

# State of Wisconsin



1995 Senate Bill 373

Date of enactment: **April 16, 1996**  
Date of publication\*: **April 29, 1996**

## 1995 WISCONSIN ACT 215

AN ACT *to repeal* 66.293 (2), 66.293 (3) (b), 103.49 (4) and 103.50 (3) (b); *to renumber and amend* 66.293 (3) (intro.), 66.293 (3) (a), 66.293 (3) (c), 66.293 (3) (d), 66.293 (3) (e), 66.293 (3) (f), 66.293 (3) (g), 66.293 (3) (h), 66.293 (3) (i), 66.293 (3) (j), 66.293 (3) (k), 66.293 (3) (m), 66.293 (3) (n), 103.49 (1) (c), 103.49 (3), 103.49 (5), 103.49 (6) and 103.50 (3) (a); *to amend* 101.02 (13) (a), 103.005 (12) (a), 103.49 (1) (a), 103.49 (1) (b), 103.49 (1) (d), 103.49 (2), 103.49 (7) (a), 103.49 (7) (b), 103.49 (7) (d), 103.50 (1) (a), 103.50 (1) (b), 103.50 (1) (c), 103.50 (1) (d), 103.50 (2), 103.50 (4), 103.50 (5), 103.50 (6), 103.50 (7) (a), 103.50 (7) (b), 103.50 (7) (c), 103.50 (8), 227.01 (13) (t), 946.15 (1), 946.15 (2), 946.15 (3) and 946.15 (4); *to repeal and recreate* 66.293 (1), 66.293 (1) (b) and (h), 66.293 (10) (b), 66.293 (10) (d), 101.02 (13) (a), 103.49 (5) (b), 103.50 (4), 103.50 (5), 103.50 (6), 946.15 (1) and 946.15 (2); and *to create* 66.293 (3) (title), 66.293 (3) (ar), 66.293 (3) (av), 66.293 (3) (br), 66.293 (4), 66.293 (9) (title), 66.293 (10) (title), 66.293 (11) (title), 66.293 (11) (b), 103.49 (1) (title), 103.49 (1) (bg), 103.49 (1) (bm), 103.49 (1) (c) 1. to 8., 103.49 (1) (e), 103.49 (1) (f), 103.49 (1) (g), 103.49 (2m), 103.49 (3) (title), 103.49 (3) (am), 103.49 (3) (ar), 103.49 (3) (b), 103.49 (3) (c), 103.49 (4r), 103.49 (5) (title), 103.49 (5) (a), 103.49 (5) (c), 103.49 (6m), 103.49 (7) (title), 103.50 (1) (bg), 103.50 (1) (e), 103.50 (2m), 103.50 (4m), 103.50 (7) (d), (e) and (f), 946.15 (3) and 946.15 (4) of the statutes; **relating to:** prevailing wage rates and hours of labor for workers employed on state or local public works projects, granting rule-making authority and providing penalties.

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

**SECTION 1.** 66.293 (1) of the statutes is repealed and recreated to read:

66.293 (1) DEFINITIONS. In this section:

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

the entire state or, if the department is requested to review a determination under sub. (3) (br), "area" means the city, village or town in which a proposed project that is subject to this section is located.

(b) "Department" means the department of industry, labor and human relations.

(c) "Hourly basic rate of pay" has the meaning given in s. 103.49 (1) (b).

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

(d) "Local governmental unit" means a political subdivision of this state, a special purpose district in this state, an instrumentality or corporation of such a political subdivision or special purpose district, a combination or

\* Section 991.11, WISCONSIN STATUTES 1993-94: 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].

subunit of any of the foregoing or an instrumentality of the state and any of the foregoing.

(e) "Multiple-trade public works project" has the meaning given in s. 103.49 (1) (bm).

(f) "Prevailing hours of labor" has the meaning given in s. 103.49 (1) (c).

(g) "Prevailing wage rate" for any trade or occupation engaged in the erection, construction, remodeling, repairing or demolition of any project of public works in any area means the hourly basic rate of pay, plus the hourly contribution for health insurance benefits, vacation benefits, pension benefits and any other bona fide economic benefit, paid directly or indirectly, for a majority of the hours worked in the trade or occupation on projects in the area, or if there is no rate at which a majority of the hours worked in the trade or occupation on projects in the area is paid, then the prevailing wage rate for any trade or occupation engaged in the erection, construction, remodeling, repairing or demolition of any project of public works in any area shall be the average hourly basic rate of pay, weighted by the number of hours worked, plus the average hourly contribution, weighted by the number of hours worked, for health insurance benefits, vacation benefits, pension benefits and any other bona fide economic benefit, paid directly or indirectly for all hours worked at the hourly basic rate of pay of the highest-paid 51% of hours worked in that trade or occupation on projects in that area.

(h) "Secretary" means the secretary of industry, labor and human relations.

(i) "Single-trade public works project" has the meaning given in s. 103.49 (1) (e).

(j) "Truck driver" has the meaning given in s. 103.49 (1) (g).

**SECTION 2.** 66.293 (1) (b) and (h) of the statutes, as created by 1995 Wisconsin Act ... (this act), are repealed and recreated to read:

66.293 (1) (b) "Department" means the department of industry, labor and job development.

(h) "Secretary" means the secretary of industry, labor and job development.

**SECTION 3.** 66.293 (2) of the statutes is repealed.

**SECTION 4.** 66.293 (3) (title) of the statutes is created to read:

66.293 (3) (title) PREVAILING WAGE RATES AND HOURS OF LABOR.

**SECTION 5.** 66.293 (3) (intro.) of the statutes is renumbered 66.293 (3) (am) and amended to read:

66.293 (3) (am) Every municipality local governmental unit, before making a contract by direct negotiation or soliciting bids on a contract, for the erection, construction, remodeling, repairing or demolition of any project of public works except, including a highway, street or bridge construction project, shall apply to the department of industry, labor and human relations to ascertain to determine the prevailing wage rate, and prevailing

hours of labor and hourly basic pay rates in all trades and occupations for each trade or occupation required in the work contemplated. The department shall make such investigations and hold such public hearings as may be necessary to define the trades or occupations that are commonly employed on projects that are subject to this section and to inform itself as to the prevailing wage rates and prevailing hours of labor in all areas of the state for those trades or occupations with a view to ascertaining the prevailing wage rate and prevailing hours of labor for each such trade or occupation. The department shall determine the prevailing wage rate, hours of labor and hourly basic pay rates for each trade or occupation under s. 103.49, make issue its determination within 30 days after receiving the request and shall file the same with the municipality local governmental unit applying therefor.

(bm) ~~A~~ Any person may request for the review a recalculation of any portion of a wage determination may be made within 30 days from after the initial determination date if the person submits evidence is submitted with the request showing that the prevailing wage rate or prevailing hours of labor for any given trade or occupation included in the initial determination does not represent the prevailing wage rate or prevailing hours of labor for that trade or occupation in the area. Such evidence shall include wage rate and hours of labor information for work performed in the contested trade or occupation on at least one similar project located in the municipality where the proposed project is located and on which some work has been performed during the current or any of area within the previous 12 months. The department shall affirm or modify the original initial determination within 15 days from after the date on which the department receives the request for review. ~~Reference to such recalculation.~~

(dm) A reference to the prevailing wage rates and prevailing hours of labor determined by the department or a municipality local governmental unit exempted under par. (d) sub. (6) shall be published in the notice issued for the purpose of securing bids for the project. If any contract or subcontract for a project of public works except, including a highway, street or bridge construction project, is entered into, the prevailing wage rates and prevailing hours of labor determined by the department or exempted municipality local governmental unit shall be physically incorporated into and made a part of the contract or subcontract, except that for a minor subcontract, as determined by the department, the department shall prescribe by rule the method of notifying the minor subcontractor of the prevailing wage rates and prevailing hours of labor applicable to the minor subcontract. The prevailing wage rates and prevailing hours of labor applicable to a contract or subcontract may not be changed during the time that the contract or subcontract is in force. No laborer, worker or mechanic employed directly upon the site of the project by the contractor or by a subcontractor

tor, agent or other person, ~~doing or contracting to do any part of the work, person described in sub. (4)~~ may be paid less than the prevailing wage rate in the same or most similar trade or occupation determined under this subsection; nor may he or she be permitted to work a greater number of hours per day or per calendar week than the prevailing hours of labor determined under this subsection, unless he or she is paid for all hours worked in excess of the prevailing hours of labor at a rate of at least ~~1-1/2~~ 1.5 times his or her hourly basic rate of pay.

**SECTION 6.** 66.293 (3) (a) of the statutes is renumbered 66.293 (11) (a) and amended to read:

66.293 (11) (a) Any contractor, subcontractor or agent thereof, who fails to pay the prevailing wage rate of wages determined by the department under ~~this subsection or sub. (3) or who~~ pays less than ~~1-1/2~~ 1.5 times the hourly basic rate of pay for all hours worked ~~on the project~~ in excess of the prevailing hours of labor determined under ~~this subsection sub. (3)~~, shall be liable to the employees any affected employee in the amount of ~~their~~ his or her unpaid ~~minimum~~ wages or ~~their~~ his or her unpaid overtime compensation and in an additional equal amount as liquidated damages. ~~Action~~ An action to recover the liability may be maintained in any court of competent jurisdiction by ~~any one or more employees employe~~ for and in behalf of that employee ~~or those employees~~ and other employees similarly situated. No employee ~~shall~~ may be a party plaintiff to any such action unless the employee consents in writing to become such a party and the consent is filed in the court in which the action is brought. ~~The Notwithstanding s. 814.04 (1), the~~ court shall, in addition to any judgment awarded to the plaintiff, allow a reasonable ~~attorney's fee~~ attorney fees and costs to be paid by the defendant.

**SECTION 7.** 66.293 (3) (ar) of the statutes is created to read:

66.293 (3) (ar) The department shall, by January 1 of each year, compile the prevailing wage rates and the prevailing hours of labor for each trade or occupation in each area. The compilation shall, in addition to the current prevailing wage rates and prevailing hours of labor, include future prevailing wage rates and prevailing hours of labor when those prevailing wage rates and prevailing hours of labor can be determined for any trade or occupation in any area and shall specify the effective date of those future prevailing wage rates and prevailing hours of labor. If a construction project extends into more than one area there shall be but one standard of prevailing wage rates and prevailing hours of labor for the entire project.

**SECTION 8m.** 66.293 (3) (av) of the statutes is created to read:

66.293 (3) (av) In determining prevailing wage rates under par. (am) or (ar), the department may not use data from projects that are subject to this section, s. 103.49 or 103.50 or 40 USC 276a unless the department determines

that there is insufficient wage data in the area to determine those prevailing wage rates, in which case the department may use data from projects that are subject to this section, s. 103.49 or 103.50 or 40 USC 276a.

**SECTION 9.** 66.293 (3) (b) of the statutes is repealed.

**SECTION 10.** 66.293 (3) (br) of the statutes is created to read:

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

**SECTION 11.** 66.293 (3) (c) of the statutes is renumbered 66.293 (5) and amended to read:

66.293 (5) (title) NONAPPLICABILITY. ~~This subsection section~~ does not apply to any ~~highway, street or bridge construction or to any single-trade public works project, including a highway, street or bridge construction project,~~ for which the estimated project cost of completion is below \$3,500 where a single trade is involved and \$35,000 where more than one trade is involved on such project (after hearing these dollar amounts shall be adjusted by the department \$30,000 or an amount determined by the department under this subsection or to any multiple-trade public works project, including a highway, street or bridge construction project, for which the estimated project cost of completion is below \$150,000 or an amount determined by the department under this subsection. The department shall adjust those dollar amounts every ~~2-years~~ year, the first adjustment to be made not sooner than January 1, 1976 December 1, 1997. The adjustments shall be in proportion to any ~~changes~~ change in construction costs since the effective date of the dollar amounts established under this subsection ~~immediately prior to each adjustment~~); nor does this subsection apply to wage rates and hours of employment of laborers, workmen or mechanics engaged in the processing or manufacture of materials or products or to the delivery thereof by or for commercial establishments which have a fixed place of business from which they

regularly supply such processed or manufactured materials or products, except that this subsection does apply to laborers, workmen or mechanics delivering mineral aggregate such as sand, gravel or stone which is incorporated into the work under the contract by depositing the material substantially in place, directly or through spreaders, from the transporting vehicle.

**SECTION 12.** 66.293 (3) (d) of the statutes is renumbered 66.293 (6) and amended to read:

66.293 (6) (title) EXEMPTIONS. The department of industry, labor and human relations, upon petition of any municipality local governmental unit, shall issue an order exempting the municipality local governmental unit from applying to the department for a determination under this subsection sub. (3) when it is shown that an ordinance or other enactment of the municipality local governmental unit sets forth the standards, policy, procedure and practice resulting in standards as high or higher than those under s. 103.49 this section.

**SECTION 13.** 66.293 (3) (e) of the statutes is renumbered 66.293 (10) (a) and amended to read:

66.293 (10) (a) Each contractor, subcontractor or agent thereof participating in performing work on a project covered by this subsection that is subject to this section shall keep full and accurate records clearly indicating the name and trade or occupation of every laborer, workman or mechanic employed by the contractor, subcontractor or agent in connection with the project person described in sub. (4) and an accurate record of the number of hours worked by each employe of those persons and the actual wages paid therefor.

**SECTION 14.** 66.293 (3) (f) of the statutes is renumbered 66.293 (8) and amended to read:

66.293 (8) (title) POSTING. For the information of the employes working on the project, the prevailing wage rates and prevailing hours of labor determined by the department or exempted municipality local governmental unit and the provisions of pars. (a) and (e) subs. (10) (a) and (11) (a) shall be kept posted by the employer local governmental unit in at least one conspicuous and easily accessible place at on the site of the project or, if there is no common site on the project, at the place normally used by the local governmental unit to post public notices.

**SECTION 15.** 66.293 (3) (g) of the statutes is renumbered 66.293 (9) (b) and amended to read:

66.293 (9) (b) Each Upon completion of a project and before receiving final payment for his or her work on the project, each agent or subcontractor shall furnish the contractor with evidence of compliance with an affidavit stating that the agent or subcontractor has complied fully with the requirements of this subsection section. A contractor may not authorize final payment until such an affidavit is filed in proper form and order.

**SECTION 16.** 66.293 (3) (h) of the statutes is renumbered 66.293 (9) (c) and amended to read:

66.293 (9) (c) Upon completion of the a project and prior to before receiving final payment therefor for his or her work on the project, each contractor shall file with the municipality local governmental unit authorizing the work an affidavit stating that the contractor has complied fully with the provisions and requirements of this subsection section and that the contractor has received evidence of compliance an affidavit under par. (b) from each of the contractor's agents and subcontractors. No municipality may A local governmental unit may not authorize a final payment until such an affidavit is filed in proper form and order. If a local governmental unit authorizes a final payment before such an affidavit is filed in proper form and order or if the department determines, based on the greater weight of the credible evidence, that any person specified in sub. (4) has been or may have been paid less than the prevailing wage rate or less than 1.5 times the hourly basic rate of pay for all hours worked in excess of the prevailing hours of labor and requests that the local governmental unit withhold all or part of the final payment, but the local governmental unit fails to do so, the local governmental unit is liable for all back wages payable up to the amount of that final payment.

**SECTION 17.** 66.293 (3) (i) of the statutes is renumbered 66.293 (10) (b) and amended to read:

66.293 (10) (b) The department of industry, labor and human relations or the contracting municipality local governmental unit may demand and examine, and it shall be the duty of every contractor, subcontractor and agent thereof to keep and furnish to the department or local governmental unit, copies of any payrolls and other records and information relating to the wages paid laborers, workmen or mechanics on to persons described in sub. (4) for work to which this subsection section applies. The department may inspect records in the manner provided in ch. 101. Every contractor, subcontractor or agent performing work on a project that is subject to this section is subject to the requirements of ch. 101 relating to the examination of records.

**SECTION 18.** 66.293 (3) (j) of the statutes is renumbered 66.293 (9) (a) and amended to read:

66.293 (9) (a) When the department of industry, labor and human relations finds that a municipality local governmental unit has not requested a prevailing wage rate determination under sub. (3) (am) or that a local governmental unit, contractor or subcontractor has not physically incorporated a prevailing wage rate determination into the a contract or subcontract as required under this subsection section or has not notified a minor subcontractor of a determination in the manner prescribed by the department by rule promulgated under sub. (3) (dm), the department shall notify the municipality local governmental unit, contractor or subcontractor of such noncompliance and shall file the prevailing wage rate determination with the municipality local governmental

unit, contractor or subcontractor within 30 days after such notice.

**SECTION 19.** 66.293 (3) (k) of the statutes is renumbered 66.293 (10) (d) and amended to read:

66.293 (10) (d) ~~The provisions of s. Section 101.02 (5) (f), (12), (13) and (14) apply~~ applies to this subsection section, except that s. 101.02 (13) (a) does not apply to any person who fails to provide any information to the department to assist the department in determining prevailing wage rates or prevailing hours of labor under sub. (3) (am) or (ar). Section 111.322 (2m) applies to discharge or other discriminatory acts arising in connection with any proceeding under this subsection section, including proceedings under ~~par. sub. (11) (a).~~

**SECTION 20.** 66.293 (3) (m) of the statutes is renumbered 66.293 (10) (c) and amended to read:

66.293 (10) (c) If requested by any person, the department shall inspect the payroll records of ~~the contractors, subcontractors or agents~~ any contractor, subcontractor or agent performing work on a project that is subject to this section to ensure compliance with this section. ~~The cost of the inspection shall be paid by the person making the request, if~~ If the contractor, subcontractor, or agent subject to the inspection is found to be in compliance and if the person making the request is a person specified in sub. (4), the department shall charge the person making the request the actual cost of the inspection. If the contractor, subcontractor or agent subject to the inspection is found to be in compliance and if the person making the request is not a person specified in sub. (4), the department shall charge the person making the request \$250 or the actual cost of the inspection, whichever is greater.

**SECTION 21.** 66.293 (3) (n) of the statutes is renumbered 66.293 (12) and amended to read:

66.293 (12) (title) DEBARMENT. (a) Except as provided under ~~subs. 2. and 3. pars. (b) and (c),~~ the department of industry, labor and human relations shall notify any ~~municipality~~ local governmental unit applying for a determination under sub. (3) ~~(intro.)~~ and any ~~municipality~~ local governmental unit exempted under ~~par. (d) sub. (6)~~ of the names of all persons whom the department has found to have failed to pay the prevailing wage rate determined under ~~this subsection sub. (3)~~ or has found to have paid less than 1.5 times the hourly basic rate of pay for all hours worked ~~on a project~~ in excess of the prevailing hours of labor determined under ~~this subsection sub. (3)~~ at any time in the preceding 3 years. The department shall include with any such name the address of such person and shall specify when ~~and how~~ such person has failed to pay the prevailing wage rate ~~determined under this subsection~~ and when ~~and how~~ such person has failed to pay less than 1.5 times the hourly basic rate of pay for all hours worked ~~on a project~~ in excess of the prevailing hours of labor ~~determined under this subsection.~~ No municipality. A local governmental unit may not award any

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

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

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

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

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

**SECTION 22.** 66.293 (4) of the statutes is created to read:

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

1. All laborers, workers, mechanics and truck drivers employed on the site of a project that is subject to this section, or employed to deliver mineral aggregate such as sand, gravel or stone that is immediately incorporated into the work, and not stockpiled or further transported by truck, to or from the site of a project that is subject to this section by depositing the material substantially in place, directly or through spreaders from the transporting vehicle, or employed to transport excavated material or spoil from and return to the site of a project that is subject to this section.

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

(b) Notwithstanding par. (a), a laborer, worker, mechanic or truck driver who is regularly employed in the processing, manufacturing or delivery of materials or products by or for a commercial establishment that has a fixed place of business from which the establishment regularly supplies processed or manufactured materials or products is not entitled to receive the prevailing wage rate determined under sub. (3) or to receive at least 1.5 times his or her hourly basic rate of pay for all hours worked in excess of the prevailing hours of labor determined under sub. (3).

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

**SECTION 23.** 66.293 (9) (title) of the statutes is created to read:

66.293 (9) (title) COMPLIANCE.

**SECTION 24.** 66.293 (10) (title) of the statutes is created to read:

66.293 (10) (title) RECORDS; INSPECTION; ENFORCEMENT.

**SECTION 25.** 66.293 (10) (b) of the statutes, as affected by 1995 Wisconsin Acts 27 and .... (this act), is repealed and recreated to read:

66.293 (10) (b) The department or the contracting local governmental unit may demand and examine, and it shall be the duty of every contractor, subcontractor and agent thereof to keep and furnish to the department or local governmental unit, copies of payrolls and other records and information relating to the wages paid to persons described in sub. (4) for work to which this section applies. The department may inspect records in the manner provided in chs. 103 to 106. Every contractor, subcontractor or agent performing work on a project that is subject to this section is subject to the requirements of chs. 103 to 106 relating to the examination of records.

**SECTION 26.** 66.293 (10) (d) of the statutes, as affected by 1995 Wisconsin Acts 27 and .... (this act), is repealed and recreated to read:

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

**SECTION 27.** 66.293 (11) (title) of the statutes is created to read:

66.293 (11) (title) LIABILITY AND PENALTIES.

**SECTION 28.** 66.293 (11) (b) of the statutes is created to read:

66.293 (11) (b) 1. Except as provided in subs. 2., 4. and 6., any contractor, subcontractor or agent thereof who violates this section may be fined not more than \$200 or imprisoned for not more than 6 months or both. Each day that any such violation continues shall be considered a separate offense.

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

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

4. Whoever induces any individual who seeks to be or is employed on any project that is subject to this section to permit any part of the wages to which the individual is entitled under the contract governing such project to be deducted from the individual's pay is guilty of an offense under s. 946.15 (3), unless the deduction would be permitted under 29 CFR 3.5 or 3.6 from an individual who is working on a project that is subject to 40 USC 276c.

5. Any person employed on a project that is subject to this section who knowingly permits any part of the wages to which he or she is entitled under the contract governing such project to be deducted from his or her pay is guilty of an offense under s. 946.15 (4), unless the deduction would be permitted under 29 CFR 3.5 or 3.6 from a person who is working on a project that is subject to 40 USC 276c.

6. Subdivision 1. does not apply to any person who fails to provide any information to the department to

assist the department in determining prevailing wage rates or prevailing hours of labor under sub. (3) (am) or (ar).

**SECTION 29.** 101.02 (13) (a) of the statutes is amended to read:

101.02 (13) (a) If any employer, employee, owner, or other person violates ss. 101.01 to 101.25, or fails or refuses to perform any duty lawfully enjoined, within the time prescribed by the department, for which no penalty has been specifically provided, or fails, neglects or refuses to obey any lawful order given or made by the department, or any judgment or decree made by any court in connection with ss. 101.01 to 101.25, for each such violation, failure or refusal, such employer, employee, owner or other person shall forfeit and pay into the state treasury a sum not less than \$10 nor more than \$100 for each such offense. This paragraph does not apply to any person who fails to provide any information to the department to assist the department in determining prevailing wage rates or prevailing hours of labor under s. 103.49 (3) (a) or (am) or 103.50 (3) or (4).

**SECTION 30.** 101.02 (13) (a) of the statutes, as affected by 1995 Wisconsin Acts 27 and .... (this act), is repealed and recreated to read:

101.02 (13) (a) If any employer, employee, owner, or other person violates this subchapter, or fails or refuses to perform any duty specified under this subchapter, within the time prescribed by the department, for which no penalty has been specifically provided, or fails, neglects or refuses to obey any lawful order given or made by the department, or any judgment or decree made by any court in connection with this subchapter, for each such violation, failure or refusal, such employer, employee, owner or other person shall forfeit and pay into the state treasury a sum not less than \$10 nor more than \$100 for each such offense.

**SECTION 31.** 103.005 (12) (a) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

103.005 (12) (a) If any employer, employee, owner, or other person violates chs. 103 to 106, or fails or refuses to perform any duty required under chs. 103 to 106, within the time prescribed by the department, for which no penalty has been specifically provided, or fails, neglects or refuses to obey any lawful order given or made by the department or any judgment or decree made by any court in connection with chs. 103 to 106, for each such violation, failure or refusal, the employer, employee, owner or other person shall forfeit not less than \$10 nor more than \$100 for each offense. This paragraph does not apply to any person who fails to provide any information to the department to assist the department in determining prevailing wage rates or prevailing hours of labor under s. 103.49 (3) (a) or (am) or 103.50 (3) or (4).

**SECTION 32.** 103.49 (1) (title) of the statutes is created to read:

103.49 (1) (title) DEFINITIONS.

**SECTION 33m.** 103.49 (1) (a) of the statutes is amended to read:

103.49 (1) (a) “Area” means the county ~~or other locality from which labor for any project would normally be secured~~ in which a proposed project that is subject to this section is located or, if the department determines that there is insufficient wage data in that county, “area” means those counties that are contiguous to that county or, if the department determines that there is insufficient wage data in those counties, “area” means those counties that are contiguous to those counties or, if the department determines that there is insufficient wage data in those counties, “area” means the entire state or, if the department is requested to review a determination under sub. (3) (c), “area” means the city, village or town in which a proposed project that is subject to this section is located.

**SECTION 34.** 103.49 (1) (b) of the statutes is amended to read:

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

**SECTION 34m.** 103.49 (1) (bg) of the statutes is created to read:

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

**SECTION 35.** 103.49 (1) (bm) of the statutes is created to read:

103.49 (1) (bm) “Multiple-trade public works project” means a public works project in which no single trade accounts for 85% or more of the total labor cost of the project.

**SECTION 36m.** 103.49 (1) (c) of the statutes is renumbered 103.49 (1) (c) (intro.) and amended to read:

103.49 (1) (c) “Prevailing hours of labor” ~~in for any trade or occupation in any area means the hours of labor per day and per week worked within the area by a larger number of workers than are employed in the trade or occupation for any other number of hours per day or week. In no event shall the prevailing hours of labor be deemed to be no more than 8 10 hours per day nor more than 40 hours per week. and may not include any hours worked on a Saturday or Sunday or on any of the following holidays:~~

**SECTION 37.** 103.49 (1) (c) 1. to 8. of the statutes are created to read:

- 103.49 (1) (c) 1. January 1.
2. The last Monday in May.
3. July 4.
4. The first Monday in September.
5. The 4th Thursday in November.
6. December 25.

7. The day before if January 1, July 4 or December 25 falls on a Saturday.

8. The day following if January 1, July 4 or December 25 falls on a Sunday.

**SECTION 38.** 103.49 (1) (d) of the statutes is amended to read:

103.49 (1) (d) “Prevailing wage rate” in for any trade or occupation engaged in the erection, construction, remodeling, repairing or demolition of any project of public works in any area means the hourly basic rate paid of pay, plus the hourly contribution for health and welfare insurance benefits, vacation benefits, pension benefits and any other bona fide economic benefit, whether paid directly or indirectly, to for a majority of all persons employed the hours worked in the trade or occupation in the area on projects in the area, or if there is no rate at which a majority are employed of the hours worked in the trade or occupation on projects in the area is paid, then the prevailing wage rate for any trade or occupation engaged in the erection, construction, remodeling, repairing or demolition of any project of public works in any area shall be the rate which is paid to a larger number of employes than any other rate paid in the area for work in the trade or occupation average hourly basic rate of pay, weighted by the number of hours worked, plus the average hourly contribution, weighted by the number of hours worked, for health insurance benefits, vacation benefits, pension benefits and any other bona fide economic benefit, paid directly or indirectly for all hours worked at the hourly basic rate of pay of the highest-paid 51% of hours worked in that trade or occupation.

**SECTION 39.** 103.49 (1) (e) of the statutes is created to read:

103.49 (1) (e) “Single-trade public works project” means a public works project in which a single trade accounts for 85% or more of the total labor cost of the project.

**SECTION 40.** 103.49 (1) (f) of the statutes is created to read:

103.49 (1) (f) “State agency” means any office, department, independent agency, institution of higher education, association, society or other body in state government created or authorized to be created by the constitution or any law, including the legislature and the courts.

**SECTION 41.** 103.49 (1) (g) of the statutes is created to read:

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

**SECTION 42.** 103.49 (2) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

103.49 (2) (title) PREVAILING WAGE RATES AND HOURS OF LABOR. Any contract hereafter made for the erection, construction, remodeling ~~or~~ repairing or demolition of any public building or for any other project of public works, except contracts for the construction or mainte-

nance of public highways, streets and bridges, to which the state, any department thereof or any public building corporation state agency or the University of Wisconsin Hospitals and Clinics Authority is a party shall contain a stipulation that no laborer, ~~workman or mechanic~~ employed directly upon the site of the work by the contractor or by any subcontractor, agent or other person, doing or contracting to do all or a part of the work, shall person described in sub. (2m) may be permitted to work a greater number of hours per day or per calendar week than the prevailing hours of labor determined pursuant to this section under sub. (3), except that any such laborer, ~~workman or mechanic~~ person may be permitted or required to work more than such prevailing ~~number of~~ hours of labor per day and per calendar week if he or she is paid for all hours worked in excess of the prevailing hours of labor at a rate of at least ~~1-1/2~~ 1.5 times his or her hourly basic rate of pay; nor shall he may he or she be paid less than the prevailing wage rate in the same or most similar trade or occupation in the area wherein such ~~public building or~~ project of public works is situated; ~~nor shall this section apply to wage rates and hours of employment of laborers, workmen or mechanics engaged in the processing or manufacture of materials or products or to the delivery thereof by or for commercial establishments which have a fixed place of business from which they regularly supply such processed or manufactured materials or products; except that this section shall apply to laborers, workmen or mechanics who deliver mineral aggregate such as sand, gravel or stone which is incorporated into the work under the contract by depositing the material substantially in place, directly or through spreaders, from the transporting vehicle. The~~ determined under sub. (3). A reference to the prevailing wage rates and prevailing hours of labor determined under sub. (3) shall be published in the notice issued for the purpose of securing bids for the project. If any contract or subcontract for a project that is subject to this section is entered into, the prevailing wage rates, and prevailing hours of labor, and hourly basic rates of pay determined pursuant to this section under sub. (3) shall be set forth specifically in physically incorporated into and made a part of the contract or subcontract, except that for a minor subcontract, as determined by the department, the department shall prescribe by rule the method of notifying the minor subcontractor of the prevailing wage rates and prevailing hours of labor applicable to the minor subcontract. The prevailing wage rates and prevailing hours of labor applicable to a contract or subcontract may not be changed during the time that the contract or subcontract is in force.

**SECTION 43.** 103.49 (2m) of the statutes is created to read:

103.49 (2m) COVERED EMPLOYEES. (a) All of the following employees shall be paid the prevailing wage rate determined under sub. (3) and may not be permitted to work a greater number of hours per day or per calendar



week than the prevailing hours of labor determined under sub. (3), unless they are paid for all hours worked in excess of the prevailing hours of labor at a rate of at least 1.5 times their hourly basic rate of pay:

1. All laborers, workers, mechanics and truck drivers employed on the site of a project that is subject to this section, or employed to deliver mineral aggregate such as sand, gravel or stone that is immediately incorporated into the work, and not stockpiled or further transported by truck, to or from the site of a project that is subject to this section by depositing the material substantially in place, directly or through spreaders from the transporting vehicle, or employed to transport excavated material or spoil from and return to the site of a project that is subject to this section.

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

(b) Notwithstanding par. (a), a laborer, worker, mechanic or truck driver who is regularly employed in the processing, manufacturing or delivery of materials or products by or for a commercial establishment that has a fixed place of business from which the establishment regularly supplies processed or manufactured materials or products is not entitled to receive the prevailing wage rate determined under sub. (3) or to receive at least 1.5 times his or her hourly basic rate of pay for all hours worked in excess of the prevailing hours of labor determined under sub. (3).

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

**SECTION 44.** 103.49 (3) (title) of the statutes is created to read:

103.49 (3) (title) INVESTIGATION; DETERMINATION.

**SECTION 45.** 103.49 (3) of the statutes is renumbered 103.49 (3) (a) and amended to read:

103.49 (3) (a) Before bids are asked for any work to which this section applies, ~~the department or officer~~ state agency having the authority to prescribe the specifications shall request apply to the department to ascertain ~~determine~~ the prevailing wage rates, rate and prevailing hours of labor ~~and hourly basic rates of pay for all trades and occupations~~ for each trade or occupation required in the work under contemplation in the area in which the work is to be done. The department shall make such investigations and hold such public hearings as may be necessary to ~~enable it to ascertain~~ define the trades or occupations that are commonly employed on projects that are subject to this section and to inform itself as to the prevailing wage rates and prevailing hours of labor in all areas of the state for those trades or occupations with a

view to ascertaining the prevailing wage rate, and prevailing hours of labor ~~and hourly basic rate of pay~~ for each such trade or occupation. ~~It~~ The department shall ~~make issue~~ its determination within 30 days after ~~receipt~~ of receiving the request and shall file the same with the ~~department or officer~~ state agency applying therefor. ~~The~~ For the information of the employes working on the project, the prevailing hours of labor, the prevailing wage rates, the hourly basic rates of pay and trades or occupations for all labor involved in each project to which this section is applicable shall, ~~together with~~ and prevailing hours of labor determined by the department and the provisions of subs. (2) and (4), ~~(6m)~~ shall be kept posted ~~on the project by the employer~~ state agency in at least one conspicuous and easily accessible place ~~for the information of the employes working on the~~ on the site of the project.

**SECTION 46.** 103.49 (3) (am) of the statutes is created to read:

103.49 (3) (am) The department shall, by January 1 of each year, compile the prevailing wage rates and the prevailing hours of labor for each trade or occupation in each area. The compilation shall, in addition to the current prevailing wage rates and prevailing hours of labor, include future prevailing wage rates and prevailing hours of labor when those prevailing wage rates and prevailing hours of labor can be determined for any trade or occupation in any area and shall specify the effective date of those future prevailing wage rates and prevailing hours of labor. If a construction project extends into more than one area there shall be but one standard of prevailing wage rates and prevailing hours of labor for the entire project.

**SECTION 47.** 103.49 (3) (ar) of the statutes is created to read:

103.49 (3) (ar) In determining prevailing wage rates under par. (a) or (am) for building, residential or agricultural projects, the department may not use data from projects that are subject to this section, s. 66.293 or 103.50 or 40 USC 276a. In determining prevailing wage rates for projects involving the use of heavy equipment, the department may use data from projects that are subject to this section, s. 66.293 or 103.50 or 40 USC 276a.

**SECTION 48.** 103.49 (3) (b) of the statutes is created to read:

103.49 (3) (b) Any person may request a recalculation of any portion of a determination within 30 days after the initial determination date if the person submits evidence with the request showing that the prevailing wage rate or prevailing hours of labor for any given trade or occupation included in the initial determination does not represent the prevailing wage rate or prevailing hours of labor for that trade or occupation in the area. Such evidence shall include wage rate and hours of labor information for work performed in the contested trade or occupation in the area within the previous 12 months. The

department shall affirm or modify the initial determination within 15 days after the date on which the department receives the request for recalculation.

**SECTION 49.** 103.49 (3) (c) of the statutes is created to read:

103.49 (3) (c) In addition to the recalculation under par. (b), the state agency that requested the determination under this subsection may request a review of any portion of a determination within 30 days after the date of issuance of the determination if the state agency submits evidence with the request showing that the prevailing wage rate or prevailing hours of labor for any given trade or occupation included in the determination does not represent the prevailing wage rate or prevailing hours of labor for that trade or occupation in the city, village or town in which the proposed project is located. That evidence shall include wage rate and hours of labor information for the contested trade or occupation on at least 3 similar projects located in the city, village or town where the proposed project is located on which some work has been performed within the previous 12 months and which were considered by the department in issuing its most recent compilation under par. (am). The department shall affirm or modify the determination within 15 days after the date on which the department receives the request for review.

**SECTION 50.** 103.49 (4) of the statutes, as affected by 1995 Wisconsin Act 27, is repealed.

**SECTION 51.** 103.49 (4r) of the statutes is created to read:

103.49 (4r) COMPLIANCE. (a) When the department finds that a state agency has not requested a determination under sub. (3) (a) or that a state agency, contractor or subcontractor has not physically incorporated a determination into a contract or subcontract as required under sub. (2) or has not notified a minor subcontractor of a determination in the manner prescribed by the department by rule promulgated under sub. (2), the department shall notify the state agency, contractor or subcontractor of such noncompliance and shall file the determination with the state agency, contractor or subcontractor within 30 days after such notice.

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

(c) Upon completion of a project and before receiving final payment for his or her work on the project, each contractor shall file with the state agency authorizing the work an affidavit stating that the contractor has complied fully with the requirements of this section and that the contractor has received an affidavit under par. (b) from each of the contractor's agents and subcontractors. A

state agency may not authorize a final payment until such an affidavit is filed in proper form and order. If a state agency authorizes a final payment before such an affidavit is filed in proper form and order or if the department determines, based on the greater weight of the credible evidence, that any person specified in sub. (2m) has been or may have been paid less than the prevailing wage rate or less than 1.5 times the hourly basic rate of pay for all hours worked in excess of the prevailing hours of labor and requests that the state agency withhold all or part of the final payment, but the state agency fails to do so, the state agency is liable for all back wages payable up to the amount of the final payment.

**SECTION 52.** 103.49 (5) (title) of the statutes is created to read:

103.49 (5) (title) RECORDS; INSPECTION; ENFORCEMENT.

**SECTION 53.** 103.49 (5) of the statutes is renumbered 103.49 (5) (b) and amended to read:

103.49 (5) (b) It shall be the duty of the department to enforce this section. To this end it may demand and examine, and it shall be the duty of every contractor and subcontractor and agent thereof to keep and furnish to the department, copies of any or all payrolls and may examine all other records and information relating to the wages paid laborers, workers, or mechanics on to persons described in sub. (2m) for work to which this section is applicable applies. The department may inspect records in the manner provided in ch. 101. Every contractor, subcontractor or agent performing work on a project that is subject to this section is subject to the requirements of ch. 101 relating to the examination of records. Section 111.322 (2m) applies to discharge and other discriminatory acts arising in connection with any proceeding under this section.

**SECTION 54.** 103.49 (5) (a) of the statutes is created to read:

103.49 (5) (a) Each contractor, subcontractor or agent thereof performing work on a project that is subject to this section shall keep full and accurate records clearly indicating the name and trade or occupation of every person described in sub. (2m) and an accurate record of the number of hours worked by each of those persons and the actual wages paid therefor.

**SECTION 55.** 103.49 (5) (b) of the statutes, as affected by 1995 Wisconsin Act .... (this act), is repealed and recreated to read:

103.49 (5) (b) It shall be the duty of the department to enforce this section. To this end it may demand and examine, and it shall be the duty of every contractor, subcontractor and agent thereof to keep and furnish to the department, copies of payrolls and other records and information relating to the wages paid to persons described in sub. (2m) for work to which this section applies. The department may inspect records in the manner provided in this chapter and chs. 104 to 106. Every con-

tractor, subcontractor or agent performing work on a project that is subject to this section is subject to the requirements of ch. 101 relating to the examination of records. Section 111.322 (2m) applies to discharge and other discriminatory acts arising in connection with any proceeding under this section.

**SECTION 56.** 103.49 (5) (c) of the statutes is created to read:

103.49 (5) (c) If requested by any person, the department shall inspect the payroll records of any contractor, subcontractor or agent performing work on a project that is subject to this section to ensure compliance with this section. If the contractor, subcontractor or agent subject to the inspection is found to be in compliance and if the person making the request is a person specified in sub. (2m), the department shall charge the person making the request the actual cost of the inspection. If the contractor, subcontractor or agent subject to the inspection is found to be in compliance and if the person making the request is not a person specified in sub. (2m), the department shall charge the person making the request \$250 or the actual cost of the inspection, whichever is greater.

**SECTION 57.** 103.49 (6) of the statutes is renumbered 103.49 (3g) and amended to read:

103.49 (3g) (title) NONAPPLICABILITY. This section shall does not apply to a contractor or to work under a contract, described or referred to in sub. (2) if any single-trade project for which the estimated cost of completing the project completion is less than the estimated cost of completion \$30,000 or an amount determined under s. 66.293 (5) or to any multiple-trade project for which the estimated cost of completion is less than \$150,000 or an amount determined by the department under s. 66.293 (3) (e) as adjusted by the department (5).

**SECTION 58.** 103.49 (6m) of the statutes is created to read:

103.49 (6m) LIABILITY AND PENALTIES. (a) Except as provided in pars. (b), (d) and (f), any contractor, subcontractor or agent thereof who violates this section may be fined not more than \$200 or imprisoned for not more than 6 months or both. Each day that any such violation continues shall be considered a separate offense.

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

(c) Any person employed on a project that is subject to this section who knowingly permits a contractor, sub-

contractor or agent thereof to pay him or her less than the prevailing wage rate set forth in the contract governing such project, who gives up, waives or returns any part of the compensation to which he or she is entitled under the contract, or who gives up, waives or returns any part of the compensation to which he or she is normally entitled for work on a project that is not subject to this section during a week in which the person works both on a project that is subject to this section and on a project that is not subject to this section, is guilty of an offense under s. 946.15 (2).

(d) Whoever induces any individual who seeks to be or is employed on any project that is subject to this section to permit any part of the wages to which the individual is entitled under the contract governing such project to be deducted from the individual's pay is guilty of an offense under s. 946.15 (3), unless the deduction would be permitted under 29 CFR 3.5 or 3.6 from an individual who is working on a project that is subject to 40 USC 276c.

(e) Any person employed on a project that is subject to this section who knowingly permits any part of the wages to which he or she is entitled under the contract governing such project to be deducted from his or her pay is guilty of an offense under s. 946.15 (4), unless the deduction would be permitted under 29 CFR 3.5 or 3.6 from a person who is working on a project that is subject to 40 USC 276c.

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

**SECTION 59.** 103.49 (7) (title) of the statutes is created to read:

103.49 (7) (title) DEBARMENT.

**SECTION 60.** 103.49 (7) (a) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

103.49 (7) (a) Except as provided under pars. (b) and (c), the department shall distribute to all state agencies, as defined in s. 20.001 (4), and to the University of Wisconsin Hospitals and Clinics Authority a list of all persons whom the department has found to have failed to pay the prevailing wage rate determined under sub. (4) (3) or has found to have paid less than 1.5 times the hourly basic rate of pay for all hours worked on a project in excess of the prevailing hours of labor determined under sub. (4) (3) at any time in the preceding 3 years. The department shall include with any such name the address of such person and shall specify when and how such person has failed to pay the prevailing wage rate determined under this subsection and when and how such person has failed to pay less than 1.5 times the hourly basic rate of pay for all hours worked on a project in excess of the prevailing hours of labor determined under this subsection. A state agency or the University of Wisconsin Hospitals and Clinics Authority may not award any contract to such

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

**SECTION 61.** 103.49 (7) (b) of the statutes is amended to read:

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

**SECTION 62.** 103.49 (7) (d) of the statutes is amended to read:

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

**SECTION 63m.** 103.50 (1) (a) of the statutes is amended to read:

103.50 (1) (a) "Area" means the ~~locality from which labor for any project within such area would normally be secured in which a proposed project that is subject to this section is located or, if the department determines that there is insufficient wage data in that county, "area" means those counties that are contiguous to that county or, if the department determines that there is insufficient wage data in those counties, "area" means those counties that are contiguous to those counties or, if the department determines that there is insufficient wage data in those counties, "area" means the entire state.~~

**SECTION 64.** 103.50 (1) (b) of the statutes is amended to read:

103.50 (1) (b) "Hourly basic rate of pay" means the ~~hourly wage paid to any employe, excluding any contributions or payments for health and welfare benefits, vacation benefits, pension benefits and any other economic benefits, whether paid directly or indirectly~~ has the meaning given in s. 103.49 (1) (b).

**SECTION 64m.** 103.50 (1) (bg) of the statutes is created to read:

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

**SECTION 65.** 103.50 (1) (c) of the statutes is amended to read:

103.50 (1) (c) "Prevailing hours of labor" means the ~~hours of labor per day and per week worked within the area by a larger number of workers of the same class than are employed within the area for any other number of hours per day and per week. In no event shall the prevailing hours of labor be deemed to be more than 8 hours per day nor more than 40 hours per week~~ has the meaning given in s. 103.49 (1) (c).

**SECTION 66.** 103.50 (1) (d) of the statutes is amended to read:

103.50 (1) (d) "Prevailing wage rate" for any trade or occupation in any area means the hourly basic rate of pay, plus the hourly contribution for health and welfare insurance benefits, vacation benefits, pension benefits and any other bona fide economic benefit, whether paid directly or indirectly, paid to the largest number of workers engaged in the same class of labor within the area, including rental rates for truck hire paid to those who own and operate the truck. In no event shall the prevailing wage rate for any class of labor be deemed to be less than a reasonable and living wage, nor shall truck rental rates established pursuant to this provision be subject to the provisions of sub. (2) relating to hours worked in excess of the prevailing hours when operated in excess of 8 hours in any one day or 40 hours in any one week for a majority of the hours worked in the trade or occupation in the area, or if there is no rate at which a majority of the hours worked in the trade or occupation in the area is paid, then the prevailing wage rate shall be the average hourly basic rate of pay, weighted by the number of hours worked, plus the average hourly contribution, weighted by the number of hours worked, for health insurance benefits, vacation benefits, pension benefits and any other bona fide economic benefit, paid directly or indirectly for all hours worked at the hourly basic rate of pay of the highest-paid 51% of hours worked in that trade or occupation in that area.

**SECTION 67.** 103.50 (1) (e) of the statutes is created to read:

103.50 (1) (e) "Truck driver" has the meaning given in s. 103.49 (1) (g).

**SECTION 68.** 103.50 (2) of the statutes is amended to read:

103.50 (2) (title) HOURS PREVAILING WAGE RATES AND HOURS OF LABOR. No laborer or mechanic person described in sub. (2m) in the employ of the a contractor or of any subcontractor, agent or other person doing or contracting to do all or a part of the work performing any work on a project under a contract based on bids as provided in s. 84.06 (2) to which the state is a party for the construction or improvement of any highway shall may be permitted to work a longer number of hours per day or per calendar week than the prevailing hours of labor

determined pursuant to this section; nor shall he under sub. (3); nor may he or she be paid a lesser rate of wages than the prevailing wage rate of wages thus determined, for in the area in which the work is to be done determined under sub. (3); except that any such laborer or mechanic person may be permitted or required to work more than such prevailing number of hours of labor per day and per calendar week if he or she is paid for all hours worked in excess of the prevailing hours of labor at a rate of at least ~~1-1/2~~ 1.5 times his or her hourly basic rate of pay. ~~This section shall not apply to wage rates and hours of employment of laborers or mechanics engaged in the processing or manufacture of materials or products or to the delivery thereof by or for commercial establishments which have a fixed place of business from which they regularly supply such processed or manufactured materials or products; except that this section shall apply to laborers or mechanics who deliver mineral aggregate such as sand, gravel or stone which is incorporated into the work under the contract by depositing the material substantially in place, directly or through spreaders, from the transporting vehicle.~~

**SECTION 69.** 103.50 (2m) of the statutes is created to read:

103.50 (2m) COVERED EMPLOYEES. (a) All of the following employes shall be paid the prevailing wage rate determined under sub. (3) and may not be permitted to work a greater number of hours per day or per calendar week than the prevailing hours of labor determined under sub. (3), unless they are paid for all hours worked in excess of the prevailing hours of labor at a rate of at least 1.5 times their hourly basic rate of pay:

1. All laborers, workers, mechanics and truck drivers employed on the site of a project that is subject to this section, or employed to deliver mineral aggregate such as sand, gravel or stone that is immediately incorporated into the work, and not stockpiled or further transported by truck, to or from the site of a project that is subject to this section by depositing the material substantially in place, directly or through spreaders from the transporting vehicle, or employed to transport excavated material or spoil from and return to the site of a project that is subject to this section.

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

(b) Notwithstanding par. (a), a laborer, worker, mechanic or truck driver who is regularly employed in the processing, manufacturing or delivery of materials or products by or for a commercial establishment that has a fixed place of business from which the establishment regularly supplies processed or manufactured materials or

products is not entitled to receive the prevailing wage rate determined under sub. (3) or to receive at least 1.5 times his or her hourly basic rate of pay for all hours worked in excess of the prevailing hours of labor determined under sub. (3).

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

**SECTION 70.** 103.50 (3) (a) of the statutes is renumbered 103.50 (3) and amended to read:

103.50 (3) INVESTIGATIONS; DETERMINATIONS. The department shall conduct investigations and hold public hearings necessary to define classes of laborers and mechanics the trades or occupations that are commonly employed in the highway construction industry and to inform itself as to the hours of labor and prevailing wage rates and prevailing hours of labor in all areas of the state for all classes of labor and mechanics commonly employed in highway construction work, with a view to ascertaining and determining prevailing hours of labor, those trades or occupations, in order to ascertain and determine the prevailing wage rates and hourly basic rates of pay prevailing hours of labor accordingly.

**SECTION 71.** 103.50 (3) (b) of the statutes is repealed.

**SECTION 72.** 103.50 (4) of the statutes is amended to read:

103.50 (4) (title) CERTIFICATION OF PREVAILING WAGE RATES AND HOURS AND WAGES OF LABOR. The department of industry, labor and human relations shall ~~prior to, by~~ by May 1 of ~~the current~~ each calendar year, certify to the department of transportation ~~the prevailing hours of labor, the prevailing wage rate rates and the hourly basic rate of pay for all such classes of laborers and mechanics prevailing hours of labor~~ in each area for all trades or occupations commonly employed in the highway construction industry. The certification shall, in addition to the current ~~prevailing hours of labor, the prevailing wage rates and the hourly basic rates of pay prevailing hours of labor, include future hours and prevailing wage rates and prevailing hours of labor when such hours and prevailing wage rates and prevailing hours of labor can be determined for any such classes of laborers and mechanics trade or occupation~~ in any area and shall specifically set forth specify the effective dates thereof when date of those future hours and rates are certified prevailing wage rates and prevailing hours of labor. If a construction project extends into more than one area there shall be but one standard of ~~hours of labor and prevailing wage rates and prevailing hours of labor~~ for the entire project.

**SECTION 73.** 103.50 (4) of the statutes, as affected by 1995 Wisconsin Act .... (this act), is repealed and recreated to read:

103.50 (4) CERTIFICATION OF PREVAILING WAGE RATES AND HOURS OF LABOR. The department of industry, labor and job development shall, by May 1 of each calendar year, certify to the department of transportation the pre-

vailing wage rates and the prevailing hours of labor in each area for all trades or occupations commonly employed in the highway construction industry. The certification shall, in addition to the current prevailing wage rates and prevailing hours of labor, include future prevailing wage rates and prevailing hours of labor when such prevailing wage rates and prevailing hours of labor can be determined for any such trade or occupation in any area and shall specify the effective date of those future prevailing wage rates and prevailing hours of labor. If a construction project extends into more than one area there shall be but one standard of prevailing wage rates and prevailing hours of labor for the entire project.

**SECTION 74m.** 103.50 (4m) of the statutes is created to read:

103.50 (4m) WAGE RATE DATA. In determining prevailing wage rates for projects that are subject to this section, the department shall use data from projects that are subject to this section, s. 66.293 or 103.49 or 40 USC 276a.

**SECTION 75.** 103.50 (5) of the statutes is amended to read:

103.50 (5) APPEALS TO GOVERNOR. If the department of transportation ~~deems~~ considers any determination of the department of industry, labor and human relations as to the ~~prevailing hours of labor,~~ prevailing wage rates and the ~~hourly basic rates of pay~~ prevailing hours of labor in an area to have been incorrect, it may appeal to the governor, whose determination shall be final.

**SECTION 76.** 103.50 (5) of the statutes, as affected by 1995 Wisconsin Act .... (this act), is repealed and recreated to read:

103.50 (5) APPEALS TO GOVERNOR. If the department of transportation considers any determination of the department of industry, labor and job development as to the prevailing wage rates and the prevailing hours of labor in an area to have been incorrect, it may appeal to the governor, whose determination shall be final.

**SECTION 77.** 103.50 (6) of the statutes is amended to read:

103.50 (6) CONTENTS OF CONTRACTS. ~~The prevailing hours of labor, the A reference to the prevailing wage rates and the hourly basic rates of pay and classifications for all labor as certified by the department shall be specifically set forth in the proposals and contracts for each highway construction contract to which the state is a party prevailing hours of labor determined under sub. (3) shall be published in the notice issued for the purpose of securing bids for a project. If any contract or subcontract for a project that is subject to this section is entered into, the prevailing wage rates and prevailing hours of labor determined under sub. (3) shall be physically incorporated into and made a part of the contract or subcontract, except that for a minor subcontract, as determined by the department of industry, labor and human relations, that department shall prescribe by rule the method of notify-~~

~~ing the minor subcontractor of the prevailing wage rates and prevailing hours of labor applicable to the minor subcontract. The prevailing wage rates and prevailing hours of labor applicable to a contract or subcontract may not be changed during the time that the contract or subcontract is in force. For the information of the employees working on the project, the prevailing wage rates and prevailing hours of labor determined by the department and shall, together with the provisions of sub. subs. (2) and (7), shall be kept posted on the project by the employer department of transportation in at least one conspicuous and easily accessible place for the information of employees working on the site of the project.~~

**SECTION 78.** 103.50 (6) of the statutes, as affected by 1995 Wisconsin Act .... (this act), is repealed and recreated to read:

103.50 (6) CONTENTS OF CONTRACTS. A reference to the prevailing wage rates and the prevailing hours of labor determined under sub. (3) shall be published in the notice issued for the purpose of securing bids for a project. If any contract or subcontract for a project that is subject to this section is entered into, the prevailing wage rates and prevailing hours of labor determined under sub. (3) shall be physically incorporated into and made a part of the contract or subcontract, except that for a minor subcontract, as determined by the department of industry, labor and job development, that department shall prescribe by rule the method of notifying the minor subcontractor of the prevailing wage rates and prevailing hours of labor applicable to the minor subcontract. The prevailing wage rates and prevailing hours of labor applicable to a contract or subcontract may not be changed during the time that the contract or subcontract is in force. For the information of the employees working on the project, the prevailing wage rates and prevailing hours of labor determined by the department and the provisions of subs. (2) and (7) shall be kept posted by the department of transportation in at least one conspicuous and easily accessible place on the site of the project.

**SECTION 79.** 103.50 (7) (a) of the statutes is amended to read:

103.50 (7) (a) Except as provided in ~~par. (b), (d) and (f),~~ any contractor, subcontractor or agent thereof who violates this section may be fined not less than \$50 nor more than \$200 or imprisoned for not more than 48 6 months or both. Each day that any such violation continues shall be deemed considered a separate offense.

**SECTION 80.** 103.50 (7) (b) of the statutes is amended to read:

103.50 (7) (b) Whoever induces any individual who seeks to be or is employed on any project that is subject to this section to give up or ~~forego,~~ waive or return any part of the wages to which ~~he or she~~ the individual is entitled under the contract governing such project, or who reduces the hourly basic rate of pay normally paid to an employe for work on a project that is not subject to this

section during a week in which the employe works both on a project that is subject to this section and on a project that is not subject to this section, by threat not to employ, by threat of dismissal from such employment or by any other means is guilty of an offense under s. 946.15 (1).

**SECTION 81.** 103.50 (7) (c) of the statutes is amended to read:

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

**SECTION 82.** 103.50 (7) (d), (e) and (f) of the statutes are created to read:

103.50 (7) (d) Whoever induces any individual who seeks to be or is employed on any project that is subject to this section to permit any part of the wages to which the individual is entitled under the contract governing such project to be deducted from the individual's pay is guilty of an offense under s. 946.15 (3), unless the deduction would be permitted under 29 CFR 3.5 or 3.6 from an individual who is working on a project that is subject to 40 USC 276c.

(e) Any person employed on a project that is subject to this section who knowingly permits any part of the wages to which he or she is entitled under the contract governing such project to be deducted from his or her pay is guilty of an offense under s. 946.15 (4), unless the deduction would be permitted under 29 CFR 3.5 or 3.6 from an individual who is working on a project that is subject to 40 USC 276c.

(f) Paragraph (a) does not apply to any person who fails to provide any information to the department to assist the department in determining prevailing wage rates or prevailing hours of labor under sub. (3) or (4).

**SECTION 83.** 103.50 (8) of the statutes is amended to read:

103.50 (8) ENFORCEMENT AND PROSECUTION. The department of transportation shall require adherence to subs. (2) and (6). The department of transportation may demand and examine, and it shall be the duty of every contractor and subcontractor and agent thereof shall to keep and furnish to the department of transportation, copies of payrolls and it may examine all other records and information relating to hours of work and the wages paid laborers and mechanics on the to persons described in sub. (2m) for work to which this section is applicable applies. Upon request of the department of transportation

or upon complaint of alleged violation, the district attorney of the county in which the work is located shall make such investigation as necessary and prosecute violations in a court of competent jurisdiction. Section 111.322 (2m) applies to discharge and other discriminatory acts arising in connection with any proceeding under this section.

**SECTION 84.** 227.01 (13) (t) of the statutes is amended to read:

227.01 (13) (t) Ascertain and determines prevailing hours of labor, wage rates and truck rental rates under s. 103.50 and prevailing wage rates and prevailing hours of labor under s. ss. 66.293, 103.49 and 103.50, except that any action or inaction which ascertains and determines prevailing hours of labor, wage rates and truck rental rates prevailing hours of labor under ss. 66.293, 103.49 and 103.50 is subject to judicial review under s. 227.40.

**SECTION 85.** 946.15 (1) of the statutes is amended to read:

946.15 (1) Any employer, or any agent or employe of an employer, who induces any person who seeks to be or is employed pursuant to a public contract as defined in s. 66.29 (1) (c) or who seeks to be or is employed on a project on which a prevailing wage rate determination has been established issued by the department of industry, labor and human relations under s. 66.293 (3), 103.49 (3) or 103.50 (3) or by a local governmental unit, as defined in s. 66.293 (1) (d), under s. 66.293 (6) to give up, waive or return any part of the compensation to which that person is entitled under his or her contract of employment or under the prevailing wage rate determination made issued by the department or local governmental unit, or who reduces the hourly basic rate of pay normally paid to an employe for work on a project on which a prevailing wage rate determination has not been issued under s. 66.293 (3) or (6), 103.49 (3) or 103.50 (3) during a week in which the employe works both on a project on which a prevailing wage rate determination has been issued and on a project on which a prevailing wage rate determination has not been issued, is guilty of a Class E felony.

**SECTION 86.** 946.15 (1) of the statutes, as affected by 1995 Wisconsin Act ... (this act), is repealed and recreated to read:

946.15 (1) Any employer, or any agent or employe of an employer, who induces any person who seeks to be or is employed pursuant to a public contract as defined in s. 66.29 (1) (c) or who seeks to be or is employed on a project on which a prevailing wage rate determination has been issued by the department of industry, labor and job development under s. 66.293 (3), 103.49 (3) or 103.50 (3) or by a local governmental unit, as defined in s. 66.293 (1) (d), under s. 66.293 (6) to give up, waive or return any part of the compensation to which that person is entitled under his or her contract of employment or under the prevailing wage rate determination issued by the

department or local governmental unit, or who reduces the hourly basic rate of pay normally paid to an employee for work on a project on which a prevailing wage rate determination has not been issued under s. 66.293 (3) or (6), 103.49 (3) or 103.50 (3) during a week in which the employee works both on a project on which a prevailing wage rate determination has been issued and on a project on which a prevailing wage rate determination has not been issued, is guilty of a Class E felony.

**SECTION 87.** 946.15 (2) of the statutes is amended to read:

946.15 (2) Any person employed pursuant to a public contract as defined in s. 66.29 (1) (c) or employed on a project on which a prevailing wage rate determination has been established issued by the department of industry, labor and human relations under s. 66.293 (3), 103.49 (3) or 103.50 (3) or by a local governmental unit, as defined in s. 66.293 (1) (d), under s. 66.293 (6) who gives up, waives or returns to the employer or agent of the employer any part of the compensation to which the employee is entitled under his or her contract of employment or under the prevailing wage determination made issued by the department or local governmental unit, or who gives up any part of the compensation to which he or she is normally entitled for work on a project on which a prevailing wage rate determination has not been issued under s. 66.293 (3) or (6), 103.49 (3) or 103.50 (3) during a week in which the person works part-time on a project on which a prevailing wage rate determination has been issued and part-time on a project on which a prevailing wage rate determination has not been issued, is guilty of a Class C misdemeanor.

**SECTION 88.** 946.15 (2) of the statutes, as affected by 1995 Wisconsin Act .... (this act), is repealed and recreated to read:

946.15 (2) Any person employed pursuant to a public contract as defined in s. 66.29 (1) (c) or employed on a project on which a prevailing wage rate determination has been issued by the department of industry, labor and job development under s. 66.293 (3), 103.49 (3) or 103.50 (3) or by a local governmental unit, as defined in s. 66.293 (1) (d), under s. 66.293 (6) who gives up, waives or returns to the employer or agent of the employer any part of the compensation to which the employee is entitled under his or her contract of employment or under the prevailing wage determination issued by the department or local governmental unit, or who gives up any part of the compensation to which he or she is normally entitled for work on a project on which a prevailing wage rate determination has not been issued under s. 66.293 (3) or (6), 103.49 (3) or 103.50 (3) during a week in which the person works part-time on a project on which a prevailing wage rate determination has been issued and part-time on a project on which a prevailing wage rate determination has not been issued, is guilty of a Class C misdemeanor.

**SECTION 89.** 946.15 (3) of the statutes is created to read:

946.15 (3) Any employer or labor organization, or any agent or employe of an employer or labor organization, who induces any person who seeks to be or is employed on a project on which a prevailing wage rate determination has been issued by the department of industry, labor and human relations under s. 66.293 (3), 103.49 (3) or 103.50 (3) or by a local governmental unit, as defined in s. 66.293 (1) (d), under s. 66.293 (6) to permit any part of the wages to which that person is entitled under the prevailing wage rate determination issued by the department or local governmental unit to be deducted from the person's pay is guilty of a Class E felony, unless the deduction would be permitted under 29 CFR 3.5 or 3.6 from a person who is working on a project that is subject to 40 USC 276c.

**SECTION 90.** 946.15 (3) of the statutes, as created by 1995 Wisconsin Act .... (this act), is amended to read:

946.15 (3) Any employer or labor organization, or any agent or employe of an employer or labor organization, who induces any person who seeks to be or is employed on a project on which a prevailing wage rate determination has been issued by the department of industry, labor and ~~human relations~~ job development under s. 66.293 (3), 103.49 (3) or 103.50 (3) or by a local governmental unit, as defined in s. 66.293 (1) (d), under s. 66.293 (6) to permit any part of the wages to which that person is entitled under the prevailing wage rate determination issued by the department or local governmental unit to be deducted from the person's pay is guilty of a Class E felony, unless the deduction would be permitted under 29 CFR 3.5 or 3.6 from a person who is working on a project that is subject to 40 USC 276c.

**SECTION 91.** 946.15 (4) of the statutes is created to read:

946.15 (4) Any person employed on a project on which a prevailing wage rate determination has been issued by the department of industry, labor and human relations under s. 66.293 (3), 103.49 (3) or 103.50 (3) or by a local governmental unit, as defined in s. 66.293 (1) (d), under s. 66.293 (6) who permits any part of the wages to which that person is entitled under the prevailing wage rate determination issued by the department or local governmental unit to be deducted from his or her pay is guilty of a Class C misdemeanor, unless the deduction would be permitted under 29 CFR 3.5 or 3.6 from a person who is working on a project that is subject to 40 USC 276c.

**SECTION 92.** 946.15 (4) of the statutes, as created by 1995 Wisconsin Act .... (this act), is amended to read:

946.15 (4) Any person employed on a project on which a prevailing wage rate determination has been issued by the department of industry, labor and ~~human relations~~ job development under s. 66.293 (3), 103.49 (3) or 103.50 (3) or by a local governmental unit, as defined in s. 66.293 (1) (d), under s. 66.293 (6) who permits any part



of the wages to which that person is entitled under the prevailing wage rate determination issued by the department or local governmental unit to be deducted from his or her pay is guilty of a Class C misdemeanor, unless the deduction would be permitted under 29 CFR 3.5 or 3.6 from a person who is working on a project that is subject to 40 USC 276c.

**SECTION 9331. Initial applicability; industry, labor and human relations.**

(1) Except as provided in subsections (2) to (6), this act first applies to work performed on the effective date of this subsection.

(2) Except as provided in subsection (5), the repeal and recreation of sections 66.293 (1) (b) and (h) and (10) (b) and (d), 101.02 (13) (a), 103.49 (5) (b), 103.50 (4), (5) and (6) and 946.15 (1) and (2) of the statutes and the amendment of sections 103.005 (12) (a) and 946.15 (3) and (4) of the statutes first apply to work performed on the effective date of this subsection.

(3) Except as provided in subsection (6), the treatment of sections 66.293 (1) (a), (cm), (f) and (g), (3) (intro.), (ar), (av), (br) and (d) and (11) (b) 6., 103.49 (1) (a), (bg), (c) and (d) and (6m) (f) and 103.50 (1) (a), (bg), (c) and (d) and (4m) of the statutes, the renumbering and amendment of section 103.49 (3) of the statutes and the creation of section 103.49 (3) (am), (ar), (b) and (c) of the statutes first apply to work performed on the effective date of this subsection.

(4) Except as provided in subsections (5) and (6), this act first applies to an employe covered by a collective bargaining agreement that is in effect on the effective date of this subsection that contains provisions that are inconsistent with this act on the day after the collective bargaining agreement expires or on the day that the collective bargaining agreement is modified, extended or renewed.

(5) The repeal and recreation of sections 66.293 (1) (b) and (h) and (10) (b) and (d), 101.02 (13) (a), 103.49 (5) (b), 103.50 (4), (5) and (6) and 946.15 (1) and (2) of the statutes and the amendment of sections 103.005 (12)

(a) and 946.15 (3) and (4) of the statutes first apply to an employe covered by a collective bargaining agreement that is in effect on the effective date of this subsection that contains provisions that are inconsistent with this act on the day after the collective bargaining agreement expires or on the day that the collective bargaining agreement is modified, extended or renewed.

(6) The treatment of sections 66.293 (1) (a), (cm), (f) and (g), (3) (intro.), (ar), (av), (br) and (d) and (11) (b) 6., 103.49 (1) (a), (bg), (c) and (d) and (6m) (f) and 103.50 (1) (a), (bg), (c) and (d) and (4m) of the statutes, the renumbering and amendment of section 103.49 (3) of the statutes and the creation of section 103.49 (3) (am), (ar), (b) and (c) of the statutes first apply to an employe covered by a collective bargaining agreement that is in effect on the effective date of this subsection that contains provisions that are inconsistent with this act on the day after the collective bargaining agreement expires or on the day that the collective bargaining agreement is modified, extended or renewed.

**SECTION 9431. Effective dates; industry, labor and human relations.** This act takes effect on the day after publication, except as follows:

(1) The repeal and recreation of sections 66.293 (1) (b) and (h) and (10) (b) and (d), 101.02 (13) (a), 103.49 (5) (b), 103.50 (4), (5) and (6) and 946.15 (1) and (2) of the statutes and the amendment of sections 103.005 (12) (a), 946.15 (3) and (4) of the statutes and SECTION 9331 (2) and (5) of this act take effect on July 1, 1996, or on the day after publication, whichever is later.

(2) The treatment of sections 66.293 (1) (a), (cm), (f) and (g), (3) (intro.), (ar), (av), (br) and (d) and (11) (b) 6., 103.49 (1) (a), (bg), (c) and (d) and (6m) (f) and 103.50 (1) (a), (bg), (c) and (d) and (4m) of the statutes, the renumbering and amendment of section 103.49 (3) of the statutes and the creation of section 103.49 (3) (am), (ar), (b) and (c) of the statutes and SECTION 9331 (3) and (6) of this act take effect on January 1, 1997, or on the day after publication, whichever is later.