



State of Wisconsin
2013 - 2014 LEGISLATURE



LRBs0329/1
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**ASSEMBLY SUBSTITUTE AMENDMENT 2,
TO ASSEMBLY BILL 750**

February 20, 2014 – Offered by Representative BARCA.

1 **AN ACT** *to amend* 109.09 (1); and *to create* 16.705 (1s) of the statutes; **relating**
2 **to:** minimum hourly wages for procurement contracts entered into by an
3 executive branch agency, granting rule-making authority, and providing a
4 penalty.

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

5 **SECTION 1.** 16.705 (1s) of the statutes is created to read:
6 16.705 (1s) (a) In this subsection:
7 1. “Contractor” means a person who provides services under a contract with the
8 state under this subchapter, either directly or as a subcontractor, if the services
9 under the contract are estimated to cost at least \$100,000, except that “contractor”
10 does not include a person who provides services under a contract with the state under
11 this subchapter, either directly or as a subcontractor, if the services under the

1 contract are estimated to cost less than \$500,000 and the person employs no more
2 than 10 employees.

3 2. “Employee” means an individual who is employed by a contractor to spend
4 at least half of his or her work hours each week performing work under the contract,
5 who is at least 18 years of age, and who works at least full time for 13 consecutive
6 weeks for the duration of the contract.

7 3. “Hourly living wage” is the most recent hourly living wage determined by the
8 department of workforce development under par. (c).

9 4. “Minimum hourly wage amount” means the lesser of the hourly living wage
10 or an hourly wage paid to a state employee completing similar duties at the time bids
11 or proposals are solicited.

12 (b) 1. Except as otherwise provided under this paragraph, a contractor shall
13 pay an employee for work performed under the contract an hourly wage that is no
14 less than the minimum hourly wage amount.

15 2. If the contractor committed in its bid or proposal to provide health insurance
16 to an employee and certified in its bid or proposal the hourly cost of the contractor’s
17 share of the premium for that health insurance, the contractor may reduce the
18 employee’s minimum hourly wage amount by an amount up to the hourly cost of the
19 contractor’s share of the premium.

20 3. If the department of workforce development authorizes by rule that a
21 contractor may reduce the hourly living wage by the hourly cost of the contractor’s
22 contribution to an employee’s deferred compensation plan, a contractor may reduce
23 an employee’s minimum hourly wage amount by the hourly cost of the contractor’s
24 contribution but by no more than \$0.50 per hour.

1 (c) No later than 30 days after the effective date of this paragraph [LRB
2 inserts date], and within 90 days after the start of each fiscal year thereafter, the
3 department of workforce development shall determine the hourly living wage by
4 calculating 100 percent of the federal poverty level for a 3-person household divided
5 by 2080. The department of workforce development shall post the most recent hourly
6 living wage on an Internet site that can be accessed by the public.

7 (d) 1. The department of workforce development may promulgate rules to
8 administer this subsection, including a rule requiring contractors to keep records
9 and submit reports to the department of workforce development if the department
10 of workforce development determines that such records and reports are necessary for
11 the effective administration and enforcement of this subsection.

12 2. The department of workforce development shall develop a notice for
13 contractors to post under par. (e) that lists the hourly living wage; the rights the
14 employee has under this subsection; and the name, address, and telephone number
15 of the department of workforce development. The notice shall be in English, Spanish,
16 and any other language the department of workforce development determines is
17 commonly used by employees at a work site. The department of workforce
18 development shall make the notice available at no charge to contractors as a hard
19 copy and in a format that the contractors may download from an Internet site.

20 (e) A contractor shall, during any period covered by the contract, post in a
21 conspicuous place, where notices to employees are customarily posted, the notice
22 developed under par. (d) 2. A contractor who violates this requirement is subject to
23 a forfeiture not to exceed \$50 per violation.

1 (f) 1. Each contractor shall keep full and accurate records indicating the name
2 of every employee, an accurate record of the number of hours worked by each
3 employee, and the actual wages paid for the hours worked.

4 2. The department of workforce development shall enforce this subsection. To
5 this end it may demand and examine, and every contractor shall keep and furnish
6 upon request by the department of workforce development, copies of payrolls and
7 other records and information relating to the wages paid to employees. The
8 department of workforce development may inspect records and conduct interviews
9 of employees to enforce this subsection.

10 3. If any person makes an oral or written complaint to the department of
11 workforce development that a contractor has violated par. (b) 1., the department of
12 workforce development shall, in the manner provided under s. 109.09, investigate
13 the complaint within 30 days. If the complainant is an employee, the department of
14 workforce development shall keep the employee's information confidential.

15 4. If the department of workforce development finds that the contractor has
16 violated par. (b) 1., the department of workforce development shall order the
17 contractor to pay to any affected employee the amount of his or her unpaid wages and
18 to pay a forfeiture of \$20 per day for each employee whose pay violated par. (b) 1., and
19 may order the contractor to pay to any affected employee an additional amount equal
20 to 100 percent of the amount of those unpaid wages as liquidated damages.

21 (g) This subsection does not apply to any of the following:

22 1. A contract for services needed immediately to prevent or respond to an
23 imminent threat to public health or safety.

24 2. A contract with a public service company, a nonprofit organization, a county,
25 or a city.

1 3. A contract if compliance with par. (b) 1. would conflict with a federal program
2 requirement.

3 **SECTION 2.** 109.09 (1) of the statutes is amended to read:

4 109.09 (1) The department shall investigate and attempt equitably to adjust
5 controversies between employers and employees as to alleged wage claims. The
6 department may receive and investigate any wage claim which is filed with the
7 department, or received by the department under s. 109.10 (4), no later than 2 years
8 after the date the wages are due. The department may, after receiving a wage claim,
9 investigate any wages due from the employer against whom the claim is filed to any
10 employee during the period commencing 2 years before the date the claim is filed.
11 The department shall enforce this chapter and ss. 16.705 (1s), 66.0903, 103.02,
12 103.49, 103.82, 104.12, and 229.8275. In pursuance of this duty, the department may
13 sue the employer on behalf of the employee to collect any wage claim or wage
14 deficiency and ss. 109.03 (6) and 109.11 (2) and (3) shall apply to such actions. Except
15 for actions under s. 109.10, the department may refer such an action to the district
16 attorney of the county in which the violation occurs for prosecution and collection and
17 the district attorney shall commence an action in the circuit court having appropriate
18 jurisdiction. Any number of wage claims or wage deficiencies against the same
19 employer may be joined in a single proceeding, but the court may order separate
20 trials or hearings. In actions that are referred to a district attorney under this
21 subsection, any taxable costs recovered by the district attorney shall be paid into the
22 general fund of the county in which the violation occurs and used by that county to
23 meet its financial responsibility under s. 978.13 (2) (b) for the operation of the office
24 of the district attorney who prosecuted the action.

25 **SECTION 3. Initial applicability.**

