorizes a final payment before an affidavit is
4 filed in proper form and order or if the department determines, based on the greater
5 weight of the credible evidence, that any person performing the work specified in sub.
6 (2m) has been or may have been paid less than the prevailing wage rate or less than
7 1.5 times the hourly basic rate of pay for all hours worked in excess of the prevailing
8 hours of labor and requests that the state agency withhold all or part of the final
9 payment, but the state agency fails to do so, the state agency is liable for all back
10 wages payable up to the amount of the final payment.

11 **(5) RECORDS; INSPECTION; ENFORCEMENT.** (a) Each contractor, subcontractor, or
12 contractor's or subcontractor's agent that performs work on a project of public works
13 that is subject to this section shall keep full and accurate records clearly indicating
14 the name and trade or occupation of every individual performing the work described
15 in sub. (2m) and an accurate record of the number of hours worked by each of those
16 individuals and the actual wages paid for the hours worked.

17 (b) The department shall enforce this section. The department may demand
18 and examine, and every contractor, subcontractor, and contractor's and
19 subcontractor's agent shall keep, and furnish upon request by the department,
20 copies of payrolls and other records and information relating to the wages paid to
21 individuals performing the work described in sub. (2m) for work to which this section
22 applies. The department may inspect records in the manner provided in this chapter.
23 Every contractor, subcontractor, or agent performing work on a project of public
24 works that is subject to this section is subject to the requirements of this chapter
25 relating to the examination of records. Section 111.322 (2m) applies to discharge and

1 other discriminatory acts arising in connection with any proceeding under this
2 section.

3 (c) If requested by any person, the department shall inspect the payroll records
4 of any contractor, subcontractor, or agent performing work on a project of public
5 works that is subject to this section as provided in this paragraph to ensure
6 compliance with this section. On receipt of such a request, the department shall
7 request that the contractor, subcontractor, or agent submit to the department a
8 certified record of the information specified in par. (a), other than personally
9 identifiable information relating to an employee of the contractor, subcontractor, or
10 agent, for no longer than a 4-week period. The department may request a contractor,
11 subcontractor, or agent to submit those records no more than once per calendar
12 quarter for each project of public works on which the contractor, subcontractor, or
13 agent is performing work. The department may not charge a requester a fee for
14 obtaining that information. Certified records submitted to the department under
15 this paragraph are open for public inspection and copying under s. 19.35 (1).

16 **(6m)** LIABILITY AND PENALTIES. (ag) 1. A contractor, subcontractor, or
17 contractor's or subcontractor's agent who fails to pay the prevailing wage rate
18 determined by the department under sub. (3) or who pays less than 1.5 times the
19 hourly basic rate of pay for all hours worked in excess of the prevailing hours of labor
20 is liable to any affected employee in the amount of his or her unpaid wages or his or
21 her unpaid overtime compensation and in an additional amount as liquidated
22 damages as provided in subd. 2. or 3., whichever is applicable.

23 2. If the department determines upon inspection under sub. (5) (b) or (c) that
24 a contractor, subcontractor, or contractor's or subcontractor's agent has failed to pay
25 the prevailing wage rate determined by the department under sub. (3) or has paid

1 less than 1.5 times the hourly basic rate of pay for all hours worked in excess of the
2 prevailing hours of labor, the department shall order the contractor to pay to any
3 affected employee the amount of his or her unpaid wages or his or her unpaid
4 overtime compensation and an additional amount equal to 100 percent of the amount
5 of those unpaid wages or that unpaid overtime compensation as liquidated damages
6 within a period specified by the department in the order.

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

18 5. No employee may be a party plaintiff to an action under subd. 3. unless the
19 employee consents in writing to become a party and the consent is filed in the court
20 in which the action is brought. Notwithstanding s. 814.04 (1), the court shall, in
21 addition to any judgment awarded to the plaintiff, allow reasonable attorney fees
22 and costs to be paid by the defendant.

23 (am) Except as provided in pars. (b), (d), and (f), any contractor, subcontractor,
24 or contractor's or subcontractor's agent who violates this section may be fined not

1 more than \$200 or imprisoned for not more than 6 months or both. Each day that
2 a violation continues is a separate offense.

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

12 (c) Any individual who is employed on a project of public works that is subject
13 to this section who knowingly allows a contractor, subcontractor, or contractor's or
14 subcontractor's agent to pay him or her less than the prevailing wage rate set forth
15 in the contract governing the project, who gives up, waives, or returns any part of the
16 compensation to which he or she is entitled under the contract, or who gives up,
17 waives, or returns any part of the compensation to which he or she is normally
18 entitled for work on a project that is not subject to this section during a week in which
19 the individual works both on a project of public works that is subject to this section
20 and on a project that is not subject to this section, is guilty of an offense under s.
21 946.15 (2).

22 (d) Whoever induces any individual who seeks to be or is employed on any
23 project of public works that is subject to this section to allow any part of the wages
24 to which the individual is entitled under the contract governing the project to be
25 deducted from the individual's pay is guilty of an offense under s. 946.15 (3), unless

1 the deduction would be allowed under 29 CFR 3.5 or 3.6 from an individual who is
2 working on a project that is subject to 40 USC 3142.

3 (e) Any individual who is employed on a project of public works that is subject
4 to this section who knowingly allows any part of the wages to which he or she is
5 entitled under the contract governing the project to be deducted from his or her pay
6 is guilty of an offense under s. 946.15 (4), unless the deduction would be allowed
7 under 29 CFR 3.5 or 3.6 from an individual who is working on a project that is subject
8 to 40 USC 3142.

9 (f) Paragraph (am) does not apply to any person who fails to provide any
10 information to the department to assist the department in determining prevailing
11 wage rates under sub. (3) (a) or (am).

12 (7) DEPARTMENT. (a) Except as provided under pars. (b) and (c), the department
13 shall distribute to all state agencies a list of all persons that the department has
14 found to have failed to pay the prevailing wage rate determined under sub. (3) or has
15 found to have paid less than 1.5 times the hourly basic rate of pay for all hours worked
16 in excess of the prevailing hours of labor at any time in the preceding 3 years. The
17 department shall include with any name the address of the person and shall specify
18 when the person failed to pay the prevailing wage rate and when the person paid less
19 than 1.5 times the hourly basic rate of pay for all hours worked in excess of the
20 prevailing hours of labor. A state agency may not award any contract to the person
21 unless otherwise recommended by the department or unless 3 years have elapsed
22 from the date the department issued its findings or date of final determination by a
23 court of competent jurisdiction, whichever is later.

24 (b) The department may not include in a notification under par. (a) the name
25 of any person on the basis of having subcontracted a contract for a project of public

1 works to a person that the department has found to have failed to pay the prevailing
2 wage rate determined under sub. (3) or has found to have paid less than 1.5 times
3 the hourly basic rate of pay for all hours worked in excess of the prevailing hours of
4 labor.

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

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

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

19 **SECTION 15.** 103.50 of the statutes is created to read:

20 **103.50 Highway contracts. (1) DEFINITIONS.** In this section:

21 (a) "Area" means the county in which a proposed project that is subject to this
22 section is located or, if the department determines that there is insufficient wage
23 data in that county, "area" means those counties that are contiguous to that county
24 or, if the department determines that there is insufficient wage data in those
25 counties, "area" means those counties that are contiguous to those counties or, if the

1 department determines that there is insufficient wage data in those counties, “area”
2 means the entire state.

3 (b) “Hourly basic rate of pay” has the meaning given in s. 103.49 (1) (b).

4 (bg) “Insufficient wage data” has the meaning given in s. 103.49 (1) (bg).

5 (c) “Prevailing hours of labor” has the meaning given in s. 103.49 (1) (c).

6 (d) 1. Except as provided in subd. 2., “prevailing wage rate” for any trade or
7 occupation in any area means the hourly basic rate of pay, plus the hourly
8 contribution for health insurance benefits, vacation benefits, pension benefits, and
9 any other bona fide economic benefit, paid directly or indirectly, for a majority of the
10 hours worked in the trade or occupation in the area.

11 2. If there is no rate at which a majority of the hours worked in the trade or
12 occupation in the area is paid, “prevailing wage rate” means the average hourly basic
13 rate of pay, weighted by the number of hours worked, plus the average hourly
14 contribution, weighted by the number of hours worked, for health insurance benefits,
15 vacation benefits, pension benefits, and any other bona fide economic benefit, paid
16 directly or indirectly for all hours worked at the hourly basic rate of pay of the
17 highest-paid 51 percent of hours worked in that trade or occupation in that area.

18 (e) “Truck driver” has the meaning given in s. 103.49 (1) (g).

19 **(2) PREVAILING WAGE RATES AND HOURS OF LABOR.** No contractor, subcontractor,
20 agent, or other person performing any work on a project under a contract based on
21 bids as provided in s. 84.06 (2) to which the state is a party for the construction or
22 improvement of any highway may do any of the following:

23 (a) Pay an individual performing the work described in sub. (2m) less than the
24 prevailing wage rate in the area in which the work is to be done determined under
25 sub. (3).

1 (b) Allow an individual performing the work described in sub. (2m) to work a
2 greater number of hours per day or per week than the prevailing hours of labor,
3 unless the contractor, subcontractor, or contractor or subcontractor's agent pays the
4 individual for all hours worked in excess of the prevailing hours of labor at a rate of
5 at least 1.5 times the individual's hourly basic rate of pay.

6 **(2g) NONAPPLICABILITY.** This section does not apply to a single-trade project of
7 public works, as defined in s. 103.49 (1) (em), for which the estimated project cost of
8 completion is less than \$48,000 or a multiple-trade project of public works, as
9 defined in s. 103.49 (1) (br), for which the estimated project cost of completion is less
10 than \$100,000.

11 **(2m) COVERED EMPLOYEES.** (a) Subject to par. (b), any person subject to this
12 section shall pay all of the following employees the prevailing wage rate determined
13 under sub. (3) and may not allow such employees to work a greater number of hours
14 per day or per week than the prevailing hours of labor, unless the person pays for all
15 hours worked in excess of the prevailing hours of labor at a rate of at least 1.5 times
16 the employees' hourly basic rate of pay:

17 1. All laborers, workers, mechanics, and truck drivers employed on the site of
18 a project that is subject to this section.

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

24 (b) A laborer, worker, mechanic, or truck driver who is employed to process,
25 manufacture, pick up, or deliver materials or products from a commercial

1 establishment that has a fixed place of business from which the establishment
2 supplies processed or manufactured materials or products or from a facility that is
3 not dedicated exclusively, or nearly so, to a project that is subject to this section is not
4 entitled to receive the prevailing wage rate determined under sub. (3) or to receive
5 at least 1.5 times his or her hourly basic rate of pay for all hours worked in excess
6 of the prevailing hours of labor unless any of the following applies:

7 1. The laborer, worker, mechanic, or truck driver is employed to go to the source
8 of mineral aggregate such as sand, gravel, or stone and deliver that mineral
9 aggregate to the site of a project that is subject to this section by depositing the
10 material directly in final place, from the transporting vehicle or through spreaders
11 from the transporting vehicle.

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

16 (c) A contractor, subcontractor, agent, or other person performing work on a
17 project subject to this section shall pay a truck driver who is an owner-operator of
18 a truck separately for his or her work and for the use of his or her truck.

19 **(3) INVESTIGATIONS; DETERMINATIONS.** The department shall conduct
20 investigations and hold public hearings necessary to define the trades or occupations
21 that are commonly employed in the highway construction industry and to inform the
22 department of the prevailing wage rates in all areas of the state for those trades or
23 occupations, in order to ascertain and determine the prevailing wage rates
24 accordingly.

1 (4) CERTIFICATION OF PREVAILING WAGE RATES. The department of workforce
2 development shall, by May 1 of each year, certify to the department of transportation
3 the prevailing wage rates in each area for all trades or occupations commonly
4 employed in the highway construction industry. The certification shall, in addition
5 to the current prevailing wage rates, include future prevailing wage rates when such
6 prevailing wage rates can be determined for any such trade or occupation in any area
7 and shall specify the effective date of those future prevailing wage rates. The
8 certification shall also include wage rates for work performed on Sundays or the
9 holidays specified in s. 103.49 (1) (c) and shift differentials based on the time of day
10 or night when work is performed. If a construction project extends into more than
11 one area, the department shall determine only one standard of prevailing wage rates
12 for the entire project.

13 (4m) WAGE RATE DATA. In determining prevailing wage rates for projects that
14 are subject to this section, the department shall use data from projects that are
15 subject to this section, s. 66.0903 or 103.49, or 40 USC 3142. In determining
16 prevailing wage rates for those projects, the department may not use data from any
17 construction work that is performed by a state agency or a local governmental unit,
18 as defined in s. 66.0903 (1) (d).

19 (5) APPEALS TO GOVERNOR. If the department of transportation considers any
20 determination of the department of workforce development of the prevailing wage
21 rates in an area to be incorrect, it may appeal to the governor, whose determination
22 is final.

23 (6) CONTENTS OF CONTRACTS. The department of transportation shall include
24 a reference to the prevailing wage rates determined under sub. (3) and the prevailing
25 hours of labor in the notice published for the purpose of securing bids for a project.

1 Except as otherwise provided in this subsection, if any contract or subcontract for a
2 project that is subject to this section is entered into, the prevailing wage rates
3 determined under sub. (3) and the prevailing hours of labor shall be physically
4 incorporated into and made a part of the contract or subcontract. For a minor
5 subcontract, as determined by the department of workforce development, that
6 department shall prescribe by rule the method of notifying the minor subcontractor
7 of the prevailing wage rates and prevailing hours of labor applicable to the minor
8 subcontract. The prevailing wage rates and prevailing hours of labor applicable to
9 a contract or subcontract may not be changed during the time that the contract or
10 subcontract is in force. The department of transportation shall post the prevailing
11 wage rates determined by the department, the prevailing hours of labor, and the
12 provisions of subs. (2) and (7) in at least one conspicuous place that is easily
13 accessible to the employees on the site of the project.

14 (7) PENALTIES. (a) Except as provided in pars. (b), (d), and (f), any contractor,
15 subcontractor, or contractor's or subcontractor's agent who violates this section may
16 be fined not more than \$200 or imprisoned for not more than 6 months or both. Each
17 day that a violation continues is a separate offense.

18 (b) Whoever induces any individual who seeks to be or is employed on any
19 project that is subject to this section to give up, waive, or return any part of the wages
20 to which the individual is entitled under the contract governing the project, or who
21 reduces the hourly basic rate of pay normally paid to an individual for work on a
22 project that is not subject to this section during a week in which the individual works
23 both on a project that is subject to this section and on a project that is not subject to
24 this section, by threat not to employ, by threat of dismissal from employment, or by
25 any other means is guilty of an offense under s. 946.15 (1).

1 (c) Any individual employed on a project that is subject to this section who
2 knowingly allows a contractor, subcontractor, or contractor's or subcontractor's
3 agent to pay him or her less than the prevailing wage rate set forth in the contract
4 governing the project, who gives up, waives, or returns any part of the compensation
5 to which he or she is entitled under the contract, or who gives up, waives, or returns
6 any part of the compensation to which he or she is normally entitled for work on a
7 project that is not subject to this section during a week in which the individual works
8 both on a project that is subject to this section and on a project that is not subject to
9 this section, is guilty of an offense under s. 946.15 (2).

10 (d) Whoever induces any individual who seeks to be or is employed on any
11 project that is subject to this section to allow any part of the wages to which the
12 individual is entitled under the contract governing the project to be deducted from
13 the individual's pay is guilty of an offense under s. 946.15 (3), unless the deduction
14 would be allowed under 29 CFR 3.5 or 3.6 from an individual who is working on a
15 project that is subject to 40 USC 3142.

16 (e) Any individual employed on a project that is subject to this section who
17 knowingly allows any part of the wages to which he or she is entitled under the
18 contract governing the project to be deducted from his or her pay is guilty of an
19 offense under s. 946.15 (4), unless the deduction would be allowed under 29 CFR 3.5
20 or 3.6 from an individual who is working on a project that is subject to 40 USC 3142.

21 (f) Paragraph (a) does not apply to any individual who fails to provide any
22 information to the department to assist the department in determining prevailing
23 wage rates under sub. (3) or (4).

24 (8) ENFORCEMENT AND PROSECUTION. The department of transportation shall
25 require adherence to subs. (2), (2m), and (6). The department of transportation may

1 demand and examine, and every contractor, subcontractor, and contractor's or
2 subcontractor's agent shall keep and furnish upon request by the department of
3 transportation, copies of payrolls and other records and information relating to
4 compliance with this section. Upon request of the department of transportation or
5 upon complaint of alleged violation, the district attorney of the county in which the
6 work is located shall investigate as necessary and prosecute violations in a court of
7 competent jurisdiction. Section 111.322 (2m) applies to discharge and other
8 discriminatory acts arising in connection with any proceeding under this section.

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

10 103.503 (1) (a) "Accident" means an incident caused, contributed to, or
11 otherwise involving an employee that resulted or could have resulted in death,
12 personal injury, or property damage and that occurred while the employee was
13 performing the work described in s. 66.0903 (4), ~~2013 stats.~~, or s. ~~16.856~~ 103.49 (2m),
14 ~~2015 stats.~~, on a project of public works or while the employee was performing work
15 on a public utility project.

16 **SECTION 17.** 103.503 (1) (e) of the statutes is amended to read:

17 103.503 (1) (e) "Employee" means a laborer, worker, mechanic, or truck driver
18 who performs the work described in s. 66.0903 (4), ~~2013 stats.~~, or s. ~~16.856~~ 103.49
19 (2m), ~~2015 stats.~~, on a project of public works or on a public utility project.

20 **SECTION 18.** 103.503 (1) (g) of the statutes is repealed and recreated to read:

21 103.503 (1) (g) "Project of public works" means a project of public works that
22 is subject to s. 66.0903 or 103.49.

23 **SECTION 19.** 103.503 (2) of the statutes is amended to read:

24 103.503 (2) **SUBSTANCE ABUSE PROHIBITED.** No employee may use, possess,
25 attempt to possess, distribute, deliver, or be under the influence of a drug, or use or

1 be under the influence of alcohol, while performing the work described in s. 66.0903
2 (4), ~~2013 stats.~~, or s. ~~16.856~~ 103.49 (2m), ~~2015 stats.~~, on a project of public works or
3 while performing work on a public utility project. An employee is considered to be
4 under the influence of alcohol for purposes of this subsection if he or she has an
5 alcohol concentration that is equal to or greater than the amount specified in s.
6 885.235 (1g) (d).

7 **SECTION 20.** 103.503 (3) (a) 2. of the statutes is amended to read:

8 103.503 (3) (a) 2. A requirement that employees performing the work described
9 in s. 66.0903 (4), ~~2013 stats.~~, or s. ~~16.856~~ 103.49 (2m), ~~2015 stats.~~, on a project of
10 public works or performing work on a public utility project submit to random,
11 reasonable suspicion, and post-accident drug and alcohol testing and to drug and
12 alcohol testing before commencing work on the project, except that testing of an
13 employee before commencing work on a project is not required if the employee has
14 been participating in a random testing program during the 90 days preceding the
15 date on which the employee commenced work on the project.

16 **SECTION 21.** 104.001 (4) of the statutes is created to read:

17 104.001 (4) This section does not affect the requirement that employees
18 employed on a public works project contracted for by a city, village, town, or county
19 be paid at the prevailing wage rate, as defined in s. 66.0903 (1) (g), as required under
20 s. 66.0903.

21 **SECTION 22.** 106.04 of the statutes is created to read:

22 **106.04 Employment of apprentices on state public works projects. (1)**

23 DEFINITION. In this section, "project" means a project of public works that is subject
24 to s. 103.49 or 103.50 in which work is performed by employees employed in trades
25 that are apprenticeable under this subchapter.

1 (2) WAIVER. If the department grants an exception or modification to any
2 requirement in any contract for the performance of work on a project relating to the
3 employment and training of apprentices, the department shall post that information
4 on its Internet site, together with a detailed explanation for granting the exception
5 or modification.

6 **SECTION 23.** 109.09 (1) of the statutes is amended to read:

7 109.09 (1) The department shall investigate and attempt equitably to adjust
8 controversies between employers and employees as to regarding alleged wage
9 claims. The department may receive and investigate any wage claim that is filed
10 with the department, or received by the department under s. 109.10 (4), no later than
11 2 years after the date the wages are due. The department may, after receiving a wage
12 claim, investigate any wages due from the employer against whom the claim is filed
13 to any employee during the period commencing 2 years before the date the claim is
14 filed. The department shall enforce this chapter and ~~s. ss. 66.0903, 2013 stats., s.~~
15 ~~103.49, 2013 stats., s. 229.8275, 2013 stats., and s. 16.856, 2015 stats., and ss. 103.02,~~
16 103.49, 103.82, and 104.12, and 229.8275. In pursuance of this duty, the department
17 may sue the employer on behalf of the employee to collect any wage claim or wage
18 deficiency and ss. 109.03 (6) and 109.11 (2) and (3) shall apply to such actions. Except
19 for actions under s. 109.10, the department may refer such an action to the district
20 attorney of the county in which the violation occurs for prosecution and collection and
21 the district attorney shall commence an action in the circuit court having appropriate
22 jurisdiction. Any number of wage claims or wage deficiencies against the same
23 employer may be joined in a single proceeding, but the court may order separate
24 trials or hearings. In actions that are referred to a district attorney under this
25 subsection, any taxable costs recovered by the district attorney shall be paid into the

1 general fund of the county in which the violation occurs and used by that county to
2 meet its financial responsibility under s. 978.13 (2) (b) for the operation of the office
3 of the district attorney who prosecuted the action.

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

5 111.322 (2m) (a) The individual files a complaint or attempts to enforce any
6 right under s. 103.02, 103.10, 103.11, 103.13, 103.28, 103.32, 103.34, 103.455,
7 103.50, 104.12, 109.03, 109.07, 109.075, 146.997, or 995.55, or ss. 101.58 to 101.599
8 or 103.64 to 103.82.

9 **SECTION 25.** 111.322 (2m) (b) of the statutes is amended to read:

10 111.322 (2m) (b) The individual testifies or assists in any action or proceeding
11 held under or to enforce any right under s. 103.02, 103.10, 103.11, 103.13, 103.28,
12 103.32, 103.34, 103.50, 103.455, 104.12, 109.03, 109.07, 109.075, 146.997, or 995.55,
13 or ss. 101.58 to 101.599 or 103.64 to 103.82.

14 **SECTION 26.** 111.322 (2m) (c) of the statutes is created to read:

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

18 **SECTION 27.** 227.01 (13) (t) of the statutes is created to read:

19 227.01 (13) (t) Ascertain and determines prevailing wage rates under ss.
20 66.0903, 103.49, 103.50, and 229.8275, except that any action or inaction which
21 ascertains and determines prevailing wage rates under ss. 66.0903, 103.49, 103.50,
22 and 229.8275 is subject to judicial review under s. 227.40.

23 **SECTION 28.** 229.682 (2) of the statutes is created to read:

24 229.682 (2) PREVAILING WAGE. The construction of a baseball park facility that
25 is financed in whole or in part by a district is subject to s. 66.0903.

1 **SECTION 29.** 229.8275 of the statutes is created to read:

2 **229.8275 Prevailing wage.** A district may not enter into a contract under s.
3 229.827 with a professional football team, as described in s. 229.823, or a related
4 party that requires the team or related party to acquire and construct or renovate
5 football stadium facilities that are part of any facilities that are leased by the district
6 to the team or to a related party unless the professional football team or related party
7 agrees to all of the following:

8 (1) Not to allow any employee working on the football stadium facilities who
9 would be entitled to receive the prevailing wage rate under s. 66.0903 and who would
10 not be required or allowed to work more than the prevailing hours of labor, if the
11 football stadium facilities were a project of public works subject to s. 66.0903, to be
12 paid less than the prevailing wage rate or to be required or allowed to work more than
13 the prevailing hours of labor, except as allowed under s. 66.0903 (4) (a).

14 (2) To require any contractor, subcontractor, or agent of a contractor or
15 subcontractor performing work on the football stadium facilities to keep and allow
16 inspection of records in the same manner as a contractor, subcontractor, or agent of
17 a contractor or subcontractor performing work on a project of public works that is
18 subject to s. 66.0903 is required to keep and allow inspection of records under s.
19 66.0903 (10).

20 (3) To comply with s. 66.0903 in the same manner as a local governmental unit
21 contracting for the erection, construction, remodeling, repairing, or demolition of a
22 project of public works is required to comply with s. 66.0903 and to require any
23 contractor, subcontractor, or agent of a contractor or subcontractor performing work
24 on the football stadium facilities to comply with s. 66.0903 in the same manner as
25 a contractor, subcontractor, or agent of a contractor or subcontractor performing

1 work on a project of public works that is subject to s. 66.0903 is required to comply
2 with s. 66.0903.

3 **SECTION 30.** 946.15 of the statutes is created to read:

4 **946.15 Public construction contracts at less than full rate.** (1) Any
5 employer, or any agent or employee of an employer, who induces any individual who
6 seeks to be or is employed pursuant to a public contract, as defined in s. 66.0901 (1)
7 (c), or who seeks to be or is employed on a project on which a prevailing wage rate
8 determination has been issued by the department of workforce development under
9 s. 66.0903 (3), 103.49 (3), 103.50 (3), or 229.8275 (3) to give up, waive, or return any
10 part of the compensation to which that individual is entitled under his or her contract
11 of employment or under the prevailing wage rate determination issued by the
12 department, or who reduces the hourly basic rate of pay normally paid to an
13 employee for work on a project on which a prevailing wage rate determination has
14 not been issued under s. 66.0903 (3), 103.49 (3), 103.50 (3), or 229.8275 (3) during a
15 week in which the employee works both on a project on which a prevailing wage rate
16 determination has been issued and on a project on which a prevailing wage rate
17 determination has not been issued, is guilty of a Class I felony.

18 (2) Any individual employed pursuant to a public contract, as defined in s.
19 66.0901 (1) (c), or employed on a project on which a prevailing wage rate
20 determination has been issued by the department of workforce development under
21 s. 66.0903 (3), 103.49 (3), 103.50 (3), or 229.8275 (3) who gives up, waives, or returns
22 to the employer or agent of the employer any part of the compensation to which the
23 employee is entitled under his or her contract of employment or under the prevailing
24 wage determination issued by the department, or who gives up any part of the
25 compensation to which he or she is normally entitled for work on a project on which

1 a prevailing wage rate determination has not been issued under s. 66.0903 (3),
2 103.49 (3), 103.50 (3), or 229.8275 (3) during a week in which the individual works
3 part-time on a project on which a prevailing wage rate determination has been
4 issued and part-time on a project on which a prevailing wage rate determination has
5 not been issued, is guilty of a Class C misdemeanor.

6 (3) Any employer or labor organization, or any agent or employee of an
7 employer or labor organization, who induces any individual who seeks to be or is
8 employed on a project on which a prevailing wage rate determination has been issued
9 by the department of workforce development under s. 66.0903 (3), 103.49 (3), 103.50
10 (3), or 229.8275 (3) to allow any part of the wages to which that individual is entitled
11 under the prevailing wage rate determination issued by the department or local
12 governmental unit to be deducted from the individual's pay is guilty of a Class I
13 felony, unless the deduction would be allowed under 29 CFR 3.5 or 3.6 from an
14 individual who is working on a project that is subject to 40 USC 3142.

15 (4) Any individual employed on a project on which a prevailing wage rate
16 determination has been issued by the department of workforce development under
17 s. 66.0903 (3), 103.49 (3), 103.50 (3), or 229.8275 (3) who allows any part of the wages
18 to which that individual is entitled under the prevailing wage rate determination
19 issued by the department or local governmental unit to be deducted from his or her
20 pay is guilty of a Class C misdemeanor, unless the deduction would be allowed under
21 29 CFR 3.5 or 3.6 from an individual who is working on a project that is subject to
22 40 USC 3142.

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

24 978.05 (6) (a) Institute, commence, or appear in all civil actions or special
25 proceedings under and perform the duties set forth for the district attorney under ch.

1 980 and ss. 17.14, 30.03 (2), 48.09 (5), 59.55 (1), 59.64 (1), 70.36, 89.08, 103.50 (8),
2 103.92 (4), 109.09, 343.305 (9) (a), 806.05, 938.09, 938.18, 938.355 (6) (b) and (6g) (a),
3 946.86, 946.87, 961.55 (5), 971.14 and 973.075 to 973.077, perform any duties in
4 connection with court proceedings in a court assigned to exercise jurisdiction under
5 chs. 48 and 938 as the judge may request and perform all appropriate duties and
6 appear if the district attorney is designated in specific statutes, including matters
7 within chs. 782, 976 and 979 and ss. 51.81 to 51.85. Nothing in this paragraph limits
8 the authority of the county board to designate, under s. 48.09 (5), that the corporation
9 counsel provide representation as specified in s. 48.09 (5) or to designate, under s.
10 48.09 (6) or 938.09 (6), the district attorney as an appropriate person to represent the
11 interests of the public under s. 48.14 or 938.14.

12 **SECTION 9350. Initial applicability; Workforce Development.**

13 (1) PREVAILING WAGE. The appropriate provisions regarding prevailing wage
14 first apply, with respect to a project of public works that is subject to bidding, to a
15 project for which the request for bids is issued on the effective date of this subsection
16 and, with respect to a project of public works that is not subject to bidding, to a project
17 the contract for which is entered into on the effective date of this subsection.

18 (2) DISCRIMINATION. The treatment of ss. 66.0903 (10) (d), 111.322 (2m) (c), and
19 229.8275 first applies to acts of discrimination that occur on the effective date of this
20 subsection.

21 (END)