

State of Wisconsin



2003 Assembly Bill 633

Date of enactment:
Date of publication*:

2003 WISCONSIN ACT

AN ACT *to renumber and amend* 104.08 (1), 104.08 (2) and 104.08 (3); *to amend* 104.01 (intro.), 104.01 (5), 104.02, 104.03, 104.04, 104.05, 104.06, 104.07 (1), 104.07 (2), 104.10, 104.11 and 104.12; and *to create* 104.001 and 104.08 (1m) (b) of the statutes; **relating to:** preemption of county, city, village, or town living wage ordinances.

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

SECTION 1. 104.001 of the statutes is created to read:

104.001 Statewide concern; uniformity. (1) This chapter shall be construed as an enactment of statewide concern for the purpose of providing a living wage that is uniform throughout the state.

(2) A county, city, village, or town may enact and administer an ordinance establishing a living wage only if the ordinance strictly conforms to this chapter and any rules promulgated under this chapter. Except as provided in sub. (3), a county, city, village, or town may not administer an ordinance establishing a living wage unless that ordinance strictly conforms to this chapter and any rules promulgated under this chapter.

(3) A county, city, village, or town that has a living wage ordinance in effect on the effective date of this subsection [revisor inserts date], may maintain and administer that ordinance if the department reviews the ordinance and determines that the ordinance strictly conforms to this chapter and any rules promulgated under this chapter. If the department determines that any part of the existing ordinance does not strictly conform to this chapter and any rules promulgated under this chapter, the county, city, village, or town may amend the ordinance

and submit the amended ordinance to the department for a determination of whether the amended ordinance strictly conforms to this chapter and any rules promulgated under this chapter. A county, city, village, or town may not amend a living wage ordinance except to maintain strict conformity with this chapter and any rules promulgated under this chapter.

(4) A county ordinance enacted under this section does not apply within any city, village, or town that has enacted or enacts an ordinance under this section.

(5) This section does not affect any of the following:

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

(b) An ordinance that requires an employee of a county, city, village, or town, an employee who performs work under a contract for the provision of services to a county, city, village, or town, or an employee who performs work that is funded by financial assistance from a county, city, village, or town, to be paid at a minimum wage rate specified in the ordinance.

SECTION 2. 104.01 (intro.) of the statutes is amended to read:

104.01 Definitions. (intro.) The following terms as used in ~~ss. 104.01 to 104.12~~ this chapter shall be construed as follows:

* Section 991.11, WISCONSIN STATUTES 2001-02 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

SECTION 3. 104.01 (5) of the statutes is amended to read:

104.01 (5) The term “living wage” shall mean “Living wage” means compensation for labor paid, whether by time, piecework, or otherwise, sufficient to enable the employee receiving it the compensation to maintain himself or herself under conditions consistent with his or her welfare.

SECTION 4. 104.02 of the statutes is amended to read:

104.02 Living wage Living wage prescribed. Every wage paid or agreed to be paid by any employer to any employee, except as otherwise provided in s. 104.07, shall be not less than a living wage living wage.

SECTION 5. 104.03 of the statutes is amended to read:

104.03 Unlawful wages. Any employer paying, offering to pay, or agreeing to pay any employee a wage lower or less in value than a living wage living wage is guilty of a violation of ss. ~~104.01 to 104.12~~ this chapter.

SECTION 6. 104.04 of the statutes is amended to read:

104.04 Classifications; department’s authority. The department shall investigate, ascertain, determine, and fix such reasonable classifications, and shall impose general or special orders, determining the living wage living wage, and shall carry out the purposes of ss. ~~104.01 to 104.12~~ this chapter. Such investigations, classifications, and orders shall be made as provided under s. 103.005, and the penalties specified in s. 103.005 (12) shall apply to and be imposed for any violation of ss. ~~104.01 to 104.12~~ this chapter. In determining the living wage living wage, the department may consider the effect that an increase in the living wage living wage might have on the economy of the state, including the effect of a living wage living wage increase on job creation, retention, and expansion, on the availability of entry-level jobs, and on regional economic conditions within the state. The department may not establish a different minimum wage for men and women. Said orders shall be subject to review in the manner provided in ch. 227.

SECTION 7. 104.05 of the statutes is amended to read:

104.05 Complaints; investigation. The department shall, within 20 days after the filing of a verified complaint of any person setting forth that the wages paid to any employee in any occupation are not sufficient to enable the employee to maintain himself or herself under conditions consistent with his or her welfare, investigate and determine whether there is reasonable cause to believe that the wage paid to any employee is not a living wage living wage.

SECTION 8. 104.06 of the statutes is amended to read:

104.06 Wage council; determination. If, upon investigation, the department finds that there is reasonable cause to believe that the wages paid to any employee are not a living wage, it living wage, the department shall appoint a wage council, selected so as fairly to represent employers, employees, and the public, to assist in its investigations and determinations. The living wage

living wage so determined upon shall be the living wage living wage for all employees within the same class as established by the classification of the department.

SECTION 9. 104.07 (1) of the statutes is amended to read:

104.07 (1) The department shall make rules, and, except as provided under subs. (5) and (6), grant licenses, to any employer who employs any employee who is unable to earn the living wage ~~theretofore determined upon living wage determined by the department~~, permitting such person the employee to work for a wage which shall be that is commensurate with the employee’s ability and each. Each license so granted shall establish a wage for the licensee.

SECTION 10. 104.07 (2) of the statutes is amended to read:

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

SECTION 11. 104.08 (1) of the statutes is renumbered 104.08 (2m) and amended to read:

104.08 (2m) All persons Any person working in an occupation a trade industry for which a living wage living wage has been established for minors, and who shall have has no trade, shall, ~~if employed in an occupation which is a trade industry~~, be indentured under the provisions of s. 106.01.

SECTION 12. 104.08 (1m) (b) of the statutes is created to read:

104.08 (1m) (b) “Trade industry” means an industry involving physical labor and characterized by mechanical skill and training such as render a period of instruction reasonably necessary.

SECTION 13. 104.08 (2) of the statutes is renumbered 104.08 (1m) (intro.) and amended to read:

104.08 (1m) (intro.) ~~A “trade” or a “trade industry” within the meaning of ss. 104.01 to 104.12 shall be a trade or~~ In this section:

(a) “Trade” means an industry occupation involving physical labor and characterized by mechanical skill and training such as render a period of instruction reasonably necessary.

(3) (a) The department shall investigate, determine, and declare what occupations and industries are included within ~~the phrase a “trade” or a “trade industry”.~~

SECTION 14. 104.08 (3) of the statutes is renumbered 104.08 (3) (b) and amended to read:

104.08 (3) (b) The department may make exceptions to the operation of subs. (1) and (2) ~~where sub. (2m) when~~ conditions make ~~their its~~ application unreasonable.

SECTION 15. 104.10 of the statutes is amended to read:

104.10 Penalty for intimidating witness. Any employer who discharges or threatens to discharge, or in any way discriminates, or threatens to discriminate against any employee because the employee has testified or is about to testify, or because the employer believes that the employee may testify, in any investigation or proceeding relative to the enforcement of ~~ss. 104.01 to 104.12~~ this chapter, is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of \$25 for each offense.

SECTION 16. 104.11 of the statutes is amended to read:

104.11 Definition of violation. Each day during which any employer shall employ a person for whom a ~~living-wage~~ living wage has been fixed at a wage less than the ~~living-wage~~ living wage fixed shall constitute a separate and distinct violation of ~~ss. 104.01 to 104.12~~ this chapter.

SECTION 17. 104.12 of the statutes is amended to read:

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

SECTION 18. Initial applicability.

(1) This act first applies to an employee who is affected by a collective bargaining agreement that contains provisions that are inconsistent with section 104.001 of the statutes, as created by this act, on the day on which the collective bargaining agreement expires or is extended, modified, or renewed, whichever occurs first.
