

1 the governmental unit has given the parties to the claim written notice stating that
2 the governmental unit provided the assistance and the cost of that assistance, the
3 department ~~or the division~~ shall order the employer or insurance carrier owing
4 compensation to reimburse that governmental unit for the amount of assistance the
5 governmental unit provided or two-thirds of the amount of the award or payment
6 remaining after deduction of attorney fees and any other fees or costs chargeable
7 under ch. 102, whichever is less. The department shall comply with this paragraph
8 when making payments under s. 102.81.

9 **SECTION 1186.** 102.28 (3) (c) of the statutes is amended to read:

10 102.28 (3) (c) An employee who has signed a waiver under par. (a) 1. and an
11 affidavit under par. (a) 2., who sustains an injury that, but for that waiver, the
12 employer would be liable for under s. 102.03, who at the time of the injury was a
13 member of a religious sect whose authorized representative has filed an affidavit
14 under par. (a) 3. and an agreement under par. (a) 4., and who as a result of the injury
15 becomes dependent on the religious sect for financial and medical assistance, or the
16 employee's dependent, may request a hearing under s. 102.17 (1) to determine if the
17 religious sect has provided the employee and his or her dependents with a standard
18 of living and medical treatment that are reasonable when compared to the general
19 standard of living and medical treatment for members of the religious sect. If, after
20 hearing, the ~~division~~ department determines that the religious sect has not provided
21 that standard of living or medical treatment, or both, the ~~division~~ department may
22 order the religious sect to provide alternative benefits to that employee or his or her
23 dependent, or both, in an amount that is reasonable under the circumstances, but
24 not in excess of the benefits that the employee or dependent could have received
25 under this chapter but for the waiver under par. (a) 1.

SECTION 1187

1 **SECTION 1187.** 102.28 (4) (c) of the statutes is amended to read:

2 102.28 (4) (c) After a hearing under par. (b), or without a hearing if one is not
3 requested, the ~~division~~ department may issue an order to an employer to cease
4 operations on a finding that the employer is an uninsured employer. ~~If no hearing~~
5 ~~is requested, the department may issue such an order.~~

6 **SECTION 1188.** 102.29 (1) (b) (intro.) of the statutes is amended to read:

7 102.29 (1) (b) (intro.) If a party entitled to notice cannot be found, the
8 department shall become the agent of that party for the giving of a notice as required
9 in par. (a) and the notice, when given to the department, shall include an affidavit
10 setting forth the facts, including the steps taken to locate that party. Each party shall
11 have an equal voice in the prosecution of the claim, and any disputes arising shall
12 be passed upon by the court before whom the case is pending, and if no action is
13 pending, then by a court of record or by the department ~~or the division~~. If notice is
14 given as provided in par. (a), the liability of the tort-feasor shall be determined as
15 to all parties having a right to make claim and, irrespective of whether or not all
16 parties join in prosecuting the claim, the proceeds of the claim shall be divided as
17 follows:

18 **SECTION 1189.** 102.29 (1) (c) of the statutes is amended to read:

19 102.29 (1) (c) If both the employee or the employee's personal representative
20 or other person entitled to bring action, and the employer, compensation insurer, or
21 department, join in the pressing of said claim and are represented by counsel, the
22 attorney fees allowed as a part of the costs of collection shall be, unless otherwise
23 agreed upon, divided between the attorneys for those parties as directed by the court
24 or by the department ~~or the division~~.

25 **SECTION 1190.** 102.29 (1) (d) of the statutes is amended to read:

1 102.29 (1) (d) A settlement of a 3rd-party claim shall be void unless the
2 settlement and the distribution of the proceeds of the settlement are approved by the
3 court before whom the action is pending or, if no action is pending, then by a court
4 of record or by the department ~~or the division~~.

5 **SECTION 1191.** 102.30 (7) (a) of the statutes is amended to read:

6 102.30 (7) (a) The department ~~or the division~~ may order direct reimbursement
7 out of the proceeds payable under this chapter for payments made under a
8 nonindustrial insurance policy covering the same disability and expenses
9 compensable under s. 102.42 when the claimant consents or when it is established
10 that the payments under the nonindustrial insurance policy were improper. No
11 attorney fee is due with respect to that reimbursement.

12 **SECTION 1192.** 102.32 (1m) (intro.) of the statutes is amended to read:

13 102.32 (1m) (intro.) In any case in which compensation payments for an injury
14 have extended or will extend over 6 months or more after the date of the injury or in
15 any case in which death benefits are payable, any party in interest may, in the
16 discretion of the department ~~or the division~~, be discharged from, or compelled to
17 ~~guarantee, future compensation payments by doing any of the following:~~

18 **SECTION 1193.** 102.32 (1m) (a) of the statutes is amended to read:

19 102.32 (1m) (a) Depositing the present value of the total unpaid compensation
20 upon a 5 percent interest discount basis with a credit union, savings bank, savings
21 and loan association, bank, or trust company designated by the department ~~or the~~
22 ~~division~~.

23 **SECTION 1194.** 102.32 (1m) (c) of the statutes is amended to read:

24 102.32 (1m) (c) Making payment in gross upon a 5 percent interest discount
25 basis to be approved by the department ~~or the division~~.

SECTION 1195

1 **SECTION 1195.** 102.32 (1m) (d) of the statutes is amended to read:

2 102.32 **(1m)** (d) In cases in which the time for making payments or the amounts
3 of payments cannot be definitely determined, furnishing a bond, or other security,
4 satisfactory to the department ~~or the division~~ for the payment of compensation as
5 may be due or become due. The acceptance of the bond, or other security, and the form
6 and sufficiency of the bond or other security, shall be subject to the approval of the
7 department ~~or the division~~. If the employer or insurer is unable or fails to
8 immediately procure the bond, the employer or insurer, in lieu of procuring the bond,
9 shall deposit with a credit union, savings bank, savings and loan association, bank,
10 or trust company designated by the department ~~or the division~~ the maximum
11 amount that may reasonably become payable in those cases, to be determined by the
12 department ~~or the division~~ at amounts consistent with the extent of the injuries and
13 the law. The bonds and deposits may be reduced only to satisfy claims and may be
14 withdrawn only after the claims which they are to guarantee are fully satisfied or
15 liquidated under par. (a), (b), or (c).

16 **SECTION 1196.** 102.32 (5) of the statutes is amended to read:

17 102.32 **(5)** Any insured employer may, in the discretion of the department ~~or~~
18 ~~the division~~, compel the insurer to discharge, or to guarantee payment of, the
19 employer's liabilities in any case described in sub. (1m) and by that discharge or
20 guarantee release the employer from liability for compensation in that case, except
21 that if for any reason a bond furnished or deposit made under sub. (1m) (d) does not
22 fully protect the beneficiary of the bond or deposit, the compensation insurer or
23 insured employer, as the case may be, shall still be liable to that beneficiary.

24 **SECTION 1197.** 102.32 (6m) of the statutes is amended to read:

1 102.32 (6m) The department ~~or the division~~ may direct an advance on a
2 payment of unaccrued compensation for permanent disability or death benefits if the
3 department ~~or the division~~ determines that the advance payment is in the best
4 interest of the injured employee or the employee's dependents. In directing the
5 advance, the department ~~or the division~~ shall give the employer or the employer's
6 insurer an interest credit against its liability. The credit shall be computed at 5
7 percent. An injured employee or dependent may receive no more than 3 advance
8 payments per calendar year.

9 **SECTION 1198.** 102.32 (7) of the statutes is amended to read:

10 102.32 (7) No lump sum settlement shall be allowed in any case of permanent
11 total disability upon an estimated life expectancy, except upon consent of all parties,
12 after hearing and finding by ~~the division~~ department that the interests of the injured
13 employee will be conserved by the lump sum settlement.

14 **SECTION 1199.** 102.33 (1) of the statutes is amended to read:

15 102.33 (1) The department ~~and the division~~ shall print and furnish free to any
16 employer or employee any blank forms that are necessary to facilitate efficient
17 administration of this chapter. The department ~~and the division~~ shall keep any
18 record books or records that are necessary for the proper and efficient administration
19 of this chapter.

20 **SECTION 1200.** 102.33 (2) (a) of the statutes is amended to read:

21 102.33 (2) (a) Except as provided in pars. (b) and (c), the records of the
22 department, ~~the division,~~ and the commission, related to the administration of this
23 chapter are subject to inspection and copying under s. 19.35 (1).

24 **SECTION 1201.** 102.33 (2) (b) (intro.) of the statutes is amended to read:

SECTION 1201

1 102.33 (2) (b) (intro.) Except as provided in this paragraph and par. (d), a record
2 maintained by the department, ~~the division,~~ or the commission that reveals the
3 identity of an employee who claims worker's compensation benefits, the nature of the
4 employee's claimed injury, the employee's past or present medical condition, the
5 extent of the employee's disability, or the amount, type, or duration of benefits paid
6 to the employee and a record maintained by the department that reveals any
7 financial information provided to the department by a self-insured employer or by
8 an applicant for exemption under s. 102.28 (2) (b) are confidential and not open to
9 public inspection or copying under s. 19.35 (1). The department, ~~the division,~~ or the
10 commission may deny a request made under s. 19.35 (1) or, subject to s. 102.17 (2m)
11 and (2s), refuse to honor a subpoena issued by an attorney of record in a civil or
12 criminal action or special proceeding to inspect and copy a record that is confidential
13 under this paragraph, unless one of the following applies:

14 **SECTION 1202.** 102.33 (2) (b) 1. of the statutes is amended to read:

15 102.33 (2) (b) 1. The requester is the employee who is the subject of the record
16 or an attorney or authorized agent of that employee. An attorney or authorized agent
17 of an employee who is the subject of a record shall provide a written authorization
18 for inspection and copying from the employee if requested by the department, ~~the~~
19 ~~division,~~ or the commission.

20 **SECTION 1203.** 102.33 (2) (b) 2. of the statutes is amended to read:

21 102.33 (2) (b) 2. The record that is requested contains confidential information
22 concerning a worker's compensation claim and the requester is an insurance carrier
23 or employer that is a party to any worker's compensation claim involving the same
24 employee or an attorney or authorized agent of that insurance carrier or employer,
25 except that the department, ~~the division,~~ or the commission is not required to do a

1 random search of its records and may require the requester to provide the
2 approximate date of the injury and any other relevant information that would assist
3 the department, ~~the division,~~ or the commission in finding the record requested. An
4 attorney or authorized agent of an insurance carrier or employer that is a party to
5 an employee's worker's compensation claim shall provide a written authorization for
6 inspection and copying from the insurance carrier or employer if requested by the
7 department, ~~the division,~~ or the commission.

8 **SECTION 1204.** 102.33 (2) (b) 4. of the statutes is amended to read:

9 102.33 (2) (b) 4. A court of competent jurisdiction in this state orders the
10 department, ~~the division,~~ or the commission to release the record.

11 **SECTION 1205.** 102.33 (2) (c) of the statutes is amended to read:

12 102.33 (2) (c) A record maintained by the department, ~~the division,~~ or the
13 commission that contains employer or insurer information obtained from the
14 Wisconsin compensation rating bureau under s. 102.31 (8) or 626.32 (1) (a) is
15 confidential and not open to public inspection or copying under s. 19.35 (1) unless the
16 Wisconsin compensation rating bureau authorizes public inspection or copying of
17 that information.

18 **SECTION 1206.** 102.33 (2) (d) 2. of the statutes is amended to read:

19 102.33 (2) (d) 2. The department, ~~the division,~~ or the commission may release
20 information that is confidential under par. (b) to a government unit, an institution
21 of higher education, or a nonprofit research organization for purposes of research and
22 may release information that is confidential under par. (c) to those persons for that
23 purpose if the Wisconsin compensation rating bureau authorizes that release. A
24 government unit, institution of higher education, or nonprofit research organization
25 may not permit inspection or disclosure of any information released to it under this

1 subdivision that is confidential under par. (b) unless the department, ~~the division,~~
2 or the commission authorizes that inspection or disclosure and may not permit
3 inspection or disclosure of any information released to it under this subdivision that
4 is confidential under par. (c) unless the department, ~~the division,~~ or the commission,
5 and the Wisconsin compensation rating bureau, authorize the inspection or
6 disclosure. A government unit, institution of higher education, or nonprofit research
7 organization that obtains any confidential information under this subdivision for
8 purposes of research shall provide the results of that research free of charge to the
9 person that released or authorized the release of that information.

10 **SECTION 1207.** 102.35 (3) of the statutes is amended to read:

11 102.35 (3) Any employer who without reasonable cause refuses to rehire an
12 employee who is injured in the course of employment, when suitable employment is
13 available within the employee's physical and mental limitations, upon order of the
14 department ~~or the division,~~ has exclusive liability to pay to the employee, in addition
15 to other benefits, the wages lost during the period of such refusal, not exceeding one
16 year's wages. In determining the availability of suitable employment the
17 ~~continuance in business of the employer shall be considered and any written rules~~
18 promulgated by the employer with respect to seniority or the provisions of any
19 collective bargaining agreement with respect to seniority shall govern.

20 **SECTION 1208.** 102.42 (1m) of the statutes is amended to read:

21 102.42 (1m) LIABILITY FOR UNNECESSARY TREATMENT. If an employee who has
22 sustained a compensable injury undertakes in good faith invasive treatment that is
23 generally medically acceptable, but that is unnecessary, the employer shall pay
24 disability indemnity for all disability incurred as a result of that treatment. An
25 employer is not liable for disability indemnity for any disability incurred as a result

1 of any unnecessary treatment undertaken in good faith that is noninvasive or not
2 medically acceptable. This subsection applies to all findings that an employee has
3 sustained a compensable injury, whether the finding results from a hearing, the
4 default of a party, or a compromise or stipulation confirmed by the department ~~or the~~
5 ~~division.~~

6 **SECTION 1209.** 102.42 (6) of the statutes is amended to read:

7 102.42 (6) TREATMENT REJECTED BY EMPLOYEE. Unless the employee has elected
8 Christian Science treatment in lieu of medical, surgical, dental, or hospital
9 treatment, no compensation shall be payable for the death or disability of an
10 employee, if the death is caused, or insofar as the disability may be aggravated,
11 caused, or continued by an unreasonable refusal or neglect to submit to or follow any
12 competent and reasonable medical, surgical, or dental treatment or, in the case of
13 tuberculosis, by refusal or neglect to submit to or follow hospital or medical
14 treatment when found by the department ~~or the division~~ to be necessary. The right
15 to compensation accruing during a period of refusal or neglect to submit to or follow
16 hospital or medical treatment when found by the department ~~or the division~~ to be
17 necessary in the case of tuberculosis shall be barred, irrespective of whether
18 disability was aggravated, caused, or continued by that refusal or neglect.

19 **SECTION 1210.** 102.42 (8) of the statutes is amended to read:

20 102.42 (8) AWARD TO STATE EMPLOYEE. Whenever the department ~~or the division~~
21 makes an award on behalf of a state employee, the department ~~or the division~~ shall
22 file duplicate copies of the award with the subunit of the department of
23 administration responsible for risk management. Upon receipt of the copies of the
24 award, the department of administration shall promptly issue a voucher in payment
25 of the award from the proper appropriation under s. 20.865 (1) (fm), (kr) or (ur), and

1 shall transmit one copy of the voucher and the award to the officer, department, or
2 agency by whom the affected employee is employed.

3 **SECTION 1211.** 102.425 (4m) (a) of the statutes is amended to read:

4 102.425 (4m) (a) The department has jurisdiction under this subsection, ~~the~~
5 ~~department and the division have jurisdiction under s. and ss. 102.16 (1m) (c); and~~
6 ~~the division has jurisdiction under s. 102.17~~ to resolve a dispute between a
7 pharmacist or practitioner and an employer or insurer over the reasonableness of the
8 amount charged for a prescription drug dispensed under sub. (2) for outpatient use
9 by an injured employee who claims benefits under this chapter.

10 **SECTION 1212.** 102.425 (4m) (b) of the statutes is amended to read:

11 102.425 (4m) (b) An employer or insurer that disputes the reasonableness of
12 the amount charged for a prescription drug dispensed under sub. (2) for outpatient
13 use by an injured employee or the department ~~or division~~ under sub. (4) (b) or s.
14 102.16 (1m) (c) or 102.18 (1) (bg) 3. shall provide, within 30 days after receiving a
15 completed bill for the prescription drug, reasonable written notice to the pharmacist
16 or practitioner that the charge is being disputed. After receiving reasonable written
17 notice under this paragraph or under sub. (4) (b) or s. 102.16 (1m) (c) or 102.18 (1)
18 (bg) 3. that a prescription drug charge is being disputed, a pharmacist or practitioner
19 may not collect the disputed charge from, or bring an action for collection of the
20 disputed charge against, the employee who received the prescription drug.

21 **SECTION 1213.** 102.43 (5) (b) of the statutes is amended to read:

22 102.43 (5) (b) Except as provided in s. 102.61 (1g), temporary disability shall
23 also include such period as the employee may be receiving instruction under s. 102.61
24 (1) or (1m). Temporary disability on account of receiving instruction under s. 102.61
25 (1) or (1m), and not otherwise resulting from the injury, shall not be in excess of 80

1 weeks. That 80-week limitation does not apply to temporary disability benefits
2 under this section, the cost of tuition, fees, books, travel, or maintenance under s.
3 102.61 (1), or the cost of private rehabilitation counseling or rehabilitative training
4 under s. 102.61 (1m) if the department ~~or the division~~ determines that additional
5 training is warranted. The necessity for additional training as authorized by the
6 department ~~or the division~~ for any employee shall be subject to periodic review and
7 reevaluation.

8 **SECTION 1214.** 102.43 (9) (e) of the statutes is amended to read:

9 102.43 (9) (e) The employee's employment with the employer has been
10 suspended or terminated due to misconduct, as defined in s. 108.04 (5), by the
11 employee connected with the employee's work or substantial fault, as defined for
12 failing to notify his or her employer of absenteeism or tardiness that becomes
13 excessive as provided in s. 108.04 (5g) (a), ~~by the employee connected with the~~
14 ~~employee's work.~~

15 **SECTION 1215.** 102.44 (2) of the statutes is amended to read:

16 102.44 (2) In case of permanent total disability, aggregate indemnity shall be
17 weekly indemnity for the period that the employee may live. Total impairment for
18 industrial use of both eyes, the loss of both arms at or near the shoulder, the loss of
19 both legs at or near the hip, or the loss of one arm at the shoulder and one leg at the
20 hip constitutes permanent total disability. This enumeration is not exclusive, but in
21 other cases the ~~division~~ department shall find the facts.

22 **SECTION 1216.** 102.44 (6) (b) of the statutes is amended to read:

23 102.44 (6) (b) If during the period set forth in s. 102.17 (4) the employment
24 relationship is terminated by the employer at the time of the injury or by the
25 employee because his or her physical or mental limitations prevent his or her

1 continuing in such employment, or if during that period a wage loss of 15 percent or
2 more occurs, the ~~division~~ department may reopen any award and make a
3 redetermination taking into account loss of earning capacity.

4 **SECTION 1217.** 102.475 (6) of the statutes is amended to read:

5 102.475 (6) PROOF. In administering this section the department ~~or the division~~
6 may require reasonable proof of birth, marriage, domestic partnership under ch. 770,
7 relationship, or dependency.

8 **SECTION 1218.** 102.48 (1) of the statutes is amended to read:

9 102.48 (1) An unestranged surviving parent or parents to whose support the
10 deceased has contributed less than \$500 in the 52 weeks next preceding the injury
11 causing death shall receive a death benefit of \$6,500. If the parents are not living
12 together, the department ~~or the division~~ shall divide this sum in such proportion as
13 the department ~~or division~~ considers to be just, considering their ages and other facts
14 bearing on dependency.

15 **SECTION 1219.** 102.48 (2) of the statutes is amended to read:

16 102.48 (2) In all other cases the death benefit shall be such sum as the
17 ~~department or the division~~ determines to represent fairly and justly the aid to
18 support which the dependent might reasonably have anticipated from the deceased
19 employee but for the injury. To establish anticipation of support and dependency, it
20 shall not be essential that the deceased employee made any contribution to support.
21 The aggregate benefits in that case shall not exceed twice the average annual
22 earnings of the deceased or 4 times the contributions of the deceased to the support
23 of his or her dependents during the year immediately preceding the deceased
24 employee's death, whichever amount is the greater. In no event shall the aggregate
25 benefits in that case exceed the amount that would accrue to a person who is solely

1 and wholly dependent. When there is more than one partial dependent the weekly
2 benefit shall be apportioned according to their relative dependency. The term
3 “support” as used in ss. 102.42 to 102.63 shall include contributions to the capital
4 fund of the dependents for their necessary comfort.

5 **SECTION 1220.** 102.48 (3) of the statutes is amended to read:

6 102.48 (3) Except as otherwise provided, a death benefit, other than burial
7 expenses, shall be paid in weekly installments corresponding in amount to
8 two-thirds of the weekly earnings of the employee, until otherwise ordered by the
9 department ~~or the division~~.

10 **SECTION 1221.** 102.49 (3) of the statutes is amended to read:

11 102.49 (3) If the employee leaves a spouse or domestic partner under ch. 770
12 wholly dependent and also a child by a former marriage, domestic partnership under
13 ch. 770, or adoption, likewise wholly dependent, aggregate benefits shall be the same
14 in amount as if the child were the child of the surviving spouse or partner, and the
15 entire benefit shall be apportioned to the dependents in the amounts that the
16 department ~~or the division~~ determines to be just, considering the ages of the
17 dependents and other factors bearing on dependency. The benefit awarded to the
18 surviving spouse or partner shall not exceed 4 times the average annual earnings of
19 the deceased employee.

20 **SECTION 1222.** 102.49 (6) of the statutes is amended to read:

21 102.49 (6) The department ~~or the division~~ may award the additional benefits
22 payable under this section to the surviving parent of the child, to the child's guardian,
23 or to such other person, bank, or trust company for the child's use as may be found
24 best calculated to conserve the interests of the child. If the child dies while benefits

1 are still payable, there shall be paid the reasonable expense for burial, not exceeding
2 \$1,500.

3 **SECTION 1223.** 102.51 (3) of the statutes is amended to read:

4 102.51 (3) DIVISION AMONG DEPENDENTS. If there is more than one person wholly
5 or partially dependent on a deceased employee, the death benefit shall be divided
6 between those dependents in such proportion as the department ~~or the division~~
7 determines to be just, considering their ages and other facts bearing on their
8 dependency.

9 **SECTION 1224.** 102.51 (4) of the statutes is amended to read:

10 102.51 (4) DEPENDENCY AS OF THE DATE OF DEATH. Questions as to who is a
11 dependent and the extent of his or her dependency shall be determined as of the date
12 of the death of the employee, and the dependent's right to any death benefit becomes
13 fixed at that time, regardless of any subsequent change in conditions. The death
14 benefit shall be directly recoverable by and payable to the dependents entitled to the
15 death benefit or their legal guardians or trustees. In case of the death of a dependent
16 whose right to a death benefit has become fixed, so much of the benefit as is unpaid
17 ~~is payable to the dependent's personal representatives in gross, unless the~~
18 ~~department or the division~~ determines that the unpaid benefit shall be reassigned
19 under sub. (6) and paid to any other dependent who is physically or mentally
20 incapacitated or a minor. For purposes of this subsection, a child of the employee who
21 is born after the death of the employee is considered to be a dependent as of the date
22 of death.

23 **SECTION 1225.** 102.51 (6) of the statutes is amended to read:

24 102.51 (6) DIVISION AMONG DEPENDENTS. Benefits accruing to a minor dependent
25 child may be awarded to either parent in the discretion of the department ~~or the~~

1 division. Notwithstanding sub. (1), the department ~~or the division~~ may reassign the
2 death benefit as between a surviving spouse or a domestic partner under ch. 770 and
3 any children specified in sub. (1) and s. 102.49 in accordance with their respective
4 needs for the death benefit.

5 **SECTION 1226.** 102.55 (3) of the statutes is amended to read:

6 102.55 (3) For all other injuries to the members of the body or its faculties that
7 are specified in the schedule under s. 102.52 resulting in permanent disability,
8 though the member is not actually severed or the faculty is not totally lost,
9 compensation shall bear such relation to the compensation named in the schedule
10 as the disability bears to the disability named in the schedule. Indemnity in those
11 cases shall be determined by allowing weekly indemnity during the healing period
12 resulting from the injury and the percentage of permanent disability resulting after
13 the healing period as found by the department ~~or the division~~.

14 **SECTION 1227.** 102.555 (12) (a) of the statutes is amended to read:

15 102.555 (12) (a) An employer, ~~or the department, or the division~~ is not liable
16 for the expense of any examination or test for hearing loss, any evaluation of such
17 an exam or test, any medical treatment for improving or restoring hearing, or any
18 hearing aid to relieve the effect of hearing loss unless it is determined that
19 compensation for occupational deafness is payable under sub. (3), (4), or (11).

20 **SECTION 1228.** 102.56 (1) of the statutes is amended to read:

21 102.56 (1) Subject to sub. (2), if an employee is so permanently disfigured as
22 to occasion potential wage loss due to the disfigurement, the department ~~or the~~
23 ~~division~~ may allow such sum as the department ~~or the division~~ considers just as
24 compensation for the disfigurement, not exceeding the employee's average annual
25 earnings. In determining the potential for wage loss due to the disfigurement and

1 the sum awarded, the department ~~or the division~~ shall take into account the age,
2 education, training, and previous experience and earnings of the employee, the
3 employee's present occupation and earnings, and likelihood of future suitable
4 occupational change. Consideration for disfigurement allowance is confined to those
5 areas of the body that are exposed in the normal course of employment. The
6 department ~~or the division~~ shall also take into account the appearance of the
7 disfigurement, its location, and the likelihood of its exposure in occupations for which
8 the employee is suited.

9 **SECTION 1229.** 102.56 (2) of the statutes is amended to read:

10 102.56 (2) If an employee who claims compensation under sub. (1) returns to
11 work for the employer who employed the employee at the time of the injury, or is
12 offered employment with that employer, at the same or a higher wage, the
13 department ~~or the division~~ may not allow that compensation unless the employee
14 suffers an actual wage loss due to the disfigurement.

15 **SECTION 1230.** 102.565 (1) of the statutes is amended to read:

16 102.565 (1) When, as a result of exposure in the course of employment over a
17 period of time to toxic or hazardous substances or conditions, an employee
18 performing work that is subject to this chapter develops any clinically observable
19 abnormality or condition that, on competent medical opinion, predisposes or renders
20 the employee in any manner differentially susceptible to disability to such an extent
21 that it is inadvisable for the employee to continue employment involving that
22 exposure, is discharged from or ceases to continue the employment, and suffers wage
23 loss by reason of that discharge from, or cessation of, employment, the department
24 ~~or the division~~ may allow such sum as the department ~~or the division~~ considers just
25 as compensation for that wage loss, not exceeding \$13,000. If a nondisabling

1 condition may also be caused by toxic or hazardous exposure not related to
2 employment and if the employee has a history of that exposure, compensation as
3 provided under this section or any other remedy for loss of earning capacity shall not
4 be allowed. If the employee is discharged from employment prior to a finding by the
5 department ~~or the division~~ that it is inadvisable for the employee to continue in that
6 employment and if it is reasonably probable that continued exposure would result
7 in disability, the liability of the employer who discharges the employee is primary,
8 and the liability of the employer's insurer is secondary, under the same procedure
9 and to the same effect as provided by s. 102.62.

10 **SECTION 1231.** 102.565 (2) of the statutes is amended to read:

11 102.565 (2) Upon application of any employer or employee, the department ~~or~~
12 ~~the division~~ may direct any employee of the employer or an employee who, in the
13 course of his or her employment, has been exposed to toxic or hazardous substances
14 or conditions to submit to examination by one or more physicians appointed by the
15 department ~~or the division~~ to determine whether the employee has developed any
16 abnormality or condition under sub. (1), and the degree of that abnormality or
17 condition. The cost of the medical examination shall be borne by the person making
18 application. The physician conducting the examination shall submit the results of
19 the examination to the department ~~or the division~~, which shall submit copies of the
20 reports to the employer and employee, who shall have an opportunity to rebut the
21 reports if a request to submit a rebuttal is made to the department ~~or the division~~
22 within 10 days after the department ~~or the division~~ mails the report to the parties.
23 The department ~~or the division~~ shall make its findings as to whether it is inadvisable
24 for the employee to continue in his or her employment.

25 **SECTION 1232.** 102.565 (3) of the statutes is amended to read:

1 102.565 (3) If, after direction by the commission, or any member of the
2 commission, the department, ~~the division~~, or an examiner, an employee refuses to
3 submit to an examination or in any way obstructs the examination, the employee's
4 right to compensation under this section shall be barred.

5 **SECTION 1233.** 102.61 (1g) (c) of the statutes is amended to read:

6 102.61 (1g) (c) On receiving notice that he or she is eligible to receive vocational
7 rehabilitation services under 29 USC 701 to 797a, an employee shall provide the
8 employer with a written report from a physician, chiropractor, psychologist, or
9 podiatrist stating the employee's permanent work restrictions. Within 60 days after
10 receiving that report, the employer shall provide to the employee in writing an offer
11 of suitable employment, a statement that the employer has no suitable employment
12 for the employee, or a report from a physician, chiropractor, psychologist, or
13 podiatrist showing that the permanent work restrictions provided by the employee's
14 practitioner are in dispute and documentation showing that the difference in work
15 restrictions would materially affect either the employer's ability to provide suitable
16 employment or a vocational rehabilitation counselor's ability to recommend a
17 rehabilitative training program. If the employer and employee cannot resolve the
18 dispute within 30 days after the employee receives the employer's report and
19 documentation, the employer or employee may request a hearing before the ~~division~~
20 department to determine the employee's work restrictions. Within 30 days after the
21 ~~division~~ department determines the employee's work restrictions, the employer shall
22 provide to the employee in writing an offer of suitable employment or a statement
23 that the employer has no suitable employment for the employee.

24 **SECTION 1234.** 102.61 (1m) (c) of the statutes is amended to read:

1 102.61 (1m) (c) The employer or insurance carrier shall pay the reasonable cost
2 of any services provided for an employee by a private rehabilitation counselor under
3 par. (a) and, subject to the conditions and limitations specified in sub. (1r) (a) to (c)
4 and by rule, if the private rehabilitation counselor determines that rehabilitative
5 training is necessary, the reasonable cost of the rehabilitative training program
6 recommended by that counselor, including the cost of tuition, fees, books,
7 maintenance, and travel at the same rate as is provided for state officers and
8 employees under s. 20.916 (8). Notwithstanding that the department ~~or the division~~
9 may authorize under s. 102.43 (5) (b) a rehabilitative training program that lasts
10 longer than 80 weeks, a rehabilitative training program that lasts 80 weeks or less
11 is presumed to be reasonable.

12 **SECTION 1235.** 102.61 (2) of the statutes is amended to read:

13 102.61 (2) The ~~division~~ department, the commission, and the courts shall
14 determine the rights and liabilities of the parties under this section in like manner
15 and with like effect as the ~~division~~ department, the commission, and the courts
16 determine other issues under this chapter. A determination under this subsection
17 may include a determination based on the evidence regarding the cost or scope of the
18 services provided by a private rehabilitation counselor under sub. (1m) (a) or the cost
19 or reasonableness of a rehabilitative training program developed under sub. (1m) (a).

20 **SECTION 1236.** 102.62 of the statutes is amended to read:

21 **102.62 Primary and secondary liability; unchangeable.** In case of
22 liability under s. 102.57 or 102.60, the liability of the employer shall be primary and
23 the liability of the insurance carrier shall be secondary. If proceedings are had before
24 the ~~division~~ department for the recovery of that liability, the ~~division~~ department
25 shall set forth in its award the amount and order of liability as provided in this

1 section. Execution shall not be issued against the insurance carrier to satisfy any
2 judgment covering that liability until execution has first been issued against the
3 employer and has been returned unsatisfied as to any part of that liability. Any
4 provision in any insurance policy undertaking to guarantee primary liability or to
5 avoid secondary liability for a liability under s. 102.57 or 102.60 is void. If the
6 employer has been adjudged bankrupt or has made an assignment for the benefit of
7 creditors, if the employer, other than an individual, has gone out of business or has
8 been dissolved, or if the employer is a corporation and its charter has been forfeited
9 or revoked, the insurer shall be liable for the payment of that liability without
10 judgment or execution against the employer, but without altering the primary
11 liability of the employer.

12 **SECTION 1237.** 102.64 (1) of the statutes is amended to read:

13 102.64 (1) Upon request of the department of administration, a representative
14 of the department of justice shall represent the state in cases involving payment into
15 or out of the state treasury under s. 20.865 (1) (fm), (kr), or (ur) or 102.29. The
16 department of justice, after giving notice to the department of administration, may
17 ~~compromise the amount of those payments but such compromises shall be subject to~~
18 ~~review by the department or the division.~~ If the spouse or domestic partner under
19 ch. 770 of the deceased employee compromises his or her claim for a primary death
20 benefit, the claim of the children of the employee under s. 102.49 shall be
21 ~~compromised on the same proportional basis, subject to approval by the department~~
22 ~~or the division.~~ If the persons entitled to compensation on the basis of total
23 dependency under s. 102.51 (1) compromise their claim, payments under s. 102.49
24 (5) (a) shall be compromised on the same proportional basis.

25 **SECTION 1238.** 102.64 (2) of the statutes is amended to read:

1 102.64 (2) Upon request of the department of administration, the attorney
2 general shall appear on behalf of the state in proceedings upon claims for
3 compensation against the state. Except as provided in s. 102.65 (3), the department
4 of justice shall represent the interests of the state in proceedings under s. 102.44 (1),
5 102.49, 102.59, 102.60, or 102.66. The department of justice may compromise claims
6 in those proceedings, but the compromises are subject to review by the department
7 ~~or the division~~. Costs incurred by the department of justice in prosecuting or
8 defending any claim for payment into or out of the work injury supplemental benefit
9 fund under s. 102.65, including expert witness and witness fees but not including
10 attorney fees or attorney travel expenses for services performed under this
11 subsection, shall be paid from the work injury supplemental benefit fund.

12 **SECTION 1239.** 102.65 (3) of the statutes is amended to read:

13 102.65 (3) The department of workforce development may retain the
14 department of administration to process, investigate, and pay claims under ss.
15 102.44 (1), 102.49, 102.59, and 102.66. If retained by the department of workforce
16 development, the department of administration may compromise a claim processed
17 ~~by that department, but a compromise made by that department is subject to review~~
18 ~~by the department of workforce development or the division~~. The department of
19 workforce development shall pay for the services retained under this subsection from
20 the appropriation account under s. 20.445 (1) (t).

21 **SECTION 1240.** 102.66 (1) of the statutes is amended to read:

22 102.66 (1) Subject to any certificate filed under s. 102.65 (4), if there is an
23 otherwise meritorious claim for occupational disease, or for a traumatic injury
24 described in s. 102.17 (4) in which the date of injury or death or last payment of
25 compensation, other than for treatment or burial expenses, is before April 1, 2006,

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1 and if the claim is barred solely by the statute of limitations under s. 102.17 (4), the
2 department ~~or the division~~ may, in lieu of worker's compensation benefits, direct
3 payment from the work injury supplemental benefit fund under s. 102.65 of such
4 compensation and such medical expenses as would otherwise be due, based on the
5 date of injury, to or on behalf of the injured employee. The benefits shall be
6 supplemental, to the extent of compensation liability, to any disability or medical
7 benefits payable from any group insurance policy whose premium is paid in whole
8 or in part by any employer, or under any federal insurance or benefit program
9 providing disability or medical benefits. Death benefits payable under any such
10 group policy do not limit the benefits payable under this section.

11 **SECTION 1241.** 102.75 (1) of the statutes is amended to read:

12 102.75 (1) The department shall assess upon and collect from each licensed
13 worker's compensation insurance carrier and from each employer exempted under
14 s. 102.28 (2) (b) or (bm) from the duty to carry insurance under s. 102.28 (2) (a) the
15 proportion of total costs and expenses incurred by the council on worker's
16 compensation for travel and research and by the department, ~~the division,~~ and the
17 commission in the administration of this chapter for the current fiscal year, plus any
18 deficiencies in collections and anticipated costs from the previous fiscal year, that the
19 total indemnity paid or payable under this chapter by each such carrier and exempt
20 employer in worker's compensation cases initially closed during the preceding
21 calendar year, other than for increased, double, or treble compensation, bore to the
22 total indemnity paid in cases closed the previous calendar year under this chapter
23 by all carriers and exempt employers, other than for increased, double, or treble
24 compensation. The council on worker's compensation, ~~the division,~~ and the

1 commission shall annually certify any costs and expenses for worker's compensation
2 activities to the department at such time as the secretary requires.

3 **SECTION 1242.** 103.005 (12) (a) of the statutes is amended to read:

4 103.005 (12) (a) If any employer, employee, owner, or other person violates chs.
5 103 to 106, or fails or refuses to perform any duty required under chs. 103 to 106,
6 within the time prescribed by the department, for which no penalty has been
7 specifically provided, or fails, neglects or refuses to obey any lawful order given or
8 made by the department or any judgment or decree made by any court in connection
9 with chs. 103 to 106, for each such violation, failure or refusal, the employer,
10 employee, owner or other person shall forfeit not less than \$10 nor more than \$100
11 for each offense. This paragraph does not apply to any person that fails to provide
12 any information to the department to assist the department in determining
13 prevailing wage rates or prevailing hours of labor under s. 103.49 (3) (a) or (am) or
14 103.50 (3) or (4).

15 **SECTION 1243.** 103.007 of the statutes is repealed.

16 **SECTION 1244.** 103.10 (1) (a) (intro.) of the statutes is renumbered 103.10 (1)
17 (a) and amended to read:

18 103.10 (1) (a) "Child" means a natural, adopted, or foster child, a stepchild, or
19 a legal ward ~~to whom any of the following applies.~~

20 **SECTION 1245.** 103.10 (1) (a) 1. of the statutes is repealed.

21 **SECTION 1246.** 103.10 (1) (a) 2. of the statutes is repealed.

22 **SECTION 1247.** 103.10 (1) (ap) of the statutes is created to read:

23 103.10 (1) (ap) "Covered active duty" means any of the following:

24 1. In the case of a member of a regular component of the U.S. armed forces, duty
25 during the deployment of the member with the U.S. armed forces to a foreign country.

1 2. In the case of a member of a reserve component of the U.S. armed forces, duty
2 during the deployment of the member with the U.S. armed forces to a foreign country
3 under a call or order to active duty under a provision of law specified in 10 USC 101
4 (a) (13) (B).

5 **SECTION 1248.** 103.10 (1) (b) of the statutes is amended to read:

6 103.10 (1) (b) ~~Except as provided in sub. (1m) (b) 2. and s. 452.38, “employee”~~
7 means an individual employed in this state by an employer, except the employer’s
8 ~~parent, child, spouse, domestic partner, or child parent, grandparent, grandchild, or~~
9 ~~sibling.~~

10 **SECTION 1249.** 103.10 (1) (c) of the statutes is amended to read:

11 103.10 (1) (c) ~~Except as provided in sub. (1m) (b) 3., “employer”~~ “Employer”
12 means a person engaging in any activity, enterprise or business in this state
13 employing at least ~~50~~ 25 individuals on a permanent basis. “Employer” includes the
14 state and any office, department, independent agency, authority, institution,
15 association, society or other body in state government created or authorized to be
16 created by the constitution or any law, including the legislature and the courts.

17 **SECTION 1250.** 103.10 (1) (dm) of the statutes is created to read:

18 103.10 (1) (dm) “Grandchild” means the child of a child.

19 **SECTION 1251.** 103.10 (1) (dp) of the statutes is created to read:

20 103.10 (1) (dp) “Grandparent” means the parent of a parent.

21 **SECTION 1252.** 103.10 (1) (gm) of the statutes is created to read:

22 103.10 (1) (gm) “Sibling” means a brother, sister, half brother, half sister,
23 stepbrother, or stepsister, whether by blood, marriage, or adoption.

24 **SECTION 1253.** 103.10 (1m) of the statutes is repealed.

25 **SECTION 1254.** 103.10 (3) (a) 1. of the statutes is amended to read:

1 103.10 (3) (a) 1. In a 12-month period no employee may take more than 6 weeks
2 of family leave under par. (b) 1. and, 2., 4., and 5.

3 **SECTION 1255.** 103.10 (3) (b) 3. of the statutes is amended to read:

4 103.10 (3) (b) 3. To care for the employee's child, spouse, domestic partner, or
5 parent, grandparent, grandchild, or sibling, if the child, spouse, domestic partner, or
6 parent, grandparent, grandchild, or sibling has a serious health condition.

7 **SECTION 1256.** 103.10 (3) (b) 4. of the statutes is created to read:

8 103.10 (3) (b) 4. Because of any qualifying exigency, as determined by the
9 department by rule, arising out of the fact that the spouse, child, domestic partner,
10 parent, grandparent, grandchild, or sibling of the employee is on covered active duty
11 or has been notified of an impending call or order to covered active duty.

12 **SECTION 1257.** 103.10 (3) (b) 5. of the statutes is created to read:

13 103.10 (3) (b) 5. Because a child care center, child care provider, or school that
14 the employee's child attends is experiencing an unforeseen or unexpected
15 short-term closure.

16 **SECTION 1258.** 103.10 (6) (b) (intro.) of the statutes is amended to read:

17 103.10 (6) (b) (intro.) If an employee intends to take family leave because of the
18 planned medical treatment or supervision of a child, spouse, domestic partner, or
19 parent, grandparent, grandchild, or sibling or intends to take medical leave because
20 of the planned medical treatment or supervision of the employee, the employee shall
21 do all of the following:

22 **SECTION 1259.** 103.10 (6) (b) 1. of the statutes is amended to read:

23 103.10 (6) (b) 1. Make a reasonable effort to schedule the medical treatment
24 or supervision so that it does not unduly disrupt the employer's operations, subject

1 to the approval of the health care provider of the child, spouse, domestic partner,
2 parent, grandparent, grandchild, sibling, or employee.

3 **SECTION 1260.** 103.10 (6) (c) of the statutes is created to read:

4 103.10 (6) (c) If the employee intends to take leave under sub. (3) (b) 4. that is
5 foreseeable because the spouse, child, domestic partner, parent, grandparent,
6 grandchild, or sibling of the employee is on covered active duty or has been notified
7 of an impending call or order to covered active duty, the employee shall provide notice
8 of that intention to the employer in a reasonable and practicable manner.

9 **SECTION 1261.** 103.10 (7) (a) of the statutes is amended to read:

10 103.10 (7) (a) If an employee requests family leave for a reason described in sub.
11 (3) (b) 3. or requests medical leave, the employer may require the employee to provide
12 certification, as described in par. (b), issued by the health care provider or Christian
13 Science practitioner of the child, spouse, domestic partner, parent, grandparent,
14 grandchild, sibling, or employee, whichever is appropriate.

15 **SECTION 1262.** 103.10 (7) (b) (intro.) of the statutes is amended to read:

16 103.10 (7) (b) (intro.) No employer may require certification under par. (a)
17 stating more than the following:

18 **SECTION 1263.** 103.10 (7) (b) 1. of the statutes is amended to read:

19 103.10 (7) (b) 1. That the child, spouse, domestic partner, parent, grandparent,
20 grandchild, sibling, or employee has a serious health condition.

21 **SECTION 1264.** 103.10 (7) (d) of the statutes is created to read:

22 103.10 (7) (d) If an employee requests leave under sub. (3) (b) 4., the employer
23 may require the employee to provide certification that the spouse, child, domestic
24 partner, parent, grandparent, grandchild, or sibling of the employee is on covered
25 active duty or has been notified of an impending call or order to covered active duty

1 issued at such time and in such manner as the department may prescribe by rule,
2 and the employee shall provide a copy of that certification to the employer in a timely
3 manner.

4 **SECTION 1265.** 103.10 (7) (e) of the statutes is created to read:

5 103.10 (7) (e) If an employee requests leave under sub. (3) (b) 5., the employer
6 may require the employee to provide certification that the child care center, child
7 care provider, or school that the employee's child attends is experiencing an
8 unforeseen or unexpected short-term closure. The department may prescribe by
9 rule the form and content of the certification.

10 **SECTION 1266.** 103.10 (12) (c) of the statutes is amended to read:

11 103.10 (12) (c) If 2 or more health care providers disagree about any of the
12 information required to be certified under sub. (7) (b), the department may appoint
13 another health care provider to examine the child, spouse, domestic partner, parent,
14 grandparent, grandchild, sibling, or employee and render an opinion as soon as
15 possible. The department shall promptly notify the employee and the employer of
16 the appointment. The employer and the employee shall each pay 50 percent of the
17 cost of the examination and opinion.

18 **SECTION 1267.** 103.10 (14) (a) of the statutes is renumbered 103.10 (14).

19 **SECTION 1268.** 103.10 (14) (b) of the statutes is repealed.

20 **SECTION 1269.** 103.12 of the statutes is repealed.

21 **SECTION 1270.** 103.145 of the statutes is created to read:

22 **103.145 Employer drug policies; medical use of**
23 **tetrahydrocannabinols.** (1) In this section:

24 (a) "Medication with tetrahydrocannabinols" has the meaning given in s.
25 961.01 (14g).

1 (b) "Usable cannabis" has the meaning given in s. 961.01 (21f).

2 (2) No employer is required to permit or accommodate the use, consumption,
3 possession, transfer, display, transportation, sale, or cultivation of medication with
4 tetrahydrocannabinols or usable cannabis in the workplace, and any employer may
5 have a policy restricting the use of marijuana by its employees.

6 **SECTION 1271.** 103.36 of the statutes is repealed.

7 **SECTION 1272.** 103.49 of the statutes is created to read:

8 **103.49 Wage rate on state work. (1) DEFINITIONS.** In this section:

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

18 (am) "Bona fide economic benefit" means an economic benefit for which an
19 employer makes irrevocable contributions to a trust or fund created under 29 USC
20 186 (c) or to any other bona fide plan, trust, program, or fund no less often than
21 quarterly or, if an employer makes annual contributions to such a bona fide plan,
22 trust, program, or fund, for which the employer irrevocably escrows moneys at least
23 quarterly based on the employer's expected annual contribution.

24 (b) "Hourly basic rate of pay" means the hourly wage paid to any employee,
25 excluding any contributions or payments for health insurance benefits, vacation

1 benefits, pension benefits, and any other bona fide economic benefits, whether paid
2 directly or indirectly.

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

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

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

15 (c) "Prevailing hours of labor" for any trade or occupation in any area means
16 10 hours per day and 40 hours per week and may not include any hours worked on
17 a Saturday or Sunday or on any of the following holidays:

- 18 1. January 1.
- 19 2. The last Monday in May.
- 20 3. July 4.
- 21 4. The first Monday in September.
- 22 5. The 4th Thursday in November.
- 23 6. December 25.
- 24 7. The day before if January 1, July 4, or December 25 falls on a Saturday.
- 25 8. The day following if January 1, July 4, or December 25 falls on a Sunday.

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

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

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

20 (f) “State agency” means any office, department, independent agency,
21 institution of higher education, association, society, or other body in state
22 government created or authorized to be created by the constitution or any law,
23 including the legislature and the courts. “State agency” also includes the University
24 of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System
25 Authority, and the Wisconsin Aerospace Authority.

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

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

7 **(1m) APPLICABILITY.** Subject to sub. (3g), this section applies to any project of
8 public works erected, constructed, repaired, remodeled, or demolished for the state
9 or a state agency, including all of the following:

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

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

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

20 **(2) PREVAILING WAGE RATES AND HOURS OF LABOR.** Any contract made for the
21 erection, construction, remodeling, repairing, or demolition of any project of public
22 works to which the state or any state agency is a party shall contain a stipulation that
23 no individual performing the work described in sub. (2m) may be allowed to work a
24 greater number of hours per day or per week than the prevailing hours of labor,
25 except that any such individual may be allowed or required to work more than such

1 prevailing hours of labor per day and per week if he or she is paid for all hours worked
2 in excess of the prevailing hours of labor at a rate of at least 1.5 times his or her hourly
3 basic rate of pay; nor may he or she be paid less than the prevailing wage rate
4 determined under sub. (3) in the same or most similar trade or occupation in the area
5 in which the project of public works is situated. The notice published for the purpose
6 of securing bids for the project must contain a reference to the prevailing wage rates
7 determined under sub. (3) and the prevailing hours of labor. Except as otherwise
8 provided in this subsection, if any contract or subcontract for a project of public works
9 that is subject to this section is entered into, the prevailing wage rates determined
10 under sub. (3) and the prevailing hours of labor shall be physically incorporated into
11 and made a part of the contract or subcontract. For a minor subcontract, as
12 determined by the department, the department shall prescribe by rule the method
13 of notifying the minor subcontractor of the prevailing wage rates and prevailing
14 hours of labor applicable to the minor subcontract. The prevailing wage rates and
15 prevailing hours of labor applicable to a contract or subcontract may not be changed
16 during the time that the contract or subcontract is in force.

17 **(2m) COVERED EMPLOYEES.** (a) Subject to par. (b), any person subject to this
18 section shall pay all of the following employees the prevailing wage rate determined
19 under sub. (3) and may not allow such employees to work a greater number of hours
20 per day or per week than the prevailing hours of labor, unless the person pays for all
21 hours worked in excess of the prevailing hours of labor at a rate of at least 1.5 times
22 the employees' hourly basic rate of pay:

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

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

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

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

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

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

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

20 (am) The department shall, by January 1 of each year, compile the prevailing
21 wage rates for each trade or occupation in each area. The compilation shall, in
22 addition to the current prevailing wage rates, include future prevailing wage rates
23 when those prevailing wage rates can be determined for any trade or occupation in
24 any area and shall specify the effective date of those future prevailing wage rates.

1 If a project of public works extends into more than one area, the department shall
2 determine only one standard of prevailing wage rates for the entire project.

3 (ar) In determining prevailing wage rates under par. (a) or (am), the
4 department may not use data from projects that are subject to this section, s. 66.0903,
5 103.50, or 229.8275, or 40 USC 3142 unless the department determines that there
6 is insufficient wage data in the area to determine those prevailing wage rates, in
7 which case the department may use data from projects that are subject to this
8 section, s. 66.0903, 103.50, or 229.8275, or 40 USC 3142. In determining prevailing
9 wage rates under par. (a) or (am), the department may not use data from any
10 construction work performed by a state agency or a local governmental unit, as
11 defined in s. 66.0903 (1) (d).

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

21 (c) In addition to the recalculation under par. (b), the state agency that
22 requested the determination under this subsection may request a review of any
23 portion of a determination within 30 days after the date of issuance of the
24 determination if the state agency submits evidence with the request showing that
25 the prevailing wage rate for any given trade or occupation included in the

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

10 **(3g) NONAPPLICABILITY.** This section does not apply to any of the following:

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

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

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

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

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

24 (h) A road, street, bridge, sanitary sewer, or water main project that is a part
25 of a development in which not less than 90 percent of the lots contain or will contain

1 2 dwelling units or less, as determined by the local governmental unit at the time of
2 approval of the development, and that, on completion, is acquired by, or dedicated to,
3 the state for ownership or maintenance by the state.

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

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

17 (c) Upon completion of a project of public works and before receiving final
18 payment for his or her work on the project, each contractor shall file with the state
19 agency authorizing the work an affidavit stating that the contractor has complied
20 fully with the requirements of this section and that the contractor has received an
21 affidavit under par. (b) from each of the contractor's agents and subcontractors. A
22 state agency may not authorize a final payment until the affidavit is filed in proper
23 form and order. If a state agency authorizes a final payment before an affidavit is
24 filed in proper form and order or if the department determines, based on the greater
25 weight of the credible evidence, that any person performing the work specified in sub.

1 (2m) has been or may have been paid less than the prevailing wage rate or less than
2 1.5 times the hourly basic rate of pay for all hours worked in excess of the prevailing
3 hours of labor and requests that the state agency withhold all or part of the final
4 payment, but the state agency fails to do so, the state agency is liable for all back
5 wages payable up to the amount of the final payment.

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

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

23 (c) If requested by any person, the department shall inspect the payroll records
24 of any contractor, subcontractor, or agent performing work on a project of public
25 works that is subject to this section as provided in this paragraph to ensure

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

11 **(6m) LIABILITY AND PENALTIES.** (ag) 1. A contractor, subcontractor, or
12 contractor's or subcontractor's agent who fails to pay the prevailing wage rate
13 determined by the department under sub. (3) or who pays 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 is liable to any affected employee in the amount of his or her unpaid wages or his or
16 her unpaid overtime compensation and in an additional amount as liquidated
17 damages as provided in subd. 2. or 3., whichever is applicable.

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

1 of those unpaid wages or that unpaid overtime compensation as liquidated damages
2 within a period specified by the department in the order.

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

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

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

23 (b) Whoever induces an individual who seeks to be or is employed on any project
24 of public works that is subject to this section to give up, waive, or return any part of
25 the wages to which the individual is entitled under the contract governing the

1 project, or who reduces the hourly basic rate of pay normally paid to an individual
2 for work on a project that is not subject to this section during a week in which the
3 individual works both on a project of public works that is subject to this section and
4 on a project that is not subject to this section, by threat not to employ, by threat of
5 dismissal from employment, or by any other means is guilty of an offense under s.
6 946.15 (1).

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

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

23 (e) Any individual who is employed on a project of public works that is subject
24 to this section who knowingly allows any part of the wages to which he or she is
25 entitled under the contract governing the project to be deducted from his or her pay

1 is guilty of an offense under s. 946.15 (4), unless the deduction would be allowed
2 under 29 CFR 3.5 or 3.6 from an individual who is working on a project that is subject
3 to 40 USC 3142.

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

7 **(7) DEPARTMENT.** (a) Except as provided under pars. (b) and (c), the department
8 shall distribute to all state agencies a list of all persons that the department has
9 found to have failed to pay the prevailing wage rate determined under sub. (3) or has
10 found to have paid less than 1.5 times the hourly basic rate of pay for all hours worked
11 in excess of the prevailing hours of labor at any time in the preceding 3 years. The
12 department shall include with any name the address of the person and shall specify
13 when the person failed to pay the prevailing wage rate and when the person paid less
14 than 1.5 times the hourly basic rate of pay for all hours worked in excess of the
15 prevailing hours of labor. A state agency may not award any contract to the person
16 unless otherwise recommended by the department or unless 3 years have elapsed
17 from the date the department issued its findings or date of final determination by a
18 court of 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 on a project of public works that is subject to
6 this section shall, on the date the person submits the bid, identify any construction
7 business in which the person, or a shareholder, officer, or partner of the person if the
8 person is a business, owns or has owned at least a 25 percent interest on the date the
9 person submits the bid or at any other time within 3 years preceding the date the
10 person submits the bid, if the business has been found to have failed to pay the
11 prevailing wage rate determined under sub. (3) or to have paid less than 1.5 times
12 the hourly basic rate of pay for all hours worked in excess of the prevailing hours of
13 labor.

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

15 **SECTION 1273.** 103.50 of the statutes is created to read:

16 **103.50 Highway contracts. (1) DEFINITIONS.** In this section:

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

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

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

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

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

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

14 (e) "Truck driver" has the meaning given in s. 103.49 (1) (g).

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

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

22 (b) Allow an individual performing the work described in sub. (2m) to work a
23 greater number of hours per day or per week than the prevailing hours of labor,
24 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 (2g) NONAPPLICABILITY. This section does not apply to a single-trade project of
4 public works, as defined in s. 103.49 (1) (em), for which the estimated project cost of
5 completion is less than \$48,000 or a multiple-trade project of public works, as
6 defined in s. 103.49 (1) (br), for which the estimated project cost of completion is less
7 than \$100,000.

8 (2m) COVERED EMPLOYEES. (a) Subject to par. (b), any person subject to this
9 section shall pay all of the following employees the prevailing wage rate determined
10 under sub. (3) and may not allow such employees to work a greater number of hours
11 per day or per week than the prevailing hours of labor, unless the person pays for all
12 hours worked in excess of the prevailing hours of labor at a rate of at least 1.5 times
13 the employees' hourly basic rate of pay:

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

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

21 (b) A laborer, worker, mechanic, or truck driver who is employed to process,
22 manufacture, pick up, or deliver materials or products from a commercial
23 establishment that has a fixed place of business from which the establishment
24 supplies processed or manufactured materials or products or from a facility that is
25 not dedicated exclusively, or nearly so, to a project that is subject to this section is not

1 entitled to receive the prevailing wage rate determined under sub. (3) or to receive
2 at least 1.5 times his or her hourly basic rate of pay for all hours worked in excess
3 of the prevailing hours of labor unless any of the following applies:

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

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

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

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

22 (4) CERTIFICATION OF PREVAILING WAGE RATES. The department of workforce
23 development shall, by May 1 of each year, certify to the department of transportation
24 the prevailing wage rates in each area for all trades or occupations commonly
25 employed in the highway construction industry. The certification shall, in addition

1 to the current prevailing wage rates, include future prevailing wage rates when such
2 prevailing wage rates can be determined for any such trade or occupation in any area
3 and shall specify the effective date of those future prevailing wage rates. The
4 certification shall also include wage rates for work performed on Sundays or the
5 holidays specified in s. 103.49 (1) (c) and shift differentials based on the time of day
6 or night when work is performed. If a construction project extends into more than
7 one area, the department shall determine only one standard of prevailing wage rates
8 for the entire project.

9 (4m) WAGE RATE DATA. In determining prevailing wage rates for projects that
10 are subject to this section, the department shall use data from projects that are
11 subject to this section, s. 66.0903 or 103.49, or 40 USC 3142. In determining
12 prevailing wage rates for those projects, the department may not use data from any
13 construction work that is performed by a state agency or a local governmental unit,
14 as defined in s. 66.0903 (1) (d).

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

19 (6) CONTENTS OF CONTRACTS. The department of transportation shall include
20 a reference to the prevailing wage rates determined under sub. (3) and the prevailing
21 hours of labor in the notice published for the purpose of securing bids for a project.
22 Except as otherwise provided in this subsection, if any contract or subcontract for a
23 project that is subject to this section is entered into, the prevailing wage rates
24 determined under sub. (3) and the prevailing hours of labor shall be physically
25 incorporated into and made a part of the contract or subcontract. For a minor

1 subcontract, as determined by the department of workforce development, that
2 department shall prescribe by rule the method of notifying the minor subcontractor
3 of the prevailing wage rates and prevailing hours of labor applicable to the minor
4 subcontract. The prevailing wage rates and prevailing hours of labor applicable to
5 a contract or subcontract may not be changed during the time that the contract or
6 subcontract is in force. The department of transportation shall post the prevailing
7 wage rates determined by the department, the prevailing hours of labor, and the
8 provisions of subs. (2) and (7) in at least one conspicuous place that is easily
9 accessible to the employees on the site of the project.

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

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

22 (c) Any individual employed on a project that is subject to this section who
23 knowingly allows a contractor, subcontractor, or contractor's or subcontractor's
24 agent to pay him or her less than the prevailing wage rate set forth in the contract
25 governing the project, who gives up, waives, or returns any part of the compensation

1 to which he or she is entitled under the contract, or who gives up, waives, or returns
2 any part of the compensation to which he or she is normally entitled for work on a
3 project that is not subject to this section during a week in which the individual works
4 both on a project that is subject to this section and on a project that is not subject to
5 this section, is guilty of an offense under s. 946.15 (2).

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

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

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

20 **(8) ENFORCEMENT AND PROSECUTION.** The department of transportation shall
21 require adherence to subs. (2), (2m), and (6). The department of transportation may
22 demand and examine, and every contractor, subcontractor, and contractor's or
23 subcontractor's agent shall keep and furnish upon request by the department of
24 transportation, copies of payrolls and other records and information relating to
25 compliance with this section. Upon request of the department of transportation or

1 upon complaint of alleged violation, the district attorney of the county in which the
2 work is located shall investigate as necessary and prosecute violations in a court of
3 competent jurisdiction. Section 111.322 (2m) applies to discharge and other
4 discriminatory acts arising in connection with any proceeding under this section.

5 **SECTION 1274.** 103.503 (1) (a) of the statutes is amended to read:

6 103.503 (1) (a) "Accident" means an incident caused, contributed to, or
7 otherwise involving an employee that resulted or could have resulted in death,
8 personal injury, or property damage and that occurred while the employee was
9 performing the work described in s. 66.0903 (4), ~~2013 stats.~~, or s. ~~16.856~~ 103.49 (2m),
10 ~~2015 stats.~~, on a project of public works or while the employee was performing work
11 on a public utility project.

12 **SECTION 1275.** 103.503 (1) (e) of the statutes is amended to read:

13 103.503 (1) (e) "Employee" means a laborer, worker, mechanic, or truck driver
14 who performs the work described in s. 66.0903 (4), ~~2013 stats.~~, or s. ~~16.856~~ 103.49
15 (2m), ~~2015 stats.~~, on a project of public works or on a public utility project.

16 **SECTION 1276.** 103.503 (1) (g) of the statutes is repealed and recreated to read:

17 103.503 (1) (g) "Project of public works" means a project of public works that
18 is subject to s. 66.0903 or 103.49.

19 **SECTION 1277.** 103.503 (2) of the statutes is amended to read:

20 103.503 (2) SUBSTANCE ABUSE PROHIBITED. No employee may use, possess,
21 attempt to possess, distribute, deliver, or be under the influence of a drug, or use or
22 be under the influence of alcohol, while performing the work described in s. 66.0903
23 (4), ~~2013 stats.~~, or s. ~~16.856~~ 103.49 (2m), ~~2015 stats.~~, on a project of public works or
24 while performing work on a public utility project. An employee is considered to be
25 under the influence of alcohol for purposes of this subsection if he or she has an