

1985 Senate Bill 307

Date of enactment: April 2, 1986
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1985 Wisconsin Act 159

AN ACT to create 66.293 (3) (n) and 103.49 (7) of the statutes, relating to wage scale compliance on public works projects and granting rule-making authority.

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

SECTION 1. 66.293 (3) (n) of the statutes is created to read:

66.293 (3) (n) 1. Except as provided under subs. 2 and 3, the department of industry, labor and human relations shall notify any municipality applying for a determination under sub. (3) (intro.) and any municipality exempted under par. (d) of the names of all persons whom the department has found to have failed to pay the prevailing wage rate determined under this subsection or has found to have paid less than 1.5

times the hourly basic rate of pay for hours worked on a project in excess of the prevailing hours of labor determined under this subsection at any time in the preceding 3 years. The department shall include with any such name the address of such person and shall specify when and how such person has failed to pay the prevailing wage rate determined under this subsection and when and how such person has failed to pay less than 1.5 times the hourly basic rate of pay for hours worked on a project in excess of the prevailing hours of labor determined under this subsection. No municipality may award any contract to such person

unless otherwise recommended by the department or unless at least 3 years have elapsed from the date the department issued its findings or the date of final determination by a court of competent jurisdiction, whichever is later.

2. The department may not include in a notification under subd. 1 the name of any person on the basis of having let work to a person whom the department has found to have failed to pay the prevailing wage rate determined under this subsection or has found to have paid less than 1.5 times the hourly basic rate of pay for hours worked on a project in excess of the prevailing hours of labor determined under this subsection.

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

4. Any person submitting a bid on a project subject to this section shall be required, on the date the person submits the bid, to identify any construction business in which the person, or a shareholder, officer or partner of the person, if the person is a business, owns, or has owned at least a 25% interest on the date the person submits the bid or at any other time within 3 years preceding the date the person submits the bid, if the business has been found to have failed to pay the prevailing wage rate determined under this subsection or to have paid less than 1.5 times the hourly basic rate of pay for hours worked on a project in excess of the prevailing hours of labor determined under this subsection.

5. The department shall promulgate rules to administer this paragraph.

SECTION 2. 103.49 (7) of the statutes is created to read:

103.49 (7) (a) Except as provided under pars. (b) and (c), the department shall distribute to all state agencies, as defined in s. 20.001 (1), a list of persons whom the department has found to have failed to pay the prevailing wage rate determined under sub. (2) or to have paid less than 1.5 times the hourly basic rate of pay for hours worked on a project in excess of the prevailing hours determined under sub. (2) at any time in the preceding 3 years. The department shall include with any such name the address of such person and shall specify when and how such person has failed to pay the prevailing wage rate determined under this subsection and when and how such person has failed to pay less than 1.5 times the hourly basic rate of pay

for hours worked on a project in excess of the prevailing hours of labor determined under this subsection. No state agency may award any contract to such person unless otherwise recommended by the department or unless 3 years have elapsed from the date the department issued its findings or date of final determination by a court of competent jurisdiction, whichever is later.

(b) The department may not include in a notification under par. (a) the name of any person on the basis of having let work to a person whom the department has found to have failed to pay the prevailing wage rate determined under sub. (2) or has found to have paid less than 1.5 times the hourly basic rate of pay for hours worked on a project in excess of the prevailing hours of labor determined under sub. (2).

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

(d) Any person submitting a bid on a project subject to this section shall be required, on the date the person submits the bid, to identify any construction business in which the person, or a shareholder, officer or partner of the person, if the person is a business, owns, or has owned at least a 25% interest on the date the person submits the bid or at any other time within 3 years preceding the date the person submits the bid, if the business has been found to have failed to pay the prevailing wage rate determined under this section or to have paid less than 1.5 times the hourly basic rate of pay for hours worked on a project in excess of the prevailing hours of labor determined under this section.

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

SECTION 2m. **Nonstatutory provisions.** The department of industry, labor and human relations shall submit the rules required under sections 66.293 (3) (n) 5 and 103.49 (7) (e) of the statutes, as created by this act, to the legislative council clearinghouse under section 227.029 (1) of the statutes no later than January 1, 1987.

SECTION 3. **Initial applicability.** This act applies to prevailing wage rate violations that occur on or after the effective date of this SECTION.

SECTION 4m. **Effective date.** This act takes effect on July 1, 1987.