



**SENATE SUBSTITUTE AMENDMENT 1,
TO 1995 SENATE BILL 373**

February 21, 1996 – Offered by COMMITTEE ON HUMAN RESOURCES, LABOR, TOURISM,
VETERANS AND MILITARY AFFAIRS.

1 **AN ACT to repeal** 66.293 (2), 66.293 (3) (b), 103.49 (4) and 103.50 (3) (b); **to**
2 **renumber and amend** 66.293 (3) (intro.), 66.293 (3) (a), 66.293 (3) (c), 66.293
3 (3) (d), 66.293 (3) (e), 66.293 (3) (f), 66.293 (3) (g), 66.293 (3) (h), 66.293 (3) (i),
4 66.293 (3) (j), 66.293 (3) (k), 66.293 (3) (m), 66.293 (3) (n), 103.49 (1) (c), 103.49
5 (3), 103.49 (5), 103.49 (6) and 103.50 (3) (a); **to amend** 101.02 (13) (a), 103.005
6 (12) (a), 103.49 (1) (a), 103.49 (1) (b), 103.49 (1) (d), 103.49 (2), 103.49 (7) (a),
7 103.49 (7) (b), 103.49 (7) (d), 103.50 (1) (a), 103.50 (1) (b), 103.50 (1) (c), 103.50
8 (1) (d), 103.50 (2), 103.50 (4), 103.50 (5), 103.50 (6), 103.50 (7) (a), 103.50 (7) (b),
9 103.50 (7) (c), 103.50 (8), 227.01 (13) (t), 946.15 (1), 946.15 (2), 946.15 (3) and
10 946.15 (4); **to repeal and recreate** 66.293 (1), 66.293 (1) (b) and (h), 66.293 (10)
11 (b), 66.293 (10) (d), 101.02 (13) (a), 103.49 (5) (b), 103.50 (4), 103.50 (5), 103.50
12 (6), 946.15 (1) and 946.15 (2); and **to create** 66.293 (3) (title), 66.293 (3) (ar),
13 66.293 (3) (av), 66.293 (3) (br), 66.293 (4), 66.293 (9) (title), 66.293 (10) (title),
14 66.293 (11) (title), 66.293 (11) (b), 103.49 (1) (title), 103.49 (1) (bm), 103.49 (1)
15 (c) 1. to 8., 103.49 (1) (e), 103.49 (1) (f), 103.49 (1) (g), 103.49 (2m), 103.49 (3)
16 (title), 103.49 (3) (am), 103.49 (3) (ar), 103.49 (3) (b), 103.49 (3) (c), 103.49 (4r),

1 103.49 (5) (title), 103.49 (5) (a), 103.49 (5) (c), 103.49 (6m), 103.49 (7) (title),
2 103.50 (1) (e), 103.50 (2m), 103.50 (4m), 103.50 (7) (d), (e) and (f), 946.15 (3) and
3 946.15 (4) of the statutes; **relating to:** prevailing wage rates and hours of labor
4 for workers employed on state or local public works projects, granting
5 rule-making authority and providing penalties.

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

6 **SECTION 1.** 66.293 (1) of the statutes is repealed and recreated to read:

7 66.293 (1) DEFINITIONS. In this section:

8 (a) “Area” means the county in which a proposed project that is subject to this
9 section is located and, if considered necessary by the department, those counties that
10 are contiguous to that county or, if the department is requested to review a
11 determination under sub. (3) (br), “area” means the city, village or town in which a
12 proposed project that is subject to this section is located.

13 (b) “Department” means the department of industry, labor and human
14 relations.

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

16 (d) “Local governmental unit” means a political subdivision of this state, a
17 special purpose district in this state, an instrumentality or corporation of such a
18 political subdivision or special purpose district, a combination or subunit of any of
19 the foregoing or an instrumentality of the state and any of the foregoing.

20 (e) “Multiple-trade public works project” has the meaning given in s. 103.49
21 (1) (bm).

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

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

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

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

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

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

22 66.293 (1) (b) "Department" means the department of industry, labor and job
23 development.

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

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

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

2 66.293 (3) (title) PREVAILING WAGE RATES AND HOURS OF LABOR.

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

5 66.293 (3) (am) Every ~~municipality~~ local governmental unit, before making a
6 contract by direct negotiation or soliciting bids on a contract, for the erection,
7 construction, remodeling, repairing or demolition of any project of public works
8 except, including a highway, street or bridge construction project, shall apply to the
9 department of industry, labor and human relations to ~~ascertain~~ determine the
10 prevailing wage rate, and prevailing hours of labor and ~~hourly basic pay rates in all~~
11 ~~trades and occupations~~ for each trade or occupation required in the work
12 contemplated. The department shall make such investigations and hold such public
13 hearings as may be necessary to define the trades or occupations that are commonly
14 employed on projects that are subject to this section and to inform itself as to the
15 prevailing wage rates and prevailing hours of labor in all areas of the state for those
16 trades or occupations with a view to ascertaining the prevailing wage rate and
17 prevailing hours of labor for each such trade or occupation. The department shall
18 determine the prevailing wage rate, hours of labor and hourly basic pay rates for each
19 ~~trade or occupation under s. 103.49, make issue~~ its determination within 30 days
20 after receiving the request and shall file the same with the ~~municipality~~ local
21 governmental unit applying therefor.

22 **(bm)** ~~A~~ Any person may request for the review a recalculation of any portion
23 of a wage determination may be made within 30 days from after the initial
24 determination date if the person submits evidence is submitted with the request
25 showing that the prevailing wage rate or prevailing hours of labor for any given trade

1 or occupation included in the initial determination does not represent the prevailing
2 wage rate or prevailing hours of labor for that trade or occupation in the area. Such
3 evidence shall include wage rate and hours of labor information for work performed
4 in the contested trade or occupation ~~on at least one similar project located in the~~
5 ~~municipality where the proposed project is located and on which some work has been~~
6 ~~performed during the current or any of~~ area within the previous 12 months. The
7 department shall affirm or modify the ~~original~~ initial determination within 15 days
8 ~~from~~ after the date on which the department receives the request for review.
9 ~~Reference to such~~ recalculation.

10 (dm) A reference to the prevailing wage rates and prevailing hours of labor
11 determined by the department or a municipality local governmental unit exempted
12 under par. (d) sub. (6) shall be published in the notice issued for the purpose of
13 securing bids for the project. If any contract or subcontract for a project of public
14 works except, including a highway, street or bridge construction project, is entered
15 into, the prevailing wage rates and prevailing hours of labor determined by the
16 department or exempted municipality local governmental unit shall be physically
17 incorporated into and made a part of the contract or subcontract, except that for a
18 minor subcontract, as determined by the department, the department shall
19 prescribe by rule the method of notifying the minor subcontractor of the prevailing
20 wage rates and prevailing hours of labor applicable to the minor subcontract. The
21 prevailing wage rates and prevailing hours of labor applicable to a contract or
22 subcontract may not be changed during the time that the contract or subcontract is
23 in force. No laborer, worker or mechanic ~~employed directly upon the site of the~~
24 ~~project by the contractor or by a subcontractor, agent or other person, doing or~~
25 ~~contracting to do any part of the work,~~ person described in sub. (4) may be paid less

1 than the prevailing wage rate in the same or most similar trade or occupation
2 determined under this subsection; nor may he or she be permitted to work a greater
3 number of hours per day or per calendar week than the prevailing hours of labor
4 determined under this subsection, unless he or she is paid for all hours worked in
5 excess of the prevailing hours of labor at a rate of at least 1-1/2 1.5 times his or her
6 hourly basic rate of pay.

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

9 66.293 (11) (a) Any contractor, subcontractor or agent thereof, who fails to pay
10 the prevailing wage rate of ~~wages~~ determined by the department under ~~this~~
11 ~~subsection or sub. (3) or who~~ pays less than 1-1/2 1.5 times the hourly basic rate of
12 pay for all hours worked ~~on the project~~ in excess of the prevailing hours of labor
13 determined under ~~this subsection sub. (3)~~, shall be liable to the employees any affected
14 employe in the amount of their his or her unpaid ~~minimum~~ wages or their his or her
15 unpaid overtime compensation and in an additional equal amount as liquidated
16 damages. ~~Action~~ An action to recover the liability may be maintained in any court
17 of competent jurisdiction by any ~~one or more employees~~ employe for and in behalf of
18 that employe ~~or those employees~~ and other employees similarly situated. No employe
19 shall may be a party plaintiff to any such action unless the employe consents in
20 writing to become such a party and the consent is filed in the court in which the action
21 is brought. ~~The~~ Notwithstanding s. 814.04 (1), the court shall, in addition to any
22 judgment awarded to the plaintiff, allow a reasonable ~~attorney's fee~~ attorney fees
23 and costs to be paid by the defendant.

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

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

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

11 66.293 (3) (av) In determining prevailing wage rates under par. (am) or (ar) for
12 building, residential or agricultural projects, the department may not use data from
13 projects that are subject to this section, s. 103.49 or 103.50 or 40 USC 276a. In
14 determining prevailing wage rates for highway, street or bridge construction projects
15 or other projects involving the use of heavy equipment, the department may use data
16 from projects that are subject to this section, s. 103.49 or 103.50 or 40 USC 276a.

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

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

19 66.293 (3) (br) In addition to the recalculation under par. (bm), the local
20 governmental unit that requested the determination under this subsection may
21 request a review of any portion of a determination within 30 days after the date of
22 issuance of the determination if the local governmental unit submits evidence with
23 the request showing that the prevailing wage rate or prevailing hours of labor for any
24 given trade or occupation included in the determination does not represent the
25 prevailing wage rate or prevailing hours of labor for that trade or occupation in the

1 city, village or town in which the proposed project is located. That evidence shall
2 include wage rate and hours of labor information for the contested trade or
3 occupation on at least 3 similar projects located in the city, village or town where the
4 proposed project is located and on which some work has been performed within the
5 previous 12 months and which were considered by the department in issuing its most
6 recent compilation under par. (ar). The department shall affirm or modify the
7 determination within 15 days after the date on which the department receives the
8 request for review.

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

11 66.293 (5) (title) NONAPPLICABILITY. This subsection section does not apply to
12 any highway, street or bridge construction or to any single-trade public works
13 project, including a highway, street or bridge construction project, for which the
14 estimated project cost of completion is below \$3,500 where a single trade is involved
15 and \$35,000 where more than one trade is involved on such project (after hearing
16 these dollar amounts shall be adjusted by the department \$30,000 or an amount
17 determined by the department under this subsection or to any multiple-trade public
18 works project, including a highway, street or bridge construction project, for which
19 the estimated project cost of completion is below \$150,000 or an amount determined
20 by the department under this subsection. The department shall adjust those dollar
21 amounts every 2-years year, the first adjustment to be made not sooner than January
22 1, 1976 December 1, 1997. The adjustments shall be in proportion to any changes
23 change in construction costs since the effective date of the dollar amounts
24 established under this subsection immediately prior to each adjustment); nor does
25 this subsection apply to wage rates and hours of employment of laborers, workmen

1 ~~or mechanics engaged in the processing or manufacture of materials or products or~~
2 ~~to the delivery thereof by or for commercial establishments which have a fixed place~~
3 ~~of business from which they regularly supply such processed or manufactured~~
4 ~~materials or products, except that this subsection does apply to laborers, workmen~~
5 ~~or mechanics delivering mineral aggregate such as sand, gravel or stone which is~~
6 ~~incorporated into the work under the contract by depositing the material~~
7 ~~substantially in place, directly or through spreaders, from the transporting vehicle.~~

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

10 66.293 (6) (title) EXEMPTIONS. The department of industry, labor and human
11 relations, upon petition of any municipality local governmental unit, shall issue an
12 order exempting the municipality local governmental unit from applying to the
13 department for a determination under ~~this subsection~~ sub. (3) when it is shown that
14 an ordinance or other enactment of the municipality local governmental unit sets
15 forth the standards, policy, procedure and practice resulting in standards as high or
16 higher than those under ~~s. 103.49~~ this section.

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

19 66.293 (10) (a) Each contractor, subcontractor or agent thereof ~~participating~~
20 ~~in performing work on a project covered by this subsection~~ that is subject to this
21 section shall keep full and accurate records clearly indicating the name and trade or
22 occupation of every laborer, ~~workman or mechanic employed by the contractor,~~
23 ~~subcontractor or agent in connection with the project~~ person described in sub. (4) and
24 an accurate record of the number of hours worked by each employe of those persons
25 and the actual wages paid therefor.

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

3 66.293 (8) (title) POSTING. For the information of the employes working on the
4 project, the prevailing wage rates and prevailing hours of labor determined by the
5 department or exempted municipality local governmental unit and the provisions of
6 pars. (a) and (e) subs. (10) (a) and (11) (a) shall be kept posted by the employer local
7 governmental unit in at least one conspicuous and easily accessible place at on the
8 site of the project or, if there is no common site on the project, at the place normally
9 used by the local governmental unit to post public notices.

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

12 66.293 (9) (b) Each Upon completion of a project and before receiving final
13 payment for his or her work on the project, each agent or subcontractor shall furnish
14 the contractor with evidence ~~of compliance with~~ an affidavit stating that the agent
15 or subcontractor has complied fully with the requirements of this subsection section.
16 A contractor may not authorize final payment until such an affidavit is filed in proper
17 form and order.

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

20 66.293 (9) (c) Upon completion of the a project and ~~prior to~~ before receiving final
21 payment therefor for his or her work on the project, each contractor shall file with
22 the ~~municipality~~ local governmental unit authorizing the work an affidavit stating
23 that the contractor has complied fully with the ~~provisions and~~ requirements of this
24 subsection section and that the contractor has received evidence of compliance an
25 affidavit under par. (b) from each of the contractor's agents and subcontractors. ~~No~~

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

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

13 66.293 (10) (b) ~~The department of industry, labor and human relations or the~~
14 ~~contracting municipality~~ local governmental unit may demand and examine, and it
15 shall be the duty of every contractor, subcontractor and agent thereof to keep and
16 furnish to the department or local governmental unit, copies of any payrolls and
17 other records and information relating to the wages paid laborers, workmen or
18 mechanics on to persons described in sub. (4) for work to which this subsection
19 section applies. The department may inspect records in the manner provided in ch.
20 101. Every contractor, subcontractor or agent performing work on a project that is
21 subject to this section is subject to the requirements of ch. 101 relating to the
22 examination of records.

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

1 66.293 (9) (a) When the department of industry, labor and human relations
2 finds that a ~~municipality~~ local governmental unit has not requested a prevailing
3 ~~wage rate determination under sub. (3) (am) or that a local governmental unit,~~
4 contractor or subcontractor has not physically incorporated a prevailing wage rate
5 determination into ~~the a contract or subcontract~~ as required under this subsection
6 section or has not notified a minor subcontractor of a determination in the manner
7 prescribed by the department by rule promulgated under sub. (3) (dm), the
8 department shall notify the ~~municipality~~ local governmental unit, contractor or
9 subcontractor of such noncompliance and shall file the ~~prevailing wage rate~~
10 determination with the ~~municipality~~ local governmental unit, contractor or
11 subcontractor within 30 days after such notice.

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

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

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

23 66.293 (10) (c) If requested by any person, the department shall inspect the
24 payroll records of ~~the contractors, subcontractors or agents~~ any contractor,
25 subcontractor or agent performing work on a project that is subject to this section to

1 ensure compliance with this section. ~~The cost of the inspection shall be paid by the~~
2 ~~person making the request, if~~ If the contractor, subcontractor, or agent subject to the
3 inspection is found to be in compliance and if the person making the request is a
4 person specified in sub. (4), the department shall charge the person making the
5 request the actual cost of the inspection. If the contractor, subcontractor or agent
6 subject to the inspection is found to be in compliance and if the person making the
7 request is not a person specified in sub. (4), the department shall charge the person
8 making the request \$250 or the actual cost of the inspection, whichever is greater.

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

11 66.293 (12) (title) DEPARTMENT. (a) ~~Except as provided under subds. 2. and 3.~~
12 ~~pars. (b) and (c), the department of industry, labor and human relations shall notify~~
13 ~~any municipality~~ local governmental unit applying for a determination under sub.
14 (3) ~~(intro.)~~ and any ~~municipality~~ local governmental unit exempted under ~~par. (d)~~
15 ~~sub. (6)~~ of the names of all persons whom the department has found to have failed
16 to pay the prevailing wage rate determined under ~~this subsection~~ sub. (3) or has
17 found to have paid less than 1.5 times the hourly basic rate of pay for all hours worked
18 ~~on a project~~ in excess of the prevailing hours of labor determined under ~~this~~
19 ~~subsection~~ sub. (3) at any time in the preceding 3 years. The department shall
20 include with any such name the address of such person and shall specify when and
21 ~~how~~ such person has failed to pay the prevailing wage rate determined under ~~this~~
22 ~~subsection~~ and when and ~~how~~ such person has failed to pay less than 1.5 times the
23 hourly basic rate of pay for all hours worked ~~on a project~~ in excess of the prevailing
24 hours of labor determined under ~~this subsection.~~ No municipality. A local
25 governmental unit may not award any contract to such person unless otherwise

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

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

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

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

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

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

1 66.293 (4) COVERED EMPLOYES. (a) All of the following employees shall be paid
2 the prevailing wage rate determined under sub. (3) and may not be permitted to work
3 a greater number of hours per day or per calendar week than the prevailing hours
4 of labor determined under sub. (3), unless they are paid for all hours worked in excess
5 of the prevailing hours of labor at a rate of at least 1.5 times their hourly basic rate
6 of pay:

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

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

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

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

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

4 66.293 (9) (title) COMPLIANCE.

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

6 66.293 (10) (title) RECORDS; INSPECTION; ENFORCEMENT.

7 **SECTION 25.** 66.293 (10) (b) of the statutes, as affected by 1995 Wisconsin Acts
8 27 and (this act), is repealed and recreated to read:

9 66.293 (10) (b) The department or the contracting local governmental unit may
10 demand and examine, and it shall be the duty of every contractor, subcontractor and
11 agent thereof to keep and furnish to the department or local governmental unit,
12 copies of payrolls and other records and information relating to the wages paid to
13 persons described in sub. (4) for work to which this section applies. The department
14 may inspect records in the manner provided in chs. 103 to 106. Every contractor,
15 subcontractor or agent performing work on a project that is subject to this section is
16 subject to the requirements of chs. 103 to 106 relating to the examination of records.

17 **SECTION 26.** 66.293 (10) (d) of the statutes, as affected by 1995 Wisconsin Acts
18 27 and (this act), is repealed and recreated to read:

19 66.293 (10) (d) Section 103.005 (5) (f), (11), (12) and (13) applies to this section,
20 except that s. 103.005 (12) (a) does not apply to any person who fails to provide any
21 information to the department to assist the department in determining prevailing
22 wage rates or prevailing hours of labor under sub. (3) (am) or (ar). Section 111.322
23 (2m) applies to discharge or other discriminatory acts arising in connection with any
24 proceeding under this section, including proceedings under sub. (11) (a).

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

1 66.293 (11) (title) LIABILITY AND PENALTIES.

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

3 66.293 (11) (b) 1. Except as provided in subds. 2., 4. and 6., any contractor,
4 subcontractor or agent thereof who violates this section may be fined not more than
5 \$200 or imprisoned for not more than 6 months or both. Each day that any such
6 violation continues shall be considered a separate offense.

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

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

24 4. Whoever induces any individual who seeks to be or is employed on any
25 project that is subject to this section to permit any part of the wages to which the

1 individual is entitled under the contract governing such project to be deducted from
2 the individual's pay is guilty of an offense under s. 946.15 (3), unless the deduction
3 would be permitted under 29 CFR 3.5 or 3.6 from an individual who is working on
4 a project that is subject to 40 USC 276c.

5 5. Any person employed on a project that is subject to this section who
6 knowingly permits any part of the wages to which he or she is entitled under the
7 contract governing such project to be deducted from his or her pay is guilty of an
8 offense under s. 946.15 (4), unless the deduction would be permitted under 29 CFR
9 3.5 or 3.6 from a person who is working on a project that is subject to 40 USC 276c.

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

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

14 101.02 (13) (a) If any employer, employe, owner, or other person violates ss.
15 101.01 to 101.25, or fails or refuses to perform any duty lawfully enjoined, within the
16 time prescribed by the department, for which no penalty has been specifically
17 provided, or fails, neglects or refuses to obey any lawful order given or made by the
18 department, or any judgment or decree made by any court in connection with ss.
19 101.01 to 101.25, for each such violation, failure or refusal, such employer, employe,
20 owner or other person shall forfeit and pay into the state treasury a sum not less than
21 \$10 nor more than \$100 for each such offense. This paragraph does not apply to any
22 person who fails to provide any information to the department to assist the
23 department in determining prevailing wage rates or prevailing hours of labor under
24 s. 103.49 (3) (a) or (am) or 103.50 (3) or (4).

1 **SECTION 30.** 101.02 (13) (a) of the statutes, as affected by 1995 Wisconsin Acts
2 27 and (this act), is repealed and recreated to read:

3 101.02 **(13)** (a) If any employer, employe, owner, or other person violates this
4 subchapter, or fails or refuses to perform any duty specified under this subchapter,
5 within the time prescribed by the department, for which no penalty has been
6 specifically provided, or fails, neglects or refuses to obey any lawful order given or
7 made by the department, or any judgment or decree made by any court in connection
8 with this subchapter, for each such violation, failure or refusal, such employer,
9 employe, owner or other person shall forfeit and pay into the state treasury a sum
10 not less than \$10 nor more than \$100 for each such offense.

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

13 103.005 **(12)** (a) If any employer, employe, owner, or other person violates chs.
14 103 to 106, or fails or refuses to perform any duty required under chs. 103 to 106,
15 within the time prescribed by the department, for which no penalty has been
16 specifically provided, or fails, neglects or refuses to obey any lawful order given or
17 made by the department or any judgment or decree made by any court in connection
18 with chs. 103 to 106, for each such violation, failure or refusal, the employer, employe,
19 owner or other person shall forfeit not less than \$10 nor more than \$100 for each
20 offense. This paragraph does not apply to any person who fails to provide any
21 information to the department to assist the department in determining prevailing
22 wage rates or prevailing hours of labor under s. 103.49 (3) (a) or (am) or 103.50 (3)
23 or (4).

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

25 103.49 **(1)** (title) DEFINITIONS.

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

2 103.49 (1) (a) “Area” means the county ~~or other locality from which labor for~~
3 ~~any project would normally be secured~~ in which a proposed project that is subject to
4 this section is located and, if considered necessary by the department, those counties
5 that are contiguous to that county or, if the department is requested to review a
6 determination under sub. (3) (c), “area” means the city, village or town in which a
7 proposed project that is subject to this section is located.

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

9 103.49 (1) (b) “Hourly basic rate of pay” means the hourly wage paid to any
10 employe, excluding any contributions or payments for health ~~and welfare~~ insurance
11 benefits, vacation benefits, pension benefits and any other bona fide economic
12 benefits, whether paid directly or indirectly.

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

14 103.49 (1) (bm) “Multiple-trade public works project” means a public works
15 project in which no single trade accounts for 85% or more of the total labor cost of the
16 project.

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

19 103.49 (1) (c) (intro.) “Prevailing hours of labor” ~~in~~ for any trade or occupation
20 in any area means the hours of labor per day and per week worked within the area
21 by a larger number of workers than are employed in the trade or occupation for any
22 other number of hours per day or week. In no event shall the prevailing hours of labor
23 be ~~deemed~~ considered to be more than ~~8~~ 10 hours per day nor more than 40 hours
24 per week. ~~or to include any hours worked on a Saturday or Sunday or on any of the~~
25 following holidays:

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

2 103.49 (1) (c) 1. January 1.

3 2. The last Monday in May.

4 3. July 4.

5 4. The first Monday in September.

6 5. The 4th Thursday in November.

7 6. December 25.

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

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

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

11 103.49 (1) (d) “Prevailing wage rate” ~~in for~~ any trade or occupation engaged in
12 the erection, construction, remodeling, repairing or demolition of any project of
13 public works in any area means the hourly basic rate ~~paid of pay,~~ plus the hourly
14 contribution for health and ~~welfare~~ insurance benefits, vacation benefits, pension
15 benefits and any other bona fide economic benefit, ~~whether~~ paid directly or indirectly,
16 ~~to for~~ a majority of all ~~persons employed~~ the hours worked in the trade or occupation
17 ~~in the area on projects in the area,~~ or if there is no rate at which a majority are
18 employed of the hours worked in the trade or occupation on projects in the area is
19 paid, then the prevailing wage rate for any trade or occupation engaged in the
20 erection, construction, remodeling, repairing or demolition of any project of public
21 works in any area shall be the rate which is paid to a larger number of employes than
22 ~~any other rate paid in the area for work in the trade or occupation~~ average hourly
23 basic rate of pay, weighted by the number of hours worked, plus the average hourly
24 contribution, weighted by the number of hours worked, for health insurance benefits,
25 vacation benefits, pension benefits and any other bona fide economic benefit, paid

1 directly or indirectly for all hours worked at the hourly basic rate of pay of the
2 highest-paid 51% of hours worked in that trade or occupation.

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

4 103.49 (1) (e) "Single-trade public works project" means a public works project
5 in which a single trade accounts for 85% or more of the total labor cost of the project.

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

7 103.49 (1) (f) "State agency" means any office, department, independent
8 agency, institution of higher education, association, society or other body in state
9 government created or authorized to be created by the constitution or any law,
10 including the legislature and the courts.

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

12 103.49 (1) (g) "Truck driver" includes an owner-operator of a truck.

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

15 103.49 (2) (title) PREVAILING WAGE RATES AND HOURS OF LABOR. Any contract
16 hereafter made for the erection, construction, remodeling ~~or~~, repairing or demolition
17 of any ~~public building or for any other~~ project of public works, except contracts for
18 the construction or maintenance of public highways, streets and bridges, to which
19 the state, any ~~department thereof or any public building corporation~~ state agency or
20 the University of Wisconsin Hospitals and Clinics Authority is a party shall contain
21 a stipulation that no laborer, workman or mechanic employed directly upon the site
22 of the work by the contractor or by any subcontractor, agent or other person, doing
23 or contracting to do all or a part of the work, shall person described in sub. (2m) may
24 be permitted to work a greater number of hours per day or per calendar week than
25 the prevailing hours of labor determined ~~pursuant to this section~~ under sub. (3),

1 except that any such laborer, ~~workman or mechanic~~ person may be permitted or
2 required to work more than such prevailing ~~number of hours of labor~~ per day and per
3 calendar week if he or she is paid for all hours worked in excess of the prevailing
4 hours of labor at a rate of at least ~~1-1/2~~ 1.5 times his or her hourly basic rate of pay;
5 nor ~~shall he~~ may he or she be paid less than the prevailing wage rate in the same or
6 most similar trade or occupation in the area wherein such ~~public building or project~~
7 of public works is situated; ~~nor shall this section apply to wage rates and hours of~~
8 employment ~~of laborers, workmen or mechanics engaged in the processing or~~
9 manufacture of materials or products or to the delivery thereof by or for commercial
10 establishments ~~which have a fixed place of business from which they regularly~~
11 supply such processed or manufactured materials or products; ~~except that this~~
12 section ~~shall apply to laborers, workmen or mechanics who deliver mineral~~
13 aggregate such as sand, gravel or stone which is incorporated into the work under
14 the contract by depositing the material substantially in place, directly or through
15 spreaders, from the transporting vehicle. ~~The~~ determined under sub. (3). A
16 reference to the prevailing wage rates and prevailing hours of labor determined
17 under sub. (3) shall be published in the notice issued for the purpose of securing bids
18 for the project. If any contract or subcontract for a project that is subject to this
19 section is entered into, the prevailing wage rates, and prevailing hours of labor, and
20 hourly basic rates of pay determined pursuant to this section under sub. (3) shall be
21 set forth specifically in physically incorporated into and made a part of the contract
22 or subcontract, except that for a minor subcontract, as determined by the
23 department, the department shall prescribe by rule the method of notifying the
24 minor subcontractor of the prevailing wage rates and prevailing hours of labor
25 applicable to the minor subcontract. The prevailing wage rates and prevailing hours

1 of labor applicable to a contract or subcontract may not be changed during the time
2 that the contract or subcontract is in force.

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

4 103.49 (2m) COVERED EMPLOYES. (a) All of the following employees shall be paid
5 the prevailing wage rate determined under sub. (3) and may not be permitted to work
6 a greater number of hours per day or per calendar week than the prevailing hours
7 of labor determined under sub. (3), unless they are paid for all hours worked in excess
8 of the prevailing hours of labor at a rate of at least 1.5 times their hourly basic rate
9 of pay:

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

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

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

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

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

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

7 103.49 (3) (title) INVESTIGATION; DETERMINATION.

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

10 103.49 (3) (a) Before bids are asked for any work to which this section applies,
11 ~~the department or officer~~ state agency having the authority to prescribe the
12 specifications shall request apply to the department to ascertain determine the
13 prevailing wage rates, rate and prevailing hours of labor and ~~hourly basic rates of~~
14 ~~pay for all trades and occupations~~ for each trade or occupation required in the work
15 under contemplation in the area in which the work is to be done. The department
16 shall make such investigations and hold such public hearings as may be necessary
17 ~~to enable it to ascertain~~ define the trades or occupations that are commonly employed
18 on projects that are subject to this section and to inform itself as to the prevailing
19 wage rates and prevailing hours of labor in all areas of the state for those trades or
20 occupations with a view to ascertaining the prevailing wage rate, and prevailing
21 hours of labor and ~~hourly basic rate of pay~~ for each such trade or occupation. ~~It~~ The
22 department shall ~~make~~ issue its determination within 30 days after receipt ~~of~~
23 receiving the request and shall file the same with the ~~department or officer~~ state
24 agency applying therefor. ~~The~~ For the information of the employes working on the
25 project, the prevailing hours of labor, the prevailing wage rates, ~~the hourly basic~~

1 rates of pay and trades or occupations for all labor involved in each project to which
2 this section is applicable shall, together with and prevailing hours of labor
3 determined by the department and the provisions of subs. (2) and (4), (6m) shall be
4 kept posted on the project by the employer state agency in at least one conspicuous
5 and easily accessible place for the information of the employes working on the on the
6 site of the project.

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

8 103.49 (3) (am) The department shall, by January 1 of each year, compile the
9 prevailing wage rates and the prevailing hours of labor for each trade or occupation
10 in each area. The compilation shall, in addition to the current prevailing wage rates
11 and prevailing hours of labor, include future prevailing wage rates and prevailing
12 hours of labor when those prevailing wage rates and prevailing hours of labor can
13 be determined for any trade or occupation in any area and shall specify the effective
14 date of those future prevailing wage rates and prevailing hours of labor. If a
15 construction project extends into more than one area there shall be but one standard
16 of prevailing wage rates and prevailing hours of labor for the entire project.

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

18 103.49 (3) (ar) In determining prevailing wage rates under par. (a) or (am) for
19 building, residential or agricultural projects, the department may not use data from
20 projects that are subject to this section, s. 66.293 or 103.50 or 40 USC 276a. In
21 determining prevailing wage rates for projects involving the use of heavy equipment,
22 the department may use data from projects that are subject to this section, s. 66.293
23 or 103.50 or 40 USC 276a.

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

1 103.49 (3) (b) Any person may request a recalculation of any portion of a
2 determination within 30 days after the initial determination date if the person
3 submits evidence with the request showing that the prevailing wage rate or
4 prevailing hours of labor for any given trade or occupation included in the initial
5 determination does not represent the prevailing wage rate or prevailing hours of
6 labor for that trade or occupation in the area. Such evidence shall include wage rate
7 and hours of labor information for work performed in the contested trade or
8 occupation in the area within the previous 12 months. The department shall affirm
9 or modify the initial determination within 15 days after the date on which the
10 department receives the request for recalculation.

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

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

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

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

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

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

17 (c) Upon completion of a project and before receiving final payment for his or
18 her work on the project, each contractor shall file with the state agency authorizing
19 the work an affidavit stating that the contractor has complied fully with the
20 requirements of this section and that the contractor has received an affidavit under
21 par. (b) from each of the contractor's agents and subcontractors. A state agency may
22 not authorize a final payment until such an affidavit is filed in proper form and order.
23 If a state agency authorizes a final payment before such an affidavit is filed in proper
24 form and order or if the department determines, based on the greater weight of the
25 credible evidence, that any person specified in sub. (2m) has been or may have been

1 paid less than the prevailing wage rate or less than 1.5 times the hourly basic rate
2 of pay for all hours worked in excess of the prevailing hours of labor and requests that
3 the state agency withhold all or part of the final payment, but the state agency fails
4 to do so, the state agency is liable for all back wages payable up to the amount of the
5 final payment.

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

7 103.49 (5) (title) RECORDS; INSPECTION; ENFORCEMENT.

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

10 103.49 (5) (b) It shall be the duty of the department to enforce this section. To
11 this end it may demand and examine, and it shall be the duty of every contractor and,
12 subcontractor and agent thereof to keep and furnish to the department, copies of ~~any~~
13 ~~or all~~ payrolls and ~~may examine all~~ other records and information relating to the
14 wages paid laborers, workers, or mechanics ~~on to persons described in sub. (2m) for~~
15 work to which this section is applicable applies. The department may inspect records
16 in the manner provided in ch. 101. Every contractor, subcontractor or agent
17 performing work on a project that is subject to this section is subject to the
18 requirements of ch. 101 relating to the examination of records. Section 111.322 (2m)
19 applies to discharge and other discriminatory acts arising in connection with any
20 proceeding under this section.

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

22 103.49 (5) (a) Each contractor, subcontractor or agent thereof performing work
23 on a project that is subject to this section shall keep full and accurate records clearly
24 indicating the name and trade or occupation of every person described in sub. (2m)

1 and an accurate record of the number of hours worked by each of those persons and
2 the actual wages paid therefor.

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

5 103.49 (5) (b) It shall be the duty of the department to enforce this section. To
6 this end it may demand and examine, and it shall be the duty of every contractor,
7 subcontractor and agent thereof to keep and furnish to the department, copies of
8 payrolls and other records and information relating to the wages paid to persons
9 described in sub. (2m) for work to which this section applies. The department may
10 inspect records in the manner provided in this chapter and chs. 104 to 106. Every
11 contractor, subcontractor or agent performing work on a project that is subject to this
12 section is subject to the requirements of ch. 101 relating to the examination of
13 records. Section 111.322 (2m) applies to discharge and other discriminatory acts
14 arising in connection with any proceeding under this section.

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

16 103.49 (5) (c) If requested by any person, the department shall inspect the
17 payroll records of any contractor, subcontractor or agent performing work on a
18 project that is subject to this section to ensure compliance with this section. If the
19 contractor, subcontractor or agent subject to the inspection is found to be in
20 compliance and if the person making the request is a person specified in sub. (2m),
21 the department shall charge the person making the request the actual cost of the
22 inspection. If the contractor, subcontractor or agent subject to the inspection is found
23 to be in compliance and if the person making the request is not a person specified in
24 sub. (2m), the department shall charge the person making the request \$250 or the
25 actual cost of the inspection, whichever is greater.

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

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

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

11 103.49 **(6m)** LIABILITY AND PENALTIES. (a) Except as provided in pars. (b), (d)
12 and (f), any contractor, subcontractor or agent thereof who violates this section may
13 be fined not more than \$200 or imprisoned for not more than 6 months or both. Each
14 day that any such violation continues shall be considered a separate offense.

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

23 (c) Any person employed on a project that is subject to this section who
24 knowingly permits a contractor, subcontractor or agent thereof to pay him or her less
25 than the prevailing wage rate set forth in the contract governing such project, who

1 gives up, waives or returns any part of the compensation to which he or she is entitled
2 under the contract, or who gives up, waives or returns any part of the compensation
3 to which he or she is normally entitled for work on a project that is not subject to this
4 section during a week in which the person works both on a project that is subject to
5 this section and on a project that is not subject to this section, is guilty of an offense
6 under s. 946.15 (2).

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

13 (e) Any person employed on a project that is subject to this section who
14 knowingly permits any part of the wages to which he or she is entitled under the
15 contract governing such project to be deducted from his or her pay is guilty of an
16 offense under s. 946.15 (4), unless the deduction would be permitted under 29 CFR
17 3.5 or 3.6 from a person who is working on a project that is subject to 40 USC 276c.

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

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

22 103.49 (7) (title) DEPARTMENT.

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

1 103.49 (7) (a) Except as provided under pars. (b) and (c), the department shall
2 distribute to all state agencies, ~~as defined in s. 20.001 (1),~~ and to the University of
3 Wisconsin Hospitals and Clinics Authority a list of all persons whom the department
4 has found to have failed to pay the prevailing wage rate determined under sub. (1)
5 (3) or has found to have paid less than 1.5 times the hourly basic rate of pay for all
6 hours worked ~~on a project~~ in excess of the prevailing hours of labor determined under
7 sub. (1) (3) at any time in the preceding 3 years. The department shall include with
8 any such name the address of such person and shall specify when ~~and how~~ such
9 person ~~has failed to pay the prevailing wage rate determined under this subsection~~
10 and when ~~and how~~ such person ~~has failed to pay less than 1.5 times the hourly basic~~
11 rate of pay for all hours worked ~~on a project~~ in excess of the prevailing hours of labor
12 ~~determined under this subsection.~~ A state agency or the University of Wisconsin
13 Hospitals and Clinics Authority may not award any contract to such person unless
14 otherwise recommended by the department or unless 3 years have elapsed from the
15 date the department issued its findings or date of final determination by a court of
16 competent jurisdiction, whichever is later.

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

18 103.49 (7) (b) The department may not include in a notification under par. (a)
19 the name of any person on the basis of having let work to a person whom the
20 department has found to have failed to pay the prevailing wage rate determined
21 under sub. (1) (3) or has found to have paid less than 1.5 times the hourly basic rate
22 of pay for all hours worked ~~on a project~~ in excess of the prevailing hours of labor
23 determined under sub. (1) (3).

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

1 103.49 (7) (d) Any person submitting a bid on a project that is subject to this
2 section shall be required, on the date the person submits the bid, to identify any
3 construction business in which the person, or a shareholder, ~~member~~, officer or
4 partner of the person, if the person is a business, owns, or has owned at least a 25%
5 interest on the date the person submits the bid or at any other time within 3 years
6 preceding the date the person submits the bid, if the business has been found to have
7 failed to pay the prevailing wage rate determined under ~~this section sub. (3)~~ or to
8 have paid less than 1.5 times the hourly basic rate of pay for all hours worked ~~on a~~
9 project in excess of the prevailing hours of labor determined under this section sub.
10 (3).

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

12 103.50 (1) (a) “Area” ~~means the locality from which labor for any project within~~
13 ~~such area would normally be secured~~ means the county in which a proposed project
14 that is subject to this section is located and, if considered necessary by the
15 department, those counties that are contiguous to that county.

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

17 103.50 (1) (b) “Hourly basic rate of pay” ~~means the hourly wage paid to any~~
18 ~~employe, excluding any contributions or payments for health and welfare benefits,~~
19 ~~vacation benefits, pension benefits and any other economic benefits, whether paid~~
20 ~~directly or indirectly~~ has the meaning given in s. 103.49 (1) (b).

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

22 103.50 (1) (c) “Prevailing hours of labor” ~~means the hours of labor per day and~~
23 ~~per week worked within the area by a larger number of workers of the same class~~
24 ~~than are employed within the area for any other number of hours per day and per~~
25 ~~week. In no event shall the prevailing hours of labor be deemed to be more than 8~~

1 ~~hours per day nor more than 40 hours per week~~ has the meaning given in s. 103.49
2 (1) (c).

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

4 103.50 (1) (d) “Prevailing wage rate” for any trade or occupation in any area
5 means the hourly basic rate of pay, plus the hourly contribution for health and
6 welfare insurance benefits, vacation benefits, pension benefits and any other bona
7 fide economic benefit, ~~whether paid directly or indirectly, paid to the largest number~~
8 ~~of workers engaged in the same class of labor within the area, including rental rates~~
9 ~~for truck hire paid to those who own and operate the truck. In no event shall the~~
10 ~~prevailing wage rate for any class of labor be deemed to be less than a reasonable and~~
11 ~~living wage, nor shall truck rental rates established pursuant to this provision be~~
12 ~~subject to the provisions of sub. (2) relating to hours worked in excess of the~~
13 ~~prevailing hours when operated in excess of 8 hours in any one day or 40 hours in any~~
14 ~~one week~~ for a majority of the hours worked in the trade or occupation in the area,
15 or if there is no rate at which a majority of the hours worked in the trade or occupation
16 in the area is paid, then the prevailing wage rate shall be the average hourly basic
17 rate of pay, weighted by the number of hours worked, plus the average hourly
18 contribution, weighted by the number of hours worked, for health insurance benefits,
19 vacation benefits, pension benefits and any other bona fide economic benefit, paid
20 directly or indirectly for all hours worked at the hourly basic rate of pay of the
21 highest-paid 51% of hours worked in that trade or occupation in that area.

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

23 103.50 (1) (e) “Truck driver” has the meaning given in s. 103.49 (1) (g).

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

1 103.50 (2) (title) ~~HOURS PREVAILING WAGE RATES AND HOURS OF LABOR. No laborer~~
2 ~~or mechanic person described in sub. (2m) in the employ of the a contractor or of any,~~
3 ~~subcontractor, agent or other person doing or contracting to do all or a part of the~~
4 ~~work performing any work on a project under a contract based on bids as provided~~
5 ~~in s. 84.06 (2) to which the state is a party for the construction or improvement of any~~
6 ~~highway shall may be permitted to work a longer number of hours per day or per~~
7 ~~calendar week than the prevailing hours of labor determined pursuant to this~~
8 ~~section; nor shall he under sub. (3); nor may he or she be paid a lesser rate of wages~~
9 ~~than the prevailing wage rate of wages thus determined, for in the area in which the~~
10 ~~work is to be done determined under sub. (3); except that any such laborer or~~
11 ~~mechanic person may be permitted or required to work more than such prevailing~~
12 ~~number of hours of labor per day and per calendar week if he or she is paid for all~~
13 ~~hours worked in excess of the prevailing hours of labor at a rate of at least 1-1/2 1.5~~
14 ~~times his or her hourly basic rate of pay. This section shall not apply to wage rates~~
15 ~~and hours of employment of laborers or mechanics engaged in the processing or~~
16 ~~manufacture of materials or products or to the delivery thereof by or for commercial~~
17 ~~establishments which have a fixed place of business from which they regularly~~
18 ~~supply such processed or manufactured materials or products; except that this~~
19 ~~section shall apply to laborers or mechanics who deliver mineral aggregate such as~~
20 ~~sand, gravel or stone which is incorporated into the work under the contract by~~
21 ~~depositing the material substantially in place, directly or through spreaders, from~~
22 ~~the transporting vehicle.~~

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

24 103.50 (2m) COVERED EMPLOYES. (a) All of the following employees shall be paid
25 the prevailing wage rate determined under sub. (3) and may not be permitted to work

1 a greater number of hours per day or per calendar week than the prevailing hours
2 of labor determined under sub. (3), unless they are paid for all hours worked in excess
3 of the prevailing hours of labor at a rate of at least 1.5 times their hourly basic rate
4 of pay:

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

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

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

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

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

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

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

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

14 103.50 (4) (title) CERTIFICATION OF PREVAILING WAGE RATES AND HOURS AND WAGES
15 OF LABOR. The department of industry, labor and human relations shall ~~prior to, by~~
16 May 1 of the ~~current~~ each calendar year, certify to the department of transportation
17 ~~the prevailing hours of labor, the prevailing wage rate~~ rates and the hourly basic rate
18 of pay for ~~all such classes of laborers and mechanics~~ prevailing hours of labor in each
19 area for all trades or occupations commonly employed in the highway construction
20 industry. The certification shall, in addition to the current ~~prevailing hours of labor,~~
21 ~~the prevailing wage rates and the hourly basic rates of pay~~ prevailing hours of labor,
22 include future ~~hours and~~ prevailing wage rates and prevailing hours of labor when
23 such ~~hours and~~ prevailing wage rates and prevailing hours of labor can be
24 determined for any such ~~classes of laborers and mechanics~~ trade or occupation in any
25 area and shall ~~specifically set forth~~ specify the effective ~~dates thereof when~~ date of

1 ~~those future hours and rates are certified prevailing wage rates and prevailing hours~~
2 ~~of labor.~~ If a construction project extends into more than one area there shall be but
3 one standard of ~~hours of labor and~~ prevailing wage rates and prevailing hours of
4 labor for the entire project.

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

7 103.50 (4) CERTIFICATION OF PREVAILING WAGE RATES AND HOURS OF LABOR. The
8 department of industry, labor and job development shall, by May 1 of each calendar
9 year, certify to the department of transportation the prevailing wage rates and the
10 prevailing hours of labor in each area for all trades or occupations commonly
11 employed in the highway construction industry. The certification shall, in addition
12 to the current prevailing wage rates and prevailing hours of labor, include future
13 prevailing wage rates and prevailing hours of labor when such prevailing wage rates
14 and prevailing hours of labor can be determined for any such trade or occupation in
15 any area and shall specify the effective date of those future prevailing wage rates and
16 prevailing hours of labor. If a construction project extends into more than one area
17 there shall be but one standard of prevailing wage rates and prevailing hours of labor
18 for the entire project.

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

20 103.50 (4m) WAGE RATE DATA. In determining prevailing wage rates for
21 highway, street or bridge construction projects or other projects involving the use of
22 heavy equipment, the department may use data from projects that are subject to this
23 section, s. 66.293 or 103.49 or 40 USC 276a.

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

1 103.50 (5) APPEALS TO GOVERNOR. If the department of transportation deems
2 considers any determination of the department of industry, labor and human
3 relations as to the prevailing hours of labor, prevailing wage rates and the hourly
4 basic rates of pay prevailing hours of labor in an area to have been incorrect, it may
5 appeal to the governor, whose determination shall be final.

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

8 103.50 (5) APPEALS TO GOVERNOR. If the department of transportation considers
9 any determination of the department of industry, labor and job development as to the
10 prevailing wage rates and the prevailing hours of labor in an area to have been
11 incorrect, it may appeal to the governor, whose determination shall be final.

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

13 103.50 (6) CONTENTS OF CONTRACTS. ~~The prevailing hours of labor, the A~~
14 reference to the prevailing wage rates and the hourly basic rates of pay and
15 classifications for all labor as certified by the department shall be specifically set
16 forth in the proposals and contracts for each highway construction contract to which
17 the state is a party prevailing hours of labor determined under sub. (3) shall be
18 published in the notice issued for the purpose of securing bids for a project. If any
19 contract or subcontract for a project that is subject to this section is entered into, the
20 prevailing wage rates and prevailing hours of labor determined under sub. (3) shall
21 be physically incorporated into and made a part of the contract or subcontract, except
22 that for a minor subcontract, as determined by the department of industry, labor and
23 human relations, that department shall prescribe by rule the method of notifying the
24 minor subcontractor of the prevailing wage rates and prevailing hours of labor
25 applicable to the minor subcontract. The prevailing wage rates and prevailing hours

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

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

10 103.50 (6) CONTENTS OF CONTRACTS. A reference to the prevailing wage rates
11 and the prevailing hours of labor determined under sub. (3) shall be published in the
12 notice issued for the purpose of securing bids for a project. If any contract or
13 subcontract for a project that is subject to this section is entered into, the prevailing
14 wage rates and prevailing hours of labor determined under sub. (3) shall be
15 physically incorporated into and made a part of the contract or subcontract, except
16 that for a minor subcontract, as determined by the department of industry, labor and
17 job development, that department shall prescribe by rule the method of notifying the
18 minor subcontractor of the prevailing wage rates and prevailing hours of labor
19 applicable to the minor subcontract. The prevailing wage rates and prevailing hours
20 of labor applicable to a contract or subcontract may not be changed during the time
21 that the contract or subcontract is in force. For the information of the employes
22 working on the project, the prevailing wage rates and prevailing hours of labor
23 determined by the department and the provisions of subs. (2) and (7) shall be kept
24 posted by the department of transportation in at least one conspicuous and easily
25 accessible place on the site of the project.

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

2 103.50 (7) (a) Except as provided in ~~par. pars. (b), (d) and (f)~~, any contractor,
3 subcontractor or agent thereof who violates this section may be fined not less than
4 \$50 ~~nor~~ more than \$200 or imprisoned for not more than ~~18~~ 6 months or both. Each
5 day that any such violation continues shall be ~~deemed~~ considered a separate offense.

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

7 103.50 (7) (b) Whoever induces any individual who seeks to be or is employed
8 on any project that is subject to this section to give up ~~or forego~~, waive or return any
9 part of the wages to which ~~he or she~~ the individual is entitled under the contract
10 governing such project, or who reduces the hourly basic rate of pay normally paid to
11 an employe for work on a project that is not subject to this section during a week in
12 which the employe works both on a project that is subject to this section and on a
13 project that is not subject to this section, by threat not to employ, by threat of
14 dismissal from such employment or by any other means is guilty of an offense under
15 s. 946.15 (1).

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

17 103.50 (7) (c) Any person employed on a project ~~under a contract~~ that is subject
18 to this section who knowingly permits the a contractor ~~or~~, subcontractor or agent
19 thereof to pay him or her less than the prevailing wage rate set forth in the contract,
20 ~~or governing such project~~, who gives up, waives or returns any part of the
21 compensation to which he or she is entitled under the contract, or who gives up,
22 waives or returns any part of the compensation to which he or she is normally
23 entitled for work on a project that is not subject to this section during a week in which
24 the person works both on a project that is subject to this section and on a project that
25 is not subject to this section, is guilty of an offense under s. 946.15 (2).

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

2 103.50 (7) (d) Whoever induces any individual who seeks to be or is employed
3 on any project that is subject to this section to permit any part of the wages to which
4 the individual is entitled under the contract governing such project to be deducted
5 from the individual's pay is guilty of an offense under s. 946.15 (3), unless the
6 deduction would be permitted under 29 CFR 3.5 or 3.6 from an individual who is
7 working on a project that is subject to 40 USC 276c.

8 (e) Any person employed on a project that is subject to this section who
9 knowingly permits any part of the wages to which he or she is entitled under the
10 contract governing such project to be deducted from his or her pay is guilty of an
11 offense under s. 946.15 (4), unless the deduction would be permitted under 29 CFR
12 3.5 or 3.6 from an individual who is working on a project that is subject to 40 USC
13 276c.

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

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

18 103.50 (8) ENFORCEMENT AND PROSECUTION. The department of transportation
19 shall require adherence to subs. (2) and (6). The department of transportation may
20 demand and examine, and it shall be the duty of every contractor ~~and~~, subcontractor
21 and agent thereof shall to keep and furnish to the department of transportation,
22 copies of payrolls and ~~it may examine all~~ other records and information relating to
23 ~~hours of work and the wages paid laborers and mechanics on the~~ to persons described
24 in sub. (2m) for work to which this section is applicable applies. Upon request of the
25 department of transportation or upon complaint of alleged violation, the district

1 attorney of the county in which the work is located shall make such investigation as
2 necessary and prosecute violations in a court of competent jurisdiction. Section
3 111.322 (2m) applies to discharge and other discriminatory acts arising in connection
4 with any proceeding under this section.

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

6 227.01 (13) (t) Ascertains and determines ~~prevailing hours of labor, wage rates~~
7 ~~and truck rental rates under s. 103.50 and prevailing wage rates and prevailing~~
8 ~~hours of labor under s. ss. 66.293, 103.49 and 103.50, except that any action or~~
9 ~~inaction which ascertains and determines prevailing hours of labor, wage rates and~~
10 ~~truck rental rates prevailing hours of labor under ss. 66.293, 103.49 and 103.50 is~~
11 subject to judicial review under s. 227.40.

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

13 946.15 (1) Any employer, or any agent or employe of an employer, who induces
14 any person who seeks to be or is employed pursuant to a public contract as defined
15 in s. 66.29 (1) (c) or who seeks to be or is employed on a project on which a prevailing
16 wage rate determination has been established issued by the department of industry,
17 labor and human relations under s. 66.293 (3), 103.49 (3) or 103.50 (3) or by a local
18 governmental unit, as defined in s. 66.293 (1) (d), under s. 66.293 (6) to give up, waive
19 or return any part of the compensation to which that person is entitled under his or
20 her contract of employment or under the prevailing wage rate determination ~~made~~
21 issued by the department or local governmental unit, or who reduces the hourly basic
22 rate of pay normally paid to an employe for work on a project on which a prevailing
23 wage rate determination has not been issued under s. 66.293 (3) or (6), 103.49 (3) or
24 103.50 (3) during a week in which the employe works both on a project on which a

1 prevailing wage rate determination has been issued and on a project on which a
2 prevailing wage rate determination has not been issued, is guilty of a Class E felony.

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

5 946.15 (1) Any employer, or any agent or employe of an employer, who induces
6 any person who seeks to be or is employed pursuant to a public contract as defined
7 in s. 66.29 (1) (c) or who seeks to be or is employed on a project on which a prevailing
8 wage rate determination has been issued by the department of industry, labor and
9 job development under s. 66.293 (3), 103.49 (3) or 103.50 (3) or by a local
10 governmental unit, as defined in s. 66.293 (1) (d), under s. 66.293 (6) to give up, waive
11 or return any part of the compensation to which that person is entitled under his or
12 her contract of employment or under the prevailing wage rate determination issued
13 by the department or local governmental unit, or who reduces the hourly basic rate
14 of pay normally paid to an employe for work on a project on which a prevailing wage
15 rate determination has not been issued under s. 66.293 (3) or (6), 103.49 (3) or 103.50
16 (3) during a week in which the employe works both on a project on which a prevailing
17 wage rate determination has been issued and on a project on which a prevailing wage
18 rate determination has not been issued, is guilty of a Class E felony.

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

20 946.15 (2) Any person employed pursuant to a public contract as defined in s.
21 66.29 (1) (c) or employed on a project on which a prevailing wage rate determination
22 has been established issued by the department of industry, labor and human
23 relations under s. 66.293 (3), 103.49 (3) or 103.50 (3) or by a local governmental unit,
24 as defined in s. 66.293 (1) (d), under s. 66.293 (6) who gives up, waives or returns to
25 the employer or agent of the employer any part of the compensation to which the

1 employe is entitled under his or her contract of employment or under the prevailing
2 wage determination made issued by the department or local governmental unit, or
3 who gives up any part of the compensation to which he or she is normally entitled
4 for work on a project on which a prevailing wage rate determination has not been
5 issued under s. 66.293 (3) or (6), 103.49 (3) or 103.50 (3) during a week in which the
6 person works part-time on a project on which a prevailing wage rate determination
7 has been issued and part-time on a project on which a prevailing wage rate
8 determination has not been issued, is guilty of a Class C misdemeanor.

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

11 946.15 (2) Any person employed pursuant to a public contract as defined in s.
12 66.29 (1) (c) or employed on a project on which a prevailing wage rate determination
13 has been issued by the department of industry, labor and job development under s.
14 66.293 (3), 103.49 (3) or 103.50 (3) or by a local governmental unit, as defined in s.
15 66.293 (1) (d), under s. 66.293 (6) who gives up, waives or returns to the employer or
16 agent of the employer any part of the compensation to which the employe is entitled
17 under his or her contract of employment or under the prevailing wage determination
18 issued by the department or local governmental unit, or who gives up any part of the
19 compensation to which he or she is normally entitled for work on a project on which
20 a prevailing wage rate determination has not been issued under s. 66.293 (3) or (6),
21 103.49 (3) or 103.50 (3) during a week in which the person works part-time on a
22 project on which a prevailing wage rate determination has been issued and
23 part-time on a project on which a prevailing wage rate determination has not been
24 issued, is guilty of a Class C misdemeanor.

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

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

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

13 946.15 (3) Any employer or labor organization, or any agent or employe of an
14 employer or labor organization, who induces any person who seeks to be or is
15 employed on a project on which a prevailing wage rate determination has been issued
16 by the department of industry, labor and ~~human relations~~ job development under s.
17 66.293 (3), 103.49 (3) or 103.50 (3) or by a local governmental unit, as defined in s.
18 66.293 (1) (d), under s. 66.293 (6) to permit any part of the wages to which that person
19 is entitled under the prevailing wage rate determination issued by the department
20 or local governmental unit to be deducted from the person's pay is guilty of a Class
21 E felony, unless the deduction would be permitted under 29 CFR 3.5 or 3.6 from a
22 person who is working on a project that is subject to 40 USC 276c.

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

24 946.15 (4) Any person employed on a project on which a prevailing wage rate
25 determination has been issued by the department of industry, labor and human

1 relations under s. 66.293 (3), 103.49 (3) or 103.50 (3) or by a local governmental unit,
2 as defined in s. 66.293 (1) (d), under s. 66.293 (6) who permits any part of the wages
3 to which that person is entitled under the prevailing wage rate determination issued
4 by the department or local governmental unit to be deducted from his or her pay is
5 guilty of a Class C misdemeanor, unless the deduction would be permitted under 29
6 CFR 3.5 or 3.6 from a person who is working on a project that is subject to 40 USC
7 276c.

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

10 946.15 (4) Any person employed on a project on which a prevailing wage rate
11 determination has been issued by the department of industry, labor and ~~human~~
12 relations job development under s. 66.293 (3), 103.49 (3) or 103.50 (3) or by a local
13 governmental unit, as defined in s. 66.293 (1) (d), under s. 66.293 (6) who permits any
14 part of the wages to which that person is entitled under the prevailing wage rate
15 determination issued by the department or local governmental unit to be deducted
16 from his or her pay is guilty of a Class C misdemeanor, unless the deduction would
17 be permitted under 29 CFR 3.5 or 3.6 from a person who is working on a project that
18 is subject to 40 USC 276c.

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

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

23 (2) Except as provided in subsection (5), the repeal and recreation of sections
24 66.293 (1) (b) and (h) and (10) (b) and (d), 101.02 (13) (a), 103.49 (5) (b), 103.50 (4),
25 (5) and (6) and 946.15 (1) and (2) of the statutes and the amendment of sections

1 103.005 (12) (a) and 946.15 (3) and (4) of the statutes first apply to work performed
2 on the effective date of this subsection.

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

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

14 (5) The repeal and recreation of sections 66.293 (1) (b) and (h) and (10) (b) and
15 (d), 101.02 (13) (a), 103.49 (5) (b), 103.50 (4), (5) and (6) and 946.15 (1) and (2) of the
16 statutes and the amendment of sections 103.005 (12) (a) and 946.15 (3) and (4) of the
17 statutes first apply to an employe covered by a collective bargaining agreement that
18 is in effect on the effective date of this subsection that contains provisions that are
19 inconsistent with this act on the day after the collective bargaining agreement
20 expires or on the day that the collective bargaining agreement is modified, extended
21 or renewed.

22 (6) The treatment of sections 66.293 (1) (a), (f) and (g), (3) (intro.), (ar), (av),
23 (br) and (d) and (11) (b) 6., 103.49 (1) (a), (c) and (d) and (6m) (f) and 103.50 (1) (a),
24 (c) and (d) and (4m) of the statutes, the renumbering and amendment of section
25 103.49 (3) of the statutes and the creation of section 103.49 (3) (am), (ar), (b) and (c)

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

6 **SECTION 9431. Effective dates; industry, labor and human relations.**

7 This act takes effect on the day after publication, except as follows:

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

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

19 (END)