



State of Wisconsin
2015 - 2016 LEGISLATURE

LRBb0836/1
MED&GMM:all

**SENATE AMENDMENT 46,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO SENATE BILL 21**

July 7, 2015 - Offered by Senators WIRCH and LASSA.

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 444, line 23: delete the material beginning with that line and ending
3 with page 445, line 23.

4 **2.** Page 517, line 10: delete lines 10 to 13.

5 **3.** Page 841, line 12: delete the material beginning with that line and ending
6 with page 842, line 2.

7 **4.** Page 843, line 18: delete the material beginning with that line and ending
8 with page 880, line 23 and substitute:

9 **“SECTION 2768f.** 102.14 (2) of the statutes is amended to read:

10 102.14 (2) The council on worker’s compensation shall advise the department
11 in carrying out the purposes of this chapter. Such council shall submit its

1 recommendations with respect to amendments to this chapter to each regular
2 session of the legislature and shall report its views upon any pending bill relating to
3 this chapter to the proper legislative committee as provided in sub. (3). At the
4 request of the chairpersons of the senate and assembly committees on labor, the
5 department shall schedule a meeting of the council with the members of the senate
6 and assembly committees on labor to review and discuss matters of legislative
7 concern arising under this chapter.

8 **SECTION 2768h.** 102.14 (3) of the statutes is created to read:

9 102.14 (3) The council on worker's compensation shall review and report its
10 views on any bill relating to this chapter to the proper legislative committee before
11 any public hearing on the bill is held before any standing committee or, if no public
12 hearing is held, before any vote is taken on the bill by any standing committee or, if
13 the bill is not referred to a standing committee, before any vote is taken on the bill
14 by either house of the legislature. The council shall submit its report by no later than
15 the 30th day after the date of introduction of the bill.”.

16 **5.** Page 881, line 8: delete the material beginning with that line and ending
17 with page 889, line 14.

18 **6.** Page 891, line 24: delete the material beginning with that line and ending
19 with page 898, line 23.

20 **7.** Page 899, line 20: delete the material beginning with that line and ending
21 with page 903, line 11.

22 **8.** Page 903, line 25: delete the material beginning with that line and ending
23 with page 905, line 5.

- 1 **9.** Page 908, line 15: delete the material beginning with that line and ending
2 with page 909, line 17.
- 3 **10.** Page 909, line 21: delete the material beginning with that line and ending
4 with page 917, line 2.
- 5 **11.** Page 1170, line 6: delete lines 6 to 14.
- 6 **12.** Page 1170, line 25: delete the material beginning with that line and
7 ending with page 1171, line 4.
- 8 **13.** Page 1171, line 10: delete lines 10 to 13.
- 9 **14.** Page 1221, line 7: delete lines 7 to 18.
- 10 **15.** Page 1359, line 5: delete the material beginning with that line and ending
11 with page 1360, line 4.
- 12 **16.** Page 1367, line 7: delete lines 7 to 24.
- 13 **17.** Page 1533, line 7: delete the material beginning with that line and ending
14 with page 1535, line 16.
- 15 **18.** Page 1569, line 10: delete the material beginning with that line and
16 ending with page 1570, line 2.
- 17 **19.** Page 1570, line 7: delete lines 7 to 15.
- 18 **20.** At the appropriate places, insert all of the following:
- 19 “**SECTION 1.** 49.141 (1) (g) of the statutes is amended to read:
- 20 49.141 (1) (g) “Minimum wage” means the state minimum hourly wage under
21 ~~ch. 104~~ s. 104.035 (1) or the federal minimum hourly wage under 29 USC 206 (a) (1),
22 whichever is applicable.

1 **SECTION 2.** 103.02 of the statutes is renumbered 103.02 (1) and amended to
2 read:

3 103.02 (1) No person may be employed or be permitted to work in any place of
4 employment or at any employment for such any period of time during any day, night,
5 or week, ~~as~~ that is dangerous or prejudicial to the person's life, health, safety, or
6 welfare.

7 (2) The department shall investigate, ascertain, determine, and fix such
8 reasonable ~~classification, classifications, issue general or special orders,~~ and
9 promulgate rules fixing a period of time, or hours of beginning and ending work
10 during any day, night, or week, ~~which shall~~ that may be necessary to protect the life,
11 health, safety, or welfare of any person, or to carry out the purposes of ss. 103.01 to
12 103.03. The department shall, by rule, classify such periods of time into periods to
13 be paid for at regular rates and periods to be paid for at the rate of at least ~~one and~~
14 ~~one-half~~ 1.5 times the regular rates. Such investigations, classifications, rules, and
15 orders shall be made as provided in s. 103.005 ~~and the penalties under s. 103.005 (12)~~
16 ~~shall apply to and be imposed for any violation of ss. 103.01 to 103.03.~~ Such orders
17 shall be subject to review in the manner provided in ch. 227. ~~Section 111.322 (2m)~~
18 ~~applies to discharge or other discriminatory acts arising in connection with any~~
19 ~~proceeding under this section.~~

20 **SECTION 3.** 103.02 (3) of the statutes is created to read:

21 103.02 (3) The employment of any person in any employment or place of
22 employment at any time other than the permissible hours of labor under this section
23 shall be prima facie evidence of a violation of this section.

24 **SECTION 4.** 103.023 of the statutes is created to read:

1 **103.023 Hours of labor; exempt employees. (1) DEFINITIONS.** In this
2 section:

3 (a) “Compensated on a salary basis” means to receive regularly each pay period
4 a predetermined amount constituting all or part of the employee’s compensation,
5 which amount is not subject to reduction because of any of the following:

6 1. Variations in the quality or quantity of the work performed.

7 2. Absences from work occasioned by the employer or by the operating
8 requirements of the employer’s business.

9 3. The fact that work is not available, so long as the employee is ready, willing,
10 and able to work.

11 (b) “Employee employed in a bona fide administrative capacity” means an
12 employee who is compensated on a salary basis at a rate of not less than the rate
13 determined under sub. (3), exclusive of board, lodging, or other facilities, whose
14 primary duty is the performance of office or nonmanual work directly related to the
15 management or general business operations of the employer or of the employer’s
16 customers, and whose primary duty includes the exercise of discretion and
17 independent judgment with respect to matters of significance.

18 (c) “Employee employed in a bona fide executive capacity” means an employee
19 who is compensated on a salary basis at a rate of not less than the rate determined
20 under sub. (3), exclusive of board, lodging, or other facilities, whose primary duty is
21 management of the enterprise in which he or she is employed or a department or
22 subdivision of that enterprise, who customarily and regularly directs the work of two
23 or more other employees, and who has the authority to hire and fire other employees
24 or whose suggestions and recommendations as to the hiring, firing, advancement,
25 promotion, or any other change in status of other employees are given particular

1 weight. In this paragraph, “customarily and regularly directs” means to direct with
2 a frequency that is greater than occasional, but not necessarily constant, including
3 direction that is normally and recurrently performed every work week, but not
4 including isolated or one-time direction.

5 (d) “Employee employed in a bona fide professional capacity” means an
6 employee who is compensated on a salary or fee basis at a rate of not less than the
7 rate determined under sub. (3), exclusive of board, lodging, or other facilities and
8 whose primary duty is the performance of work requiring knowledge of an advanced
9 type in a field of science or learning customarily acquired by a prolonged course of
10 specialized intellectual instruction or requiring invention, imagination, originality,
11 or talent in a recognized field of artistic or creative endeavor.

12 (e) “Exempt employee” means an employee employed in a bona fide
13 administrative, executive, or professional capacity.

14 (f) “Primary duty” means the principal, main, major, or most important duty
15 that an employee performs as determined on the basis of all the factors in a particular
16 case, with the major emphasis on the character of the employee’s job as a whole,
17 including all of the following factors:

18 1. The relative importance of the employee’s duties as an exempt employee as
19 compared to other types of duties.

20 2. The amount of time spent by the employee performing the duties of an
21 exempt employee.

22 3. The employee’s relative freedom from direct supervision.

23 4. The relationship between the employee’s salary and the wages paid to other
24 employees for the kind of work, other than the work of an exempt employee,
25 performed by the employee.

1 **(2) EXEMPT EMPLOYEES.** In promulgating rules under s. 103.02 (2) classifying
2 periods of time into periods to be paid for at regular rates and periods to be paid for
3 at a rate of at least 1.5 times the regular rates, the department shall exempt from
4 the application of those rules employees employed in a bona fide administrative,
5 executive, or professional capacity.

6 **(3) PAY RATE DETERMINATION.** (a) For the purpose of sub. (1) (b), (c), and (d), the
7 rate of compensation shall be \$970 per week until the first day of the 18th month
8 beginning after the effective date of this paragraph [LRB inserts date]. By the
9 first day of the 18th month beginning after the effective date of this paragraph
10 [LRB inserts date], and annually thereafter, the department shall, subject to par. (c),
11 promulgate rules to revise that rate. The department shall revise the rate of
12 compensation by calculating the percentage difference between the consumer price
13 index for the 12-month period ending on the last day of the last month for which that
14 information is available and the consumer price index for the 12-month period
15 ending on the last day of the month 12 months prior to that month, adjusting the rate
16 then in effect by that percentage difference, and rounding that result to the nearest
17 multiple of 5 cents.

18 (b) The department may use the emergency rule procedures under s. 227.24 to
19 promulgate the rules required under par. (a). Notwithstanding s. 227.24 (1) (a) and
20 (3), the department may promulgate those rules as emergency rules without
21 providing evidence that promulgating those rules as emergency rules is necessary
22 to preserve the public peace, health, safety, or welfare and without a finding of
23 emergency. Notwithstanding s. 227.24 (1) (e) 1d. and 1g., the department is not
24 required to prepare a statement of the scope of those rules or to submit those rules
25 in final draft form to the governor for approval.

1 (c) Paragraph (a) does not apply if the consumer price index for the 12-month
2 period ending on the last day of the last month for which that information is available
3 has not increased over the consumer price index for the 12-month period ending on
4 the last day of the month 12 months prior to that month.

5 **SECTION 5.** 103.03 of the statutes is amended to read:

6 **103.03 Violations; penalty.** ~~The employment of any person in any~~
7 ~~employment or place of employment at any time other than the permissible hours of~~
8 ~~labor shall be prima facie evidence of a violation of this section~~ Any employer that
9 violates s. 103.02 or 103.023 is subject to the penalties under s. 103.005 (12). Every
10 day for each person employed, and every week for each person employed, during
11 which any employer fails to observe or to comply with any order of the department,
12 or to perform any duty enjoined by ~~ss. 103.01 to 103.03~~ required by s. 103.02 or
13 103.023, shall constitute a separate offense. Section 111.322 (2m) applies to
14 discharge or other discriminatory acts arising in connection with any proceeding
15 under s. 103.02 or 103.023.

16 **SECTION 6.** 103.06 (1) (b) 5. of the statutes is amended to read:

17 103.06 (1) (b) 5. For purposes of maintaining records under sub. (3) (a) 4. as
18 required under rules promulgated under s. ~~104.04~~ 104.035, an employee, as defined
19 in s. 104.01 (2).

20 **SECTION 7.** 103.06 (1) (c) 5. of the statutes is amended to read:

21 103.06 (1) (c) 5. For purposes of maintaining records under sub. (3) (a) 4. as
22 required under rules promulgated under s. ~~104.04~~ 104.035, an employer, as defined
23 in s. 104.01 (3).

24 **SECTION 8.** 103.06 (3) (a) 4. of the statutes is amended to read:

1 103.06 (3) (a) 4. That the employer is maintaining records of the hours worked
2 by its employees, the wages paid to those employees, any deductions from those
3 wages, and any other information that the employer is required to keep under rules
4 promulgated under s. 103.02 or ~~104.04~~ 104.035, and is listing deductions from wages
5 as required under s. 103.457.

6 **SECTION 9.** 103.06 (4) (a) 1. of the statutes is amended to read:

7 103.06 (4) (a) 1. Enter and inspect any place of business or place of employment
8 and examine and copy any records that the employer is required to keep under rules
9 promulgated under s. 103.02 or ~~104.04~~ 104.035; any books, registers, payroll records,
10 records of wage withholdings, records of work activity and hours of work, and records
11 or indicia of the employment status of persons performing work for the employer; and
12 any other records relating to compliance with the requirements specified in sub. (3)
13 (a).

14 **SECTION 10.** 103.67 (2) (fm) 3. of the statutes is amended to read:

15 103.67 (2) (fm) 3. The minor is paid the applicable minimum wage under ~~ch.~~
16 ~~104~~ s. 104.035 or under federal law, whichever is greater, for the work.

17 **SECTION 11.** 103.70 (2) (b) 3. of the statutes is amended to read:

18 103.70 (2) (b) 3. The minor is paid the applicable minimum wage under
19 ~~ch. 104~~ s. 104.035 or under federal law, whichever is greater, for the work.

20 **SECTION 12.** 104.001 (1) of the statutes is amended to read:

21 104.001 (1) The legislature finds that the provision of a living minimum wage
22 that is uniform throughout the state is a matter of statewide concern and that the
23 enactment of a living minimum wage ordinance by a city, village, town, or county
24 would be logically inconsistent with, would defeat the purpose of, and would go
25 against the spirit of this chapter. Therefore, this chapter shall be construed as an

1 enactment of statewide concern for the purpose of providing a living minimum wage
2 that is uniform throughout the state.

3 **SECTION 13.** 104.001 (2) of the statutes is amended to read:

4 104.001 (2) A city, village, town, or county may not enact and administer an
5 ordinance establishing a living minimum wage. Any city, village, town, or county
6 living minimum wage ordinance that is in effect on June 16, 2005, is void.

7 **SECTION 14.** 104.01 (intro.) of the statutes is amended to read:

8 **104.01 Definitions.** (intro.) ~~The following terms as used in~~ In this chapter
9 shall be construed as follows:

10 **SECTION 15.** 104.01 (1) of the statutes is renumbered 104.01 (1m).

11 **SECTION 16.** 104.01 (1d) of the statutes is created to read:

12 104.01 (1d) “Agricultural employee” means an employee who is employed in
13 the operation of farm premises, as described in s. 102.04 (3).

14 **SECTION 17.** 104.01 (1g) of the statutes is created to read:

15 104.01 (1g) “Consumer price index” means the average of the consumer price
16 index over each 12-month period for all urban consumers, U.S. city average, all
17 items, not seasonally adjusted, as determined by the bureau of labor statistics of the
18 U.S. department of labor.

19 **SECTION 18.** 104.01 (5) of the statutes is repealed.

20 **SECTION 19.** 104.01 (5m) of the statutes is created to read:

21 104.01 (5m) “Opportunity employee” means a person under 20 years of age who
22 is in the first 90 consecutive days of employment with his or her employer.

23 **SECTION 20.** 104.01 (7m) of the statutes is created to read:

1 104.01 (7m) “Tipped employee” means an employee who in the course of
2 employment customarily and regularly receives money or other gratuities from
3 persons other than the employee’s employer.

4 **SECTION 21.** 104.01 (8) of the statutes is amended to read:

5 104.01 (8) The term “wage” and the term “wages” shall each mean “Wage”
6 means any compensation for labor measured by time, piece, or otherwise.

7 **SECTION 22.** 104.02 and 104.03 of the statutes are consolidated, renumbered
8 104.02 and amended to read:

9 **104.02 Living Minimum wage prescribed: requirement to pay.** Every
10 wage paid or agreed to be paid by any employer to any employee, except as otherwise
11 provided in s. 104.07, shall be not less than ~~a living~~ the applicable minimum wage
12 established under s. 104.035. ~~104.03 Unlawful wages.~~ Any employer paying,
13 offering to pay, or agreeing to pay any employee a wage lower or less in value than
14 ~~a living~~ the applicable minimum wage established under s. 104.035 is guilty of a
15 violation of this chapter.

16 **SECTION 23.** 104.035 of the statutes is created to read:

17 **104.035 Minimum wage; established. (1) EMPLOYEES GENERALLY.** Except
18 as provided in subs. (2) to (4), the minimum wage is as follows:

19 (a) For wages earned before the first day of the 15th month beginning after
20 publication [LRB inserts date], \$8.20 per hour.

21 (b) For wages earned beginning on the first day of the 15th month beginning
22 after publication [LRB inserts date], and ending on the last day of the 26th month
23 beginning after publication [LRB inserts date], \$9.15 per hour.

1 (c) For wages earned beginning on the first day of the 27th month beginning
2 after publication [LRB inserts date], and ending on the last day of the 38th month
3 beginning after publication [LRB inserts date], \$10.10 per hour.

4 (d) For wages earned beginning on the first day of the 39th month beginning
5 after publication [LRB inserts date], the amount determined by the department
6 by rule promulgated under sub. (5).

7 **(2) TIPPED EMPLOYEES.** Except as provided in subs. (3) and (4), if an employer
8 of a tipped employee establishes by the employer's payroll records that, when adding
9 the tips received by the tipped employee in a week to the wages paid to the tipped
10 employee in that week, the tipped employee receives not less than the applicable
11 minimum wage specified in sub. (1), the minimum wage for the tipped employee is
12 as follows:

13 (a) For wages earned before the first day of the 15th month beginning after
14 publication [LRB inserts date], \$3 per hour.

15 (b) For wages earned beginning on the first day of the 15th month beginning
16 after publication [LRB inserts date], the amounts determined by the department
17 by rule promulgated under sub. (5).

18 **(3) MINIMUM WAGE ESTABLISHED BY DEPARTMENT.** The department shall
19 promulgate rules providing the minimum wage for all of the following:

20 (a) Opportunity employees.

21 (b) Agricultural employees.

22 (c) Camp counselors.

23 (d) Golf caddies.

24 (e) An employee or worker with a disability covered under a license under s.

25 104.07.

1 (f) A student learner.

2 (g) A student employed by an independent college or university for less than
3 20 hours per week.

4 **(4) EMPLOYMENT EXEMPTED BY DEPARTMENT.** The department shall promulgate
5 rules exempting from the minimum wage requirements under subs. (1) to (3) all of
6 the following:

7 (a) A person engaged in casual employment in and around an employer's home
8 on an irregular or intermittent basis for not more than 15 hours per week.

9 (b) A person who resides in the home of an employer who, due to advanced age
10 or physical or mental disability, cannot care for his or her own needs, for the purpose
11 of companionship and who spends not more than 15 hours per week on general
12 household work for the employer.

13 (c) An elementary or secondary school student performing student work-like
14 activities in the student's school.

15 **(5) DEPARTMENT TO REVISE.** (a) 1. Subject to par. (b), by the date specified in sub.
16 (1) (d) or (2) (b), whichever is applicable, and annually thereafter, the department
17 shall promulgate rules to revise the minimum wages established under subs. (1) and
18 (2). Subject to subd. 2., the department shall determine those revised minimum
19 wages by calculating the percentage difference between the consumer price index for
20 the 12-month period ending on the last day of the last month for which that
21 information is available and the consumer price index for the 12-month period
22 ending on the last day of the month 12 months prior to that month, adjusting the
23 minimum wages then in effect by that percentage difference, and rounding that
24 result to the nearest multiple of 5 cents.

1 2. In revising the minimum wage for tipped employees under sub. (2), each year
2 the department shall increase that minimum wage by 95 cents or by the amount that
3 is necessary for that minimum wage to equal 70 percent of the minimum wage under
4 sub. (1) as determined under subd. 1., rounded to the nearest multiple of 5 cents,
5 whichever is less. For years subsequent to the first year in which the minimum wage
6 under sub. (2) equals 70 percent of the minimum wage under sub. (1) as determined
7 under subd. 1., the department shall revise the minimum wage under sub. (2) by the
8 amount that is necessary for that minimum wage to remain equal to 70 percent of
9 the minimum wage under sub. (1) as determined under subd. 1., rounded to the
10 nearest multiple of 5 cents.

11 3. The department may use the emergency rule procedures under s. 227.24 to
12 promulgate the rules required under subds. 1. and 2. Notwithstanding s. 227.24 (1)
13 (a) and (3), the department may promulgate those rules as emergency rules without
14 providing evidence that promulgating those rules as emergency rules is necessary
15 to preserve the public peace, health, safety, or welfare and without a finding of
16 emergency. Notwithstanding s. 227.24 (1) (e) 1d. and 1g., the department is not
17 required to prepare a statement of the scope of those rules or to submit those rules
18 in final draft form to the governor for approval. A revised minimum wage
19 determined under subd. 1. or 2. shall first apply to wages earned on the first day of
20 the 3rd month beginning after the month of publication [LRB inserts date], of the
21 year in which the wage is revised and, notwithstanding s. 227.24 (1) (c) and (2), shall
22 remain in effect until that same date the following year.

23 (b) Paragraph (a) 1. does not apply if the consumer price index for the 12-month
24 period ending on the last day of the last month for which that information is available

1 has not increased over the consumer price index for the 12-month period ending on
2 the last day of the month 12 months prior to that month.

3 **(6) GENDER-SPECIFIC MINIMUM WAGE PROHIBITED.**

4 **SECTION 24.** 104.04 (title) of the statutes is repealed.

5 **SECTION 25.** 104.04 of the statutes is renumbered 104.035 (6) and amended to
6 read:

7 104.035 (6) ~~The department shall investigate, ascertain, determine, and fix~~
8 ~~such reasonable classifications, and shall impose general or special orders,~~
9 ~~determining the living wage, and shall carry out the purposes of this chapter. Such~~
10 ~~investigations, classifications, and orders shall be made as provided under s.~~
11 ~~103.005, and the penalties specified in s. 103.005 (12) shall apply to and be imposed~~
12 ~~for any violation of this chapter. In determining the living wage, the department may~~
13 ~~consider the effect that an increase in the living wage might have on the economy of~~
14 ~~the state, including the effect of a living wage increase on job creation, retention, and~~
15 ~~expansion, on the availability of entry-level jobs, and on regional economic~~
16 ~~conditions within the state. The department may not establish a different minimum~~
17 ~~wage for men and women. Said orders shall be subject to review in the manner~~
18 ~~provided in ch. 227.~~

19 **SECTION 26.** 104.045 of the statutes is renumbered 104.045 (intro.) and
20 amended to read:

21 **104.045 Tipped employees Tips, meals, lodging, and hours worked.**

22 (intro.) The department shall ~~by rule determine what amount of promulgate rules~~
23 governing all of the following:

24 **(1) The counting of tips or similar gratuities may be counted toward fulfillment**
25 **of the employer's obligation under this chapter.**

1 **SECTION 27.** 104.045 (2) and (3) of the statutes are created to read:

2 104.045 **(2)** The deduction of meals or lodging provided by an employer to an
3 employee from the employer's obligation under this chapter.

4 **(3)** The determination of hours worked by an employee during which the
5 employee is entitled to the minimum wage established under s. 104.035.

6 **SECTION 28.** 104.05 of the statutes is repealed.

7 **SECTION 29.** 104.06 of the statutes is repealed.

8 **SECTION 30.** 104.07 (1) and (2) of the statutes are amended to read:

9 104.07 **(1)** The department shall ~~make~~ promulgate rules, and, except as
10 provided under subs. (5), (6), and (7), grant ~~licenses~~ a license to any employer who
11 employs any employee ~~who is unable to earn the living wage determined by the~~
12 ~~department, permitting the employee to work for a wage that~~ for whom the minimum
13 wage established under s. 104.035 is not commensurate with the employee's ability.
14 Each license so granted shall establish a wage for ~~the licensee~~ any such employees
15 of the licensee.

16 **(2)** The department shall ~~make~~ promulgate rules, and, except as provided
17 under subs. (5), (6), and (7), grant ~~licenses~~ a license to a sheltered workshops
18 workshop, to permit the employment of workers with disabilities ~~who are unable to~~
19 ~~earn the living wage~~ at a wage that is commensurate with their ability and
20 productivity. A license granted to a sheltered workshop under this subsection may
21 be issued for the entire workshop or a department of the workshop.

22 **SECTION 31.** 104.08 (2m) of the statutes is amended to read:

23 104.08 **(2m)** Any person working in a trade industry for which a living
24 minimum wage has been established for minors, and who has no trade, shall be
25 employed under an apprentice contract under s. 106.01.

1 **SECTION 32.** 104.10 of the statutes is amended to read:

2 **104.10 Penalty for intimidating witness.** Any employer who discharges or
3 threatens to discharge, or who in any way discriminates, or threatens to discriminate
4 against, any employee because the employee has testified or is about to testify, or
5 because the employer believes that the employee may testify, in any investigation or
6 proceeding relative to the enforcement of this chapter, ~~is guilty of a misdemeanor,~~
7 ~~and upon conviction thereof shall be punished by a fine of~~ may be fined \$25 for each
8 offense.

9 **SECTION 33.** 104.11 of the statutes is repealed.

10 **SECTION 34.** 104.12 of the statutes is amended to read:

11 **104.12 Complaints.** Any person may register with the department a
12 complaint that the wages paid to an employee for whom a living minimum wage has
13 been established under s. 104.035 are less than that living minimum wage, and the
14 department shall investigate the matter and take all proceedings necessary to
15 enforce the payment of ~~a~~ that minimum wage that is not less than the living wage.
16 Section 111.322 (2m) applies to discharge and other discriminatory acts arising in
17 connection with any proceeding under this section.

18 **SECTION 35.** 109.09 (1) of the statutes is amended to read:

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

1 The department shall enforce this chapter and ss. 66.0903, 103.02, 103.023, 103.49,
2 103.82, 104.12, and 229.8275. In pursuance of this duty, the department may sue the
3 employer on behalf of the employee to collect any wage claim or wage deficiency and
4 ss. 109.03 (6) and 109.11 (2) and (3) shall apply to such actions. Except for actions
5 under s. 109.10, the department may refer such an action to the district attorney of
6 the county in which the violation occurs for prosecution and collection and the
7 district attorney shall commence an action in the circuit court having appropriate
8 jurisdiction. Any number of wage claims or wage deficiencies against the same
9 employer may be joined in a single proceeding, but the court may order separate
10 trials or hearings. In actions that are referred to a district attorney under this
11 subsection, any taxable costs recovered by the district attorney shall be paid into the
12 general fund of the county in which the violation occurs and used by that county to
13 meet its financial responsibility under s. 978.13 (2) (b) for the operation of the office
14 of the district attorney who prosecuted the action.

15 **SECTION 36.** 111.322 (2m) (a) of the statutes is amended to read:

16 111.322 (2m) (a) The individual files a complaint or attempts to enforce any
17 right under s. 103.02, 103.023, 103.10, 103.13, 103.28, 103.32, 103.34, 103.455,
18 103.50, 104.12, 109.03, 109.07, 109.075, 146.997, or 995.55, or ss. 101.58 to 101.599
19 or 103.64 to 103.82.

20 **SECTION 37.** 111.322 (2m) (b) of the statutes is amended to read:

21 111.322 (2m) (b) The individual testifies or assists in any action or proceeding
22 held under or to enforce any right under s. 103.02, 103.023, 103.10, 103.13, 103.28,
23 103.32, 103.34, 103.455, 103.50, 104.12, 109.03, 109.07, 109.075, 146.997, or 995.55,
24 or ss. 101.58 to 101.599 or 103.64 to 103.82.

25 **SECTION 38.** 234.94 (5) of the statutes is amended to read:

1 234.94 (5) “Primary employment” means work ~~which~~ that pays at least the
2 minimum wage as established under ~~ch. 104- s. 104.035 (1)~~ or under federal law,
3 whichever is greater; offers adequate fringe benefits, including health insurance;
4 and is not seasonal or part time.

5 **SECTION 39.** 234.94 (8) of the statutes is amended to read:

6 234.94 (8) “Target group” means a population group for which the
7 unemployment level is at least ~~25%~~ 25 percent higher than the statewide
8 unemployment level, or a population group for which the average wage received is
9 less than 1.2 times the minimum wage as established under ~~ch. 104- s. 104.035 (1)~~
10 or under federal law, whichever is greater. No population group is required to be
11 located within a contiguous geographic area to be considered a target group.

12 **SECTION 40.** 800.09 (1j) of the statutes is amended to read:

13 800.09 (1j) If the court orders the defendant to perform community service
14 work in lieu of making restitution or of paying the forfeiture, surcharges, fees and
15 costs, or both, the court may order that the defendant perform community service
16 work for a public agency or a nonprofit charitable organization that is approved by
17 the court and agreed to by the public agency or nonprofit charitable organization.
18 Community service work may be in lieu of restitution only if also agreed to by the
19 person to whom restitution is owed. The number of hours of community service work
20 required may not exceed the number determined by dividing the amount owed on the
21 forfeiture by the minimum wage established under ~~ch. 104 for adults in~~
22 ~~nonagriculture, nontipped employment~~ s. 104.035 (1). The court shall ensure that
23 the defendant is provided a written statement of the terms of the community service
24 order and that the community service order is monitored.

25 **SECTION 41.** 800.095 (1) (d) of the statutes is amended to read:

1 800.095 (1) (d) That the defendant perform community service work for a
2 public agency or nonprofit charitable organization approved by the court and agreed
3 to by the agency or nonprofit charitable organization. If the community service work
4 is in lieu of restitution, then the person to whom restitution is owed must agree; the
5 defendant shall be given credit at the rate of not less than the minimum wage
6 established under ~~ch. 104 for adults in nonagriculture, nontipped employment s.~~
7 104.035 (1) for each one hour of community service completed. The defendant shall
8 be given a written statement of the community service order. Nothing in this
9 paragraph makes the defendant an employee or agent of the court or the
10 municipality. The defendant shall be responsible for providing the court with proof
11 that the community service hours have been completed.

12 **SECTION 42.** 895.035 (2m) (c) of the statutes is amended to read:

13 895.035 (2m) (c) The court assigned to exercise jurisdiction under chs. 48 and
14 938 may order that the juvenile perform community service work for a public agency
15 or nonprofit charitable organization that is designated by the court in lieu of making
16 restitution or paying the forfeiture or surcharge. If the parent agrees to perform
17 community service work in lieu of making restitution or paying the forfeiture or
18 surcharge, the court may order that the parent perform community service work for
19 a public agency or a nonprofit charitable organization that is designated by the court.
20 Community service work may be in lieu of restitution only if also agreed to by the
21 public agency or nonprofit charitable organization and by the person to whom
22 restitution is owed. The court may utilize any available resources, including any
23 community service work program, in ordering the juvenile or parent to perform
24 community service work. The number of hours of community service work required
25 may not exceed the number determined by dividing the amount owed on the

1 restitution, forfeiture, or surcharge by the minimum wage established under
2 ~~ch. 104 for adults in nonagriculture, nontipped employment~~ s. 104.035 (1). The court
3 shall ensure that the juvenile or parent is provided with a written statement of the
4 terms of the community service order and that the community service order is
5 monitored.”.

6

(END)