



State of Wisconsin  
2017 - 2018 LEGISLATURE

LRBb0780/1  
MED:amn

**ASSEMBLY AMENDMENT 1,  
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO ASSEMBLY BILL 64**

September 13, 2017 - Offered by Representatives SINICKI, OHNSTAD, ANDERSON, BARCA, BERCEAU, BILLINGS, BOWEN, BROSTOFF, CONSIDINE, CROWLEY, DOYLE, FIELDS, GENRICH, GOYKE, HEBL, HESSELBEIN, HINTZ, KESSLER, KOLSTE, MASON, MEYERS, MILROY, POPE, RIEMER, SARGENT, SHANKLAND, SPREITZER, STUCK, SUBECK, C. TAYLOR, VRUWINK, WACHS, YOUNG, ZAMARRIPA and ZEPNICK.

- 1 At the locations indicated, amend the substitute amendment as follows:
- 2 **1.** Page 43, line 6: delete that line.
- 3 **2.** Page 49, line 5: delete lines 5 to 12.
- 4 **3.** Page 554, line 10: delete lines 10 to 22.
- 5 **4.** Page 591, line 17: delete the material beginning with that line and ending  
6 with page 592, line 3.
- 7 **5.** Page 700, line 13: delete that line.
- 8 **6.** Page 701, line 13: delete that line.
- 9 **7.** Page 727, line 12: delete the material beginning with that line and ending  
10 with page 729, line 16.

1           **8.** Page 738, line 9: delete the material beginning with that line and ending  
2 with page 739, line 6.

3           **9.** Page 740, line 16: delete lines 16 to 19.

4           **10.** Page 866, line 6: delete lines 6 to 9.

5           **11.** Page 868, line 5: delete lines 5 to 8.

6           **12.** Page 930, line 22: delete that line.

7           **13.** Page 946, line 25: delete the material beginning with that line and ending  
8 with page 947, line 13.

9           **14.** Page 1074, line 23: delete the material beginning with that line and  
10 ending with page 1075, line 4.

11           **15.** Page 1086, line 21: delete lines 21 to 24.

12           **16.** At the appropriate places, insert all of the following:

13           “**SECTION 1.** 16.856 of the statutes is repealed.

14           **SECTION 2.** 19.36 (12) of the statutes is amended to read:

15           19.36 (12) INFORMATION RELATING TO CERTAIN EMPLOYEES. Unless access is  
16 specifically authorized or required by statute, an authority may not provide access  
17 to a record prepared or provided by an employer performing work on a project to  
18 which s. ~~16.856 or 84.062~~ 66.0903, 103.49, or 103.50 applies, or on which the  
19 employer is otherwise required to pay prevailing wages, if that record contains the  
20 name or other personally identifiable information relating to an employee of that  
21 employer, unless the employee authorizes the authority to provide access to that  
22 information. In this subsection, “personally identifiable information” does not

1 include an employee's work classification, hours of work, or wage or benefit payments  
2 received for work on such a project.

3 **SECTION 3.** 66.0129 (5) of the statutes is amended to read:

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

9 **SECTION 4.** 66.0903 (1) (a), (am), (b), (cm), (dr), (em), (hm) and (im) of the  
10 statutes are created to read:

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

20 (am) "Bona fide economic benefit" has the meaning given in s. 103.49 (1) (am).

21 (b) "Department" means the department of workforce development.

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

23 (dr) "Minor service or maintenance work" means a project of public works that  
24 is limited to minor crack filling, chip or slurry sealing, or other minor pavement  
25 patching, not including overlays, that has a projected life span of no longer than 5

1 years or that is performed for a town and is not funded under s. 86.31, regardless of  
2 projected life span; the depositing of gravel on an existing gravel road applied solely  
3 to maintain the road; road shoulder maintenance; cleaning of drainage or sewer  
4 ditches or structures; or any other limited, minor work on public facilities or  
5 equipment that is routinely performed to prevent breakdown or deterioration.

6 (em) “Multiple-trade project of public works” has the meaning given in s.  
7 103.49 (1) (br).

8 (hm) “Single-trade project of public works” has the meaning given in s. 103.49  
9 (1) (em).

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

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

16 66.0903 (1) (c) “Hourly basic rate of pay” has the meaning given in s. ~~16.856~~  
17 103.49 (1) (b).

18 **SECTION 6.** 66.0903 (1) (f) of the statutes is amended to read:

19 66.0903 (1) (f) “Prevailing hours of labor” has the meaning given in s. ~~16.856~~  
20 103.49 (1) ~~(e)~~ (c).

21 **SECTION 7.** 66.0903 (1) (g) of the statutes is repealed and recreated to read:

22 66.0903 (1) (g) 1. Except as provided in subd. 2., “prevailing wage rate” for any  
23 trade or occupation engaged in the erection, construction, remodeling, repairing, or  
24 demolition of any project of public works in any area means the hourly basic rate of  
25 pay, plus the hourly contribution for health insurance benefits, vacation benefits,

1 pension benefits, and any other bona fide economic benefit, paid directly or  
2 indirectly, for a majority of the hours worked in the trade or occupation on projects  
3 in the area.

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

14 **SECTION 8.** 66.0903 (1) (j) of the statutes is amended to read:

15 66.0903 (1) (j) “Truck driver” has the meaning given in s. ~~16.856~~ 103.49 (1) (j)  
16 (g).

17 **SECTION 9.** 66.0903 (1m) (b) of the statutes is amended to read:

18 66.0903 (1m) (b) The legislature finds that the enactment of ordinances or  
19 other enactments by local governmental units requiring laborers, workers,  
20 mechanics, and truck drivers employed on projects of public works or on publicly  
21 funded private construction projects to be paid the prevailing wage rate and to be  
22 paid at least 1.5 times their hourly basic rate of pay for hours worked in excess of the  
23 prevailing hours of labor would be logically inconsistent with, would defeat the  
24 purpose of, and would go against the ~~repeals~~ spirit of this section and the repeal of  
25 s. 66.0904, 2009 stats., and s. ~~66.0903 (2) to (12)~~, 2013 stats. Therefore, this section

1 shall be construed as an enactment of statewide concern for the purposes of  
2 facilitating broader participation with respect to bidding on projects of public works,  
3 ensuring that wages accurately reflect market conditions, providing local  
4 governments with the flexibility to reduce costs on capital projects, and reducing  
5 spending at all levels of government in this state purpose of providing uniform  
6 prevailing wage rate and prevailing hours of labor requirements throughout the  
7 state.

8 **SECTION 10.** 66.0903 (2) to (12) of the statutes are created to read:

9 66.0903 (2) APPLICABILITY. Subject to sub. (5), this section applies to any project  
10 of public works erected, constructed, repaired, remodeled, or demolished for a local  
11 governmental unit, including all of the following:

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

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

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

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

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

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

20           (av) In determining prevailing wage rates under par. (am) or (ar), the  
21 department may not use data from projects that are subject to this section, s. 103.49  
22 or 103.50, or 40 USC 3142 unless the department determines that there is  
23 insufficient wage data in the area to determine those prevailing wage rates, in which  
24 case the department may use data from projects that are subject to this section, s.  
25 103.49 or 103.50, or 40 USC 3142. In determining prevailing wage rates under par.

1 (am) or (ar), the department may not use data from any construction work that is  
2 performed by a local governmental unit or a state agency.

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

12 (br) In addition to the recalculation under par. (bm), the local governmental  
13 unit that requested the determination under this subsection may request a review  
14 of any portion of a determination within 30 days after the date of issuance of the  
15 determination if the local governmental unit submits evidence with the request  
16 showing that the prevailing wage rate for any given trade or occupation included in  
17 the determination does not represent the prevailing wage rate for that trade or  
18 occupation in the city, village, or town in which the proposed project of public works  
19 is located. That evidence shall include wage rate information for the contested trade  
20 or occupation on at least 3 similar projects located in the city, village, or town where  
21 the proposed project of public works is located and on which some work has been  
22 performed during the current survey period and which were considered by the  
23 department in issuing its most recent compilation under par. (ar). The department  
24 shall affirm or modify the determination within 15 days after the date on which the  
25 department receives the request for review.

1 (dm) A reference to the prevailing wage rates determined by the department  
2 and to the prevailing hours of labor shall be published in the notice issued for the  
3 purpose of securing bids for the project of public works. If any contract or subcontract  
4 for a project of public works is entered into, the prevailing wage rates determined by  
5 the department and the prevailing hours of labor shall be physically incorporated  
6 into and made a part of the contract or subcontract, except that for a minor  
7 subcontract, as determined by the department, the department shall prescribe by  
8 rule the method of notifying the minor subcontractor of the prevailing wage rates and  
9 prevailing hours of labor applicable to the minor subcontract. The prevailing wage  
10 rates and prevailing hours of labor applicable to a contract or subcontract may not  
11 be changed during the time that the contract or subcontract is in force. No person  
12 performing the work described in sub. (4) may be paid less than the prevailing wage  
13 rate in the same or most similar trade or occupation determined under this  
14 subsection; nor may he or she be permitted to work a greater number of hours per  
15 day or per week than the prevailing hours of labor, unless he or she is paid for all  
16 hours worked in excess of the prevailing hours of labor at a rate of at least 1.5 times  
17 his or her hourly basic rate of pay.

18 (4) COVERED EMPLOYEES. (a) Subject to par. (b), all of the following employees  
19 shall be paid the prevailing wage rate determined under sub. (3) and may not be  
20 permitted to work a greater number of hours per day or per week than the prevailing  
21 hours of labor, unless they are paid for all hours worked in excess of the prevailing  
22 hours of labor at a rate of at least 1.5 times their 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 of public works that is subject to this section, pick up excavated material  
22 or spoil from the site of the project, and transport that excavated material or spoil  
23 away from the site of the project.

24           (c) A truck driver who is an owner-operator of a truck shall be paid separately  
25 for his or her work and for the use of his or her truck.

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

2           (a) A single-trade project of public works for which the estimated project cost  
3 of completion is less than \$48,000, a multiple-trade project of public works for which  
4 the estimated project cost of completion is less than \$100,000, or, in the case of a  
5 multiple-trade project of public works erected, constructed, repaired, remodeled, or  
6 demolished by a private contractor for a city or village having a population of less  
7 than 2,500 or for a town, a multiple-trade project of public works for which the  
8 estimated project cost of completion is less than \$234,000.

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

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

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

18           (g) A road, street, bridge, sanitary sewer, or water main project that is a part  
19 of a development in which not less than 90 percent of the lots contain or will contain  
20 2 dwelling units or less, as determined by the local governmental unit at the time of  
21 approval of the development, and that, on completion, is acquired by, or dedicated to,  
22 a local governmental unit, including under s. 236.13 (2), for ownership or  
23 maintenance by the local governmental unit.

24           **(8) POSTING.** For the information of the employees working on the project of  
25 public works, the prevailing wage rates determined by the department, the

1 prevailing hours of labor, and the provisions of subs. (10) (a) and (11) (a) shall be kept  
2 posted by the local governmental unit in at least one conspicuous and easily  
3 accessible place on the site of the project or, if there is no common site on the project,  
4 at the place normally used by the local governmental unit to post public notices.

5 **(9) COMPLIANCE.** (a) When the department finds that a local governmental unit  
6 has not requested a determination under sub. (3) (am) or that a local governmental  
7 unit, contractor, or subcontractor has not physically incorporated a determination  
8 into a contract or subcontract as required under this section or has not notified a  
9 minor subcontractor of a determination in the manner prescribed by the department  
10 by rule promulgated under sub. (3) (dm), the department shall notify the local  
11 governmental unit, contractor, or subcontractor of the noncompliance and shall file  
12 the determination with the local governmental unit, contractor, or subcontractor  
13 within 30 days after the notice.

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

19 (c) Upon completion of a project of public works and before receiving final  
20 payment for his or her work on the project, each contractor shall file with the local  
21 governmental unit authorizing the work an affidavit stating that the contractor has  
22 complied fully with the requirements of this section and that the contractor has  
23 received an affidavit under par. (b) from each of the contractor's agents and  
24 subcontractors. A local governmental unit may not authorize a final payment until  
25 the affidavit is filed in proper form and order. If a local governmental unit authorizes

1 a final payment before an affidavit is filed in proper form and order or if the  
2 department determines, based on the greater weight of the credible evidence, that  
3 any person performing the work specified in sub. (4) has been or may have been paid  
4 less than the prevailing wage rate or less than 1.5 times the hourly basic rate of pay  
5 for all hours worked in excess of the prevailing hours of labor and requests that the  
6 local governmental unit withhold all or part of the final payment, but the local  
7 governmental unit fails to do so, the local governmental unit is liable for all back  
8 wages payable up to the amount of the final payment.

9 **(10) RECORDS; INSPECTION; ENFORCEMENT.** (a) Each contractor, subcontractor, or  
10 contractor's or subcontractor's agent performing work on a project of public works  
11 that is subject to this section shall keep full and accurate records clearly indicating  
12 the name and trade or occupation of every person performing the work described in  
13 sub. (4) and an accurate record of the number of hours worked by each of those  
14 persons and the actual wages paid for the hours worked.

15 (b) The department or the contracting local governmental unit may demand  
16 and examine, and every contractor, subcontractor, and contractor's or  
17 subcontractor's agent shall keep, and furnish upon request by the department or  
18 local governmental unit, copies of payrolls and other records and information  
19 relating to the wages paid to persons performing the work described in sub. (4) for  
20 work to which this section applies. The department may inspect records in the  
21 manner provided in ch. 103. Every contractor, subcontractor, or agent performing  
22 work on a project of public works that is subject to this section is subject to the  
23 requirements of ch. 103 relating to the examination of records.

24 (c) If requested by any person, the department shall inspect the payroll records  
25 of any contractor, subcontractor, or agent performing work on a project of public

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

12 (d) Section 103.005 (5) (f), (11), (12), and (13) applies to this section, except that  
13 s. 103.005 (12) (a) does not apply to any person who fails to provide any information  
14 to the department to assist the department in determining prevailing wage rates  
15 under sub. (3) (am) or (ar). Section 111.322 (2m) applies to discharge and other  
16 discriminatory acts arising in connection with any proceeding under this section,  
17 including proceedings under sub. (11) (a).

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

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

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

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

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

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

13           3. Any person employed on a project of public works that is subject to this  
14 section who knowingly permits a contractor, subcontractor, or contractor's or  
15 subcontractor's agent to pay him or her less than the prevailing wage rate set forth  
16 in the contract governing the project, who gives up, waives, or returns any part of the  
17 compensation to which he or she is entitled under the contract, or who gives up,  
18 waives, or returns any part of the compensation to which he or she is normally  
19 entitled for work on a project that is not subject to this section during a week in which  
20 the person works both on a project of public works that is subject to this section and  
21 on a project that is not subject to this section, is guilty of an offense under s. 946.15  
22 (2).

23           4. Whoever induces any person who seeks to be or is employed on any project  
24 of public works that is subject to this section to permit any part of the wages to which  
25 the person is entitled under the contract governing the project to be deducted from

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

4 5. Any person employed on a project of public works that is subject to this  
5 section who knowingly permits any part of the wages to which he or she is entitled  
6 under the contract governing the project to be deducted from his or her pay is guilty  
7 of an offense under s. 946.15 (4), unless the deduction would be permitted under 29  
8 CFR 3.5 or 3.6 from a person who is working on a project that is subject to 40 USC  
9 3142.

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

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

1 (b) The department may not include in a notification under par. (a) the name  
2 of any person on the basis of having let work to a person whom the department has  
3 found to have failed to pay the prevailing wage rate determined under sub. (3) or has  
4 found to have paid less than 1.5 times the hourly basic rate of pay for all hours worked  
5 in excess of the prevailing hours of labor.

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

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

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

21 **SECTION 11.** 84.062 of the statutes is repealed.

22 **SECTION 12.** 84.41 (3) of the statutes is amended to read:

23 84.41 (3) EMPLOYMENT REGULATIONS. Employment regulations set forth in s.  
24 84.062 103.50 pertaining to wages and hours shall apply to all projects constructed  
25 under s. 84.40 in the same manner as such laws apply to projects on other state

1 highways. Where applicable, the federal wages and hours law known as the  
2 Davis-Bacon act shall apply.

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

16 **103.49 Wage rate on state work. (1) DEFINITIONS.** In this section:

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

1 (am) “Bona fide economic benefit” means an economic benefit for which an  
2 employer makes irrevocable contributions to a trust or fund created under 29 USC  
3 186 (c) or to any other bona fide plan, trust, program, or fund no less often than  
4 quarterly or, if an employer makes annual contributions to such a bona fide plan,  
5 trust, program, or fund, for which the employer irrevocably escrows moneys at least  
6 quarterly based on the employer’s expected annual contribution.

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

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

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

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

23 (c) “Prevailing hours of labor” for any trade or occupation in any area means  
24 10 hours per day and 40 hours per week and may not include any hours worked on  
25 a Saturday or Sunday or on any of the following holidays:

- 1           1. January 1.
- 2           2. The last Monday in May.
- 3           3. July 4.
- 4           4. The first Monday in September.
- 5           5. The 4th Thursday in November.
- 6           6. December 25.
- 7           7. The day before if January 1, July 4, or December 25 falls on a Saturday.
- 8           8. The day following if January 1, July 4, or December 25 falls on a Sunday.
- 9           (d) 1. Except as provided in subd. 2., “prevailing wage rate” for any trade or  
10          occupation engaged in the erection, construction, remodeling, repairing, or  
11          demolition of any project of public works in any area means the hourly basic rate of  
12          pay, plus the hourly contribution for health insurance benefits, vacation benefits,  
13          pension benefits, and any other bona fide economic benefit, paid directly or indirectly  
14          for a majority of the hours worked in the trade or occupation on projects in the area.
- 15          2. If there is no rate at which a majority of the hours worked in the trade or  
16          occupation on projects in the area is paid, “prevailing wage rate” for any trade or  
17          occupation engaged in the erection, construction, remodeling, repairing, or  
18          demolition of any project of public works in any area means the average hourly basic  
19          rate of pay, weighted by the number of hours worked, plus the average hourly  
20          contribution, weighted by the number of hours worked, for health insurance benefits,  
21          vacation benefits, pension benefits, and any other bona fide economic benefit, paid  
22          directly or indirectly for all hours worked at the hourly basic rate of pay of the  
23          highest-paid 51 percent of hours worked in that trade or occupation on projects in  
24          that area.

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

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

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

15 (g) “Truck driver” includes an owner-operator of a truck.

16 **(1m)** APPLICABILITY. Subject to sub. (3g), this section applies to any project of  
17 public works erected, constructed, repaired, remodeled, or demolished for the state  
18 or a state agency, including all of the following:

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

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

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

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

1           **(2m)** COVERED EMPLOYEES. (a) Subject to par. (b), all of the following employees  
2 shall be paid the prevailing wage rate determined under sub. (3) and may not be  
3 permitted to work a greater number of hours per day or per week than the prevailing  
4 hours of labor, unless they are paid for all hours worked in excess of the prevailing  
5 hours of labor at a rate of at least 1.5 times their hourly basic rate of pay:

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

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

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

22           1. The laborer, worker, mechanic, or truck driver is employed to go to the source  
23 of mineral aggregate such as sand, gravel, or stone and deliver that mineral  
24 aggregate to the site of a project of public works that is subject to this section by

1 depositing the material directly in final place, from the transporting vehicle or  
2 through spreaders from the transporting vehicle.

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

7 (c) A truck driver who is an owner-operator of a truck shall be paid separately  
8 for his or her work and for the use of his or her truck.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (b) The department may not include in a notification under par. (a) the name  
25 of any person on the basis of having let work to a person whom the department has

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

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

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

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

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

19 **103.50 Highway contracts. (1) DEFINITIONS.** In this section:

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

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

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

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

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

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

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

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

19 **(2) PREVAILING WAGE RATES AND HOURS OF LABOR.** No person performing the work  
20 described in sub. (2m) in the employ of a contractor, subcontractor, agent, or other  
21 person performing any work on a project under a contract based on bids as provided  
22 in s. 84.06 (2) to which the state is a party for the construction or improvement of any  
23 highway may be permitted to work a greater number of hours per day or per week  
24 than the prevailing hours of labor; nor may he or she be paid a lesser rate of wages  
25 than the prevailing wage rate in the area in which the work is to be done determined

1 under sub. (3); except that any such person may be permitted or required to work  
2 more than such prevailing hours of labor per day and per week if he or she is paid  
3 for all hours worked in excess of the prevailing hours of labor at a rate of at least 1.5  
4 times his or her hourly basic rate of pay.

5 **(2g) NONAPPLICABILITY.** This section does not apply to a single-trade project of  
6 public works, as defined in s. 103.49 (1) (em), for which the estimated project cost of  
7 completion is less than \$48,000 or a multiple-trade project of public works, as  
8 defined in s. 103.49 (1) (br), for which the estimated project cost of completion is less  
9 than \$100,000.

10 **(2m) COVERED EMPLOYEES.** (a) Subject to par. (b), all of the following employees  
11 shall be paid the prevailing wage rate determined under sub. (3) and may not be  
12 permitted to work a greater number of hours per day or per week than the prevailing  
13 hours of labor, unless they are paid for all hours worked in excess of the prevailing  
14 hours of labor at a rate of at least 1.5 times their hourly basic rate of pay:

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

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

22 (b) A laborer, worker, mechanic, or truck driver who is employed to process,  
23 manufacture, pick up, or deliver materials or products from a commercial  
24 establishment that has a fixed place of business from which the establishment  
25 supplies processed or manufactured materials or products or from a facility that is

1 not dedicated exclusively, or nearly so, to a project that is subject to this section is not  
2 entitled to receive the prevailing wage rate determined under sub. (3) or to receive  
3 at least 1.5 times his or her hourly basic rate of pay for all hours worked in excess  
4 of the prevailing hours of labor unless any of the following applies:

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

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

14 (c) A truck driver who is an owner-operator of a truck shall be paid separately  
15 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  
19 itself as to 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, there shall be but one standard of prevailing wage rates for the entire  
8 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 as to the prevailing wage  
17 rates in an area to have been incorrect, it may appeal to the governor, whose  
18 determination shall be final.

19 **(6) CONTENTS OF CONTRACTS.** A reference to the prevailing wage rates  
20 determined under sub. (3) and the prevailing hours of labor shall be published in the  
21 notice issued for the purpose of securing bids for a project. If any contract or  
22 subcontract for a project that is subject to this section is entered into, the prevailing  
23 wage rates determined under sub. (3) and the prevailing hours of labor shall be  
24 physically incorporated into and made a part of the contract or subcontract, except  
25 that for a minor subcontract, as determined by the department of workforce

1 development, that department shall prescribe by rule the method of notifying the  
2 minor subcontractor of the prevailing wage rates and prevailing hours of labor  
3 applicable to the minor subcontract. The prevailing wage rates and prevailing hours  
4 of labor applicable to a contract or subcontract may not be changed during the time  
5 that the contract or subcontract is in force. For the information of the employees  
6 working on the project, the prevailing wage rates determined by the department, the  
7 prevailing hours of labor, and the provisions of subs. (2) and (7) shall be kept posted  
8 by the department of transportation in at least one conspicuous and easily accessible  
9 place 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 person who seeks to be or is employed on any project  
15 that is subject to this section to give up, waive, or return any part of the wages to  
16 which the person is entitled under the contract governing the project, or who reduces  
17 the hourly basic rate of pay normally paid to a person for work on a project that is  
18 not subject to this section during a week in which the person works both on a project  
19 that is subject to this section and on a project that is not subject to this section, by  
20 threat not to employ, by threat of dismissal from employment or by any other means  
21 is guilty of an offense under s. 946.15 (1).

22 (c) Any person employed on a project that is subject to this section who  
23 knowingly permits 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 person 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 person who seeks to be or is employed on any project  
7 that is subject to this section to permit any part of the wages to which the person is  
8 entitled under the contract governing the project to be deducted from the person's  
9 pay is guilty of an offense under s. 946.15 (3), unless the deduction would be  
10 permitted under 29 CFR 3.5 or 3.6 from a person who is working on a project that is  
11 subject to 40 USC 3142.

12 (e) Any person employed on a project that is subject to this section who  
13 knowingly permits 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 permitted under 29 CFR  
16 3.5 or 3.6 from a person who is working on a project that is subject to 40 USC 3142.

17 (f) Paragraph (a) does not apply to any person 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 16.** 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 on a project of public works or while the employee was performing work on a public  
11 utility project.

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

13 103.503 (1) (c) "Contracting agency" means a local governmental unit, as  
14 defined in s. 66.0903 (1) (d), or a state agency, as defined in s. ~~16.856~~ 103.49 (1) (h)  
15 (f), that has contracted for the performance of work on a project of public works or  
16 a public utility that has contracted for the performance of work on a public utility  
17 project.

18 **SECTION 18.** 103.503 (1) (e) of the statutes is amended to read:

19 103.503 (1) (e) "Employee" means a laborer, worker, mechanic, or truck driver  
20 who performs the work described in s. 66.0903 (4), ~~2013 stats.~~, or s. ~~16.856~~ 103.49  
21 (2m) on a project of public works or on a public utility project.

22 **SECTION 19.** 103.503 (1) (g) of the statutes is amended to read:

23 103.503 (1) (g) "Project of public works" means a project of public works that  
24 is subject to s. ~~16.856~~ or that would be subject to s. 66.0903, ~~2013 stats.~~, if the project

1 ~~were erected, constructed, repaired, remodeled, or demolished prior to January 1,~~  
2 ~~2017 or 103.49.~~

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

4 103.503 (2) SUBSTANCE ABUSE PROHIBITED. No employee may use, possess,  
5 attempt to possess, distribute, deliver, or be under the influence of a drug, or use or  
6 be under the influence of alcohol, while performing the work described in s. 66.0903  
7 (4), ~~2013 stats.,~~ or s. ~~16.856~~ 103.49 (2m) on a project of public works or while  
8 performing work on a public utility project. An employee is considered to be under  
9 the influence of alcohol for purposes of this subsection if he or she has an alcohol  
10 concentration that is equal to or greater than the amount specified in s. 885.235 (1g)  
11 (d).

12 **SECTION 21.** 103.503 (3) (a) 2. of the statutes is amended to read:

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

21 **SECTION 22.** 104.001 (3) of the statutes is renumbered 104.001 (3) (intro.) and  
22 amended to read:

23 104.001 (3) (intro.) This section does not affect an any of the following:

24 (b) An ordinance that, ~~subject to s. 66.0903,~~ requires an employee of a county,  
25 city, village, or town, an employee who performs work under a contract for the

1 provision of services to a county, city, village, or town, or an employee who performs  
2 work that is funded by financial assistance from a county, city, village, or town, to be  
3 paid at a minimum wage rate specified in the ordinance.

4 **SECTION 23.** 104.001 (3) (a) of the statutes is created to read:

5 104.001 (3) (a) The requirement that employees employed on a public works  
6 project contracted for by a city, village, town, or county be paid at the prevailing wage  
7 rate, as defined in s. 66.0903 (1) (g), as required under s. 66.0903.

8 **SECTION 24.** 106.04 (1) of the statutes is amended to read:

9 106.04 (1) DEFINITION. In this section, “project” means a project of public works  
10 that is subject to s. ~~16.856 or 84.062~~ 103.49 or 103.50 in which work is performed by  
11 employees employed in trades that are apprenticeable under this subchapter.

12 **SECTION 25.** 109.09 (1) of the statutes is amended to read:

13 109.09 (1) The department shall investigate and attempt equitably to adjust  
14 controversies between employers and employees as to alleged wage claims. The  
15 department may receive and investigate any wage claim that is filed with the  
16 department, or received by the department under s. 109.10 (4), no later than 2 years  
17 after the date the wages are due. The department may, after receiving a wage claim,  
18 investigate any wages due from the employer against whom the claim is filed to any  
19 employee during the period commencing 2 years before the date the claim is filed.  
20 The department shall enforce this chapter and s. ~~ss. 66.0903, 2013 stats., s. 103.49,~~  
21 ~~2013 stats., and s. 229.8275, 2013 stats., and ss. 16.856, 103.02, 103.49, 103.82, and~~  
22 ~~104.12, and 229.8275.~~ In pursuance of this duty, the department may sue the  
23 employer on behalf of the employee to collect any wage claim or wage deficiency and  
24 ss. 109.03 (6) and 109.11 (2) and (3) shall apply to such actions. Except for actions  
25 under s. 109.10, the department may refer such an action to the district attorney of

1 the county in which the violation occurs for prosecution and collection and the  
2 district attorney shall commence an action in the circuit court having appropriate  
3 jurisdiction. Any number of wage claims or wage deficiencies against the same  
4 employer may be joined in a single proceeding, but the court may order separate  
5 trials or hearings. In actions that are referred to a district attorney under this  
6 subsection, any taxable costs recovered by the district attorney shall be paid into the  
7 general fund of the county in which the violation occurs and used by that county to  
8 meet its financial responsibility under s. 978.13 (2) (b) for the operation of the office  
9 of the district attorney who prosecuted the action.

10 **SECTION 26.** 111.322 (2m) (a) of the statutes is amended to read:

11 111.322 (2m) (a) The individual files a complaint or attempts to enforce any  
12 right under s. 103.02, 103.10, 103.11, 103.13, 103.28, 103.32, 103.34, 103.455,  
13 103.50, 104.12, 109.03, 109.07, 109.075, 146.997, or 995.55, or ss. 101.58 to 101.599  
14 or 103.64 to 103.82.

15 **SECTION 27.** 111.322 (2m) (b) of the statutes is amended to read:

16 111.322 (2m) (b) The individual testifies or assists in any action or proceeding  
17 held under or to enforce any right under s. 103.02, 103.10, 103.11, 103.13, 103.28,  
18 103.32, 103.34, 103.50, 103.455, 104.12, 109.03, 109.07, 109.075, 146.997, or 995.55,  
19 or ss. 101.58 to 101.599 or 103.64 to 103.82.

20 **SECTION 28.** 111.322 (2m) (c) of the statutes is amended to read:

21 111.322 (2m) (c) The individual files a complaint or attempts to enforce a right  
22 under s. ~~16.856 or 84.062~~ 66.0903, 103.49, or 229.8275 or testifies or assists in any  
23 action or proceeding under s. ~~16.856 or 84.062~~ 66.0903, 103.49, or 229.8275.

24 **SECTION 29.** 227.01 (13) (t) of the statutes is created to read:

1           227.01 (13) (t) Ascertains and determines prevailing wage rates under ss.  
2           66.0903, 103.49, 103.50, and 229.8275, except that any action or inaction which  
3           ascertains and determines prevailing wage rates under ss. 66.0903, 103.49, 103.50,  
4           and 229.8275 is subject to judicial review under s. 227.40.

5           **SECTION 30.** 229.682 (2) of the statutes is created to read:

6           229.682 (2) PREVAILING WAGE. The construction of a baseball park facility that  
7           is financed in whole or in part by a district is subject to s. 66.0903.

8           **SECTION 31.** 229.8275 of the statutes is created to read:

9           **229.8275 Prevailing wage.** A district may not enter into a contract under s.  
10          229.827 with a professional football team, as described in s. 229.823, or a related  
11          party that requires the team or related party to acquire and construct or renovate  
12          football stadium facilities that are part of any facilities that are leased by the district  
13          to the team or to a related party unless the professional football team or related party  
14          agrees as follows:

15          (1) Not to permit any employee working on the football stadium facilities who  
16          would be entitled to receive the prevailing wage rate under s. 66.0903 and who would  
17          not be required or permitted to work more than the prevailing hours of labor, if the  
18          football stadium facilities were a project of public works subject to s. 66.0903, to be  
19          paid less than the prevailing wage rate or to be required or permitted to work more  
20          than the prevailing hours of labor, except as permitted under s. 66.0903 (4) (a).

21          (2) To require any contractor, subcontractor, or agent thereof performing work  
22          on the football stadium facilities to keep and permit inspection of records in the same  
23          manner as a contractor, subcontractor, or agent thereof performing work on a project  
24          of public works that is subject to s. 66.0903 is required to keep and permit inspection  
25          of records under s. 66.0903 (10).

1           (3) Otherwise to comply with s. 66.0903 in the same manner as a local  
2 governmental unit contracting for the erection, construction, remodeling, repairing,  
3 or demolition of a project of public works is required to comply with s. 66.0903 and  
4 to require any contractor, subcontractor, or agent thereof performing work on the  
5 football stadium facilities to comply with s. 66.0903 in the same manner as a  
6 contractor, subcontractor, or agent thereof performing work on a project of public  
7 works that is subject to s. 66.0903 is required to comply with s. 66.0903.

8           **SECTION 32.** 946.15 of the statutes is repealed and recreated to read:

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

23           (2) Any person employed pursuant to a public contract, as defined in s. 66.0901  
24 (1) (c), or employed on a project on which a prevailing wage rate determination has  
25 been issued by the department of workforce development under s. 66.0903 (3), 103.49

1 (3), 103.50 (3), or 229.8275 (3) who gives up, waives, or returns to the employer or  
2 agent of the employer any part of the compensation to which the employee is entitled  
3 under his or her contract of employment or under the prevailing wage determination  
4 issued by the department, or who gives up any part of the compensation to which he  
5 or she is normally entitled for work on a project on which a prevailing wage rate  
6 determination has not been issued under s. 66.0903 (3), 103.49 (3), 103.50 (3), or  
7 229.8275 (3) during a week in which the person works part-time on a project on  
8 which a prevailing wage rate determination has been issued and part-time on a  
9 project on which a prevailing wage rate determination has not been issued, is guilty  
10 of a Class C misdemeanor.

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

20 (4) Any person employed on a project on which a prevailing wage rate  
21 determination has been issued by the department of workforce development under  
22 s. 66.0903 (3), 103.49 (3), 103.50 (3), or 229.8275 (3) who permits any part of the  
23 wages to which that person is entitled under the prevailing wage rate determination  
24 issued by the department or local governmental unit to be deducted from his or her  
25 pay is guilty of a Class C misdemeanor, unless the deduction would be permitted

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

3 **SECTION 33.** 978.05 (6) (a) of the statutes is amended to read:

4 978.05 (6) (a) Institute, commence, or appear in all civil actions or special  
5 proceedings under and perform the duties set forth for the district attorney under ch.  
6 980 and ss. 17.14, 30.03 (2), 48.09 (5), 59.55 (1), 59.64 (1), 70.36, ~~84.062~~ 103.50 (8),  
7 89.08, 103.92 (4), 109.09, 343.305 (9) (a), 806.05, 938.09, 938.18, 938.355 (6) (b) and  
8 (6g) (a), 946.86, 946.87, 961.55 (5), 971.14 and 973.075 to 973.077, perform any duties  
9 in connection with court proceedings in a court assigned to exercise jurisdiction  
10 under chs. 48 and 938 as the judge may request and perform all appropriate duties  
11 and appear if the district attorney is designated in specific statutes, including  
12 matters within chs. 782, 976 and 979 and ss. 51.81 to 51.85. Nothing in this  
13 paragraph limits the authority of the county board to designate, under s. 48.09 (5),  
14 that the corporation counsel provide representation as specified in s. 48.09 (5) or to  
15 designate, under s. 48.09 (6) or 938.09 (6), the district attorney as an appropriate  
16 person to represent the interests of the public under s. 48.14 or 938.14.

17 **SECTION 34. Initial applicability.**

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

