



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-2637/P5
MED:cjs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT to repeal** 66.0903 (1) (a), (am), (b), (cm), (dr), (em), (hm) and (im), 66.0903
2 (1m) (a) 1. to 3., 66.0903 (2) to (12), 103.49 (title), 103.49 (1) (a), (bg) and (d),
3 103.49 (3), (4r) and (5), 103.49 (6m) (f), 103.49 (7), 103.50 (title) and (1), 103.50
4 (3) to (5), 103.50 (7) (f), 104.001 (3) (a), 227.01 (13) (t), 229.682 (2) and 229.8275;
5 **to renumber** 103.49 (1) (intro.), (am), (b), (bj), (br), (c), (em), (f), (fm) and (g),
6 (1m) and (3g), 103.49 (6m) (title) and 103.49 (6m) (b) to (e); **to renumber and**
7 **amend** 66.0903 (1m) (a) (intro.), 103.49 (2), 103.49 (2m), 103.49 (6m) (ag),
8 103.49 (6m) (am), 103.50 (2), 103.50 (2g), 103.50 (2m), 103.50 (6), 103.50 (7)
9 (title) and (a) to (e) and 103.50 (8); **to consolidate, renumber and amend**
10 104.001 (3) (intro.) and (b); **to amend** 19.36 (12), 66.0129 (5), 66.0903 (1) (c),
11 66.0903 (1) (f), 66.0903 (1) (j), 66.0903 (1m) (b), 84.41 (3), 103.005 (12) (a),
12 103.503 (1) (a), 103.503 (1) (c), 103.503 (1) (e), 103.503 (1) (g), 103.503 (2),
13 103.503 (3) (a) 2., 106.04 (1) (d), 109.09 (1), 111.322 (2m) (a), 111.322 (2m) (b),
14 111.322 (2m) (c), 946.15 (1), 946.15 (2), 946.15 (3), 946.15 (4) and 978.05 (6) (a);
15 **to repeal and recreate** 66.0903 (title) and 66.0903 (1) (g); and **to create**

1 16.856 and 84.062 of the statutes; **relating to:** elimination of the requirement
2 that laborers, workers, mechanics, and truck drivers employed on the site of a
3 local project of public works be paid the prevailing wage, the enforcement and
4 administration of the prevailing wage laws, the calculation of the prevailing
5 wage rate, persons covered under the prevailing wage law, providing an
6 exemption from emergency rule procedures, and granting rule-making
7 authority.

Analysis by the Legislative Reference Bureau

This bill: 1) repeals the prevailing wage law that applies to local projects of public works; 2) requires the use of federally determined prevailing wage rates on state projects of public works, instead of rates determined by the Department of Workforce Development (DWD); 3) eliminates DWD’s existing role in enforcing and administering the prevailing wage law and transfers that role to the Department of Administration (DOA); 4) eliminates various statutory provisions with respect to the prevailing wage law for projects other than state highway projects and provides DOA with rule-making authority to enforce and administer the law; and 5) excludes certain persons from coverage under the prevailing wage law.

Under the current prevailing wage law, laborers, workers, mechanics, and truck drivers employed on the site of certain state and local projects of public works (generally single-trade projects whose estimated cost of completion is \$48,000 or more and multiple-trade projects whose estimated cost of completion is \$100,000 or more) 1) must be paid at the rate paid for a majority of the hours worked in the person’s trade or occupation in the area in which the project is located, as determined by DWD; and 2) may not be required or permitted to work a greater number of hours per day and per week than the prevailing hours of labor, which is no more than 10 hours per day and 40 hours per week, unless they are paid 1.5 times their basic rate of pay (commonly referred to as overtime pay) for all hours worked in excess of the prevailing hours of labor. Also under current law, no local government may enact or administer a prevailing wage law ordinance or any similar ordinance.

This bill eliminates the prevailing wage law with respect to projects of public works undertaken by local governmental units, but retains the prohibition against local governmental units enacting or administering their own prevailing wage laws or similar ordinances.

Under current law, the prevailing wage rate is defined as the hourly basic rate of pay, plus the hourly contribution for bona fide economic benefits, paid for a majority of the hours worked in a trade or occupation in the area in which the project is located, except that, if there is no rate at which a majority of those hours is paid, “prevailing wage rate” means the average hourly basic rate of pay, plus the average

hourly contribution for bona fide economic benefits, paid for the highest-paid 51 percent of hours worked in a trade or occupation in the area. Current law requires DWD to conduct investigations and hold public hearings as necessary to define the trades or occupations that are commonly employed on projects that are subject to the prevailing wage law and to inform itself as to the prevailing wage rates in all areas of the state for those trades or occupations, in order to determine the prevailing wage rate for each trade or occupation. Current law also contains other provisions regarding the calculation of prevailing wage rates by DWD, including provisions allowing for persons to request recalculations of the prevailing wage rates.

The bill repeals all provisions directing DWD to determine prevailing wage rates and redefines “prevailing wage rate” to instead mean the applicable prevailing wage rate as determined by the U.S. Department of Labor under the federal Davis–Bacon Act.

The bill also eliminates all of DWD’s other powers and responsibilities with respect to enforcing and administering the prevailing wage laws on state projects of public works, including references in the prevailing wage law contained in the wage claim enforcement law. The bill also eliminates a requirement that state agencies post prevailing wage rates and hours of labor on sites for projects other than state highway projects. The bill instead requires DOA to promulgate rules to enforce the prevailing wage laws on projects other than state highway projects. The bill retains enforcement and oversight of the prevailing wage law on state highway projects by the Department of Transportation.

Finally, under current law, a person employed to process, manufacture, pick up, or deliver materials or products from a commercial establishment that has a fixed place of business from which the establishment supplies processed or manufactured materials or products or from a facility that is not dedicated exclusively, or nearly so, to a project of public works that is subject to the prevailing wage law is not covered under the prevailing wage law unless: 1) the person is employed to go to the source of mineral aggregate such as sand, gravel, or stone and deliver that mineral aggregate to the site of a project of public works that is subject to the prevailing wage law by depositing the material directly in final place; or 2) the person is employed to go to the site of a project of public works that is subject to the prevailing wage law, pick up excavated material or spoil from the site of the project, and transport it away from the site of the project.

The bill instead provides that the persons described above are not covered.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 16.856 of the statutes is created to read:

1 **16.856 Prevailing wage.** (1) (f) “Prevailing wage rate” means the applicable
2 prevailing wage rate for an area, as determined by the U.S. department of labor
3 under 40 USC 3142.

4 **(7) RULES; ENFORCEMENT.** The department shall promulgate any rules the
5 department determines are necessary to implement and ensure compliance with this
6 section. Section 111.322 (2m) applies to discharge and other discriminatory acts
7 arising in connection with any proceeding under this section.

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

9 **19.36 (12) INFORMATION RELATING TO CERTAIN EMPLOYEES.** Unless access is
10 specifically authorized or required by statute, an authority ~~shall~~ may not provide
11 access to a record prepared or provided by an employer performing work on a project
12 to which s. ~~66.0903, 103.49, or 103.50~~ 16.856 or 84.062 applies, or on which the
13 employer is otherwise required to pay prevailing wages, if that record contains the
14 name or other personally identifiable information relating to an employee of that
15 employer, unless the employee authorizes the authority to provide access to that
16 information. In this subsection, “personally identifiable information” does not
17 include an employee’s work classification, hours of work, or wage or benefit payments
18 received for work on such a project.

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

20 **66.0129 (5) BIDS FOR CONSTRUCTION.** The nonprofit corporation shall let all
21 contracts exceeding \$1,000 for the construction, maintenance or repair of hospital
22 facilities to the lowest responsible bidder after advertising for bids by the publication
23 of a class 2 notice under ch. 985. ~~Sections~~ Section 66.0901 and ~~66.0903~~ applies
24 to bids and contracts under this subsection.

25 **SECTION 4.** 66.0903 (title) of the statutes is repealed and recreated to read:

1 **66.0903** (title) **Prevailing wage.**

2 **SECTION 5.** 66.0903 (1) (a), (am), (b), (cm), (dr), (em), (hm) and (im) of the
3 statutes are repealed.

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

5 66.0903 (1) (c) “Hourly basic rate of pay” has the meaning given in s. ~~103.49~~
6 16.856 (1) (b).

7 **SECTION 7.** 66.0903 (1) (f) of the statutes is amended to read:

8 66.0903 (1) (f) “Prevailing hours of labor” has the meaning given in s. ~~103.49~~
9 16.856 (1) (e) (e).

10 **SECTION 8.** 66.0903 (1) (g) of the statutes is repealed and recreated to read:

11 66.0903 (1) (g) “Prevailing wage rate” includes the meanings given under s.
12 66.0903 (1) (g), 2013 stats., and s. 16.856 (1) (f).

13 **SECTION 9.** 66.0903 (1) (j) of the statutes is amended to read:

14 66.0903 (1) (j) “Truck driver” has the meaning given in s. ~~103.49~~ 16.856 (1) (g)
15 (j).

16 **SECTION 10.** 66.0903 (1m) (a) (intro.) of the statutes is renumbered 66.0903 (1)
17 (h) and amended to read:

18 66.0903 (1) (h) ~~In this subsection, “publicly~~ Publicly funded private
19 construction project” means a construction project in which the developer, investor,
20 or owner of the project receives direct financial assistance from a local governmental
21 unit for the erection, construction, repair, remodeling, demolition, including any
22 alteration, painting, decorating, or grading, of a private facility, including land, a
23 building, or other infrastructure. “Publicly funded private construction project” does
24 not include a project of public works ~~or a housing project involving the erection,~~
25 ~~construction, repair, remodeling, or demolition of any of the following:.~~

1 **SECTION 11.** 66.0903 (1m) (a) 1. to 3. of the statutes are repealed.

2 **SECTION 12.** 66.0903 (1m) (b) of the statutes is amended to read:

3 66.0903 (**1m**) (b) The legislature finds that the enactment of ordinances or
4 other enactments by local governmental units requiring laborers, workers,
5 mechanics, and truck drivers employed on projects of public works or on publicly
6 funded private construction projects to be paid the prevailing wage rate and to be
7 paid at least 1.5 times their hourly basic rate of pay for hours worked in excess of the
8 prevailing hours of labor would be logically inconsistent with, would defeat the
9 purpose of, and would go against the ~~spirit of this section and the repeal~~ repeals of
10 s. 66.0904, 2009 stats, and s. 66.0903 (2) to (12), 2013 stats. Therefore, this section
11 shall be construed as an enactment of statewide concern for the ~~purpose of providing~~
12 ~~uniform prevailing wage rate and prevailing hours of labor requirements throughout~~
13 ~~the state~~ purposes of facilitating broader participation with respect to bidding on
14 projects of public works, ensuring that wages accurately reflect market conditions,
15 providing local governments with the flexibility to reduce costs on capital projects,
16 and reducing spending at all levels of government in this state.

17 **SECTION 13.** 66.0903 (2) to (12) of the statutes are repealed.

18 **SECTION 14.** 84.062 of the statutes is created to read:

19 **84.062 Prevailing wage. (1) DEFINITIONS.** In this section:

20 (a) “Hourly basic rate of pay” has the meaning given in s. 16.856 (1) (b).

21 (b) “Prevailing hours of labor” has the meaning given in s. 16.856 (1) (e).

22 (c) “Prevailing wage rate” has the meaning given in s. 16.856 (1) (f)

23 (d) “Truck driver” has the meaning given in s. 16.856 (1) (j).

24 **SECTION 15.** 84.41 (3) of the statutes is amended to read:

1 84.41 (3) EMPLOYMENT REGULATIONS. Employment regulations set forth in s.
2 ~~103.50~~ 84.062 pertaining to wages and hours shall apply to all projects constructed
3 under s. 84.40 in the same manner as such laws apply to projects on other state
4 highways. Where applicable, the federal wages and hours law known as the
5 Davis–Bacon act shall apply.

6 **SECTION 16.** 103.005 (12) (a) of the statutes is amended to read:

7 103.005 (12) (a) If any employer, employee, owner, or other person violates chs.
8 103 to 106, or fails or refuses to perform any duty required under chs. 103 to 106,
9 within the time prescribed by the department, for which no penalty has been
10 specifically provided, or fails, neglects or refuses to obey any lawful order given or
11 made by the department or any judgment or decree made by any court in connection
12 with chs. 103 to 106, for each such violation, failure or refusal, the employer,
13 employee, owner or other person shall forfeit not less than \$10 nor more than \$100
14 for each offense. ~~This paragraph does not apply to any person who fails to provide~~
15 ~~any information to the department to assist the department in determining~~
16 ~~prevailing wage rates or prevailing hours of labor under s. 103.49 (3) (a) or (am) or~~
17 ~~103.50 (3) or (4).~~

18 **SECTION 17.** 103.49 (title) of the statutes is repealed.

19 **SECTION 18.** 103.49 (1) (intro.), (am), (b), (bj), (br), (c), (em), (f), (fm) and (g), (1m)
20 and (3g) of the statutes are renumbered 16.856 (1) (intro.), (a), (b), (c), (d), (e), (g), (h),
21 (i) and (j), (1m) and (3g).

22 **SECTION 19.** 103.49 (1) (a), (bg) and (d) of the statutes are repealed.

23 **SECTION 20.** 103.49 (2) of the statutes is renumbered 16.856 (2) and amended
24 to read:

1 16.856 (2) PREVAILING WAGE RATES AND HOURS OF LABOR. Any contract made for
2 the erection, construction, remodeling, repairing, or demolition of any project of
3 public works to which the state or any state agency is a party shall contain a
4 stipulation that no person performing the work described in sub. (2m) may be
5 permitted to work a greater number of hours per day or per week than the prevailing
6 hours of labor, except that any such person may be permitted or required to work
7 more than such prevailing hours of labor per day and per week if he or she is paid
8 for all hours worked in excess of the prevailing hours of labor at a rate of at least 1.5
9 times his or her hourly basic rate of pay; nor may he or she be paid less than the
10 prevailing wage rate ~~determined under sub. (3)~~ in the same or most similar trade or
11 occupation in the area in which the project of public works is situated. A reference
12 to the prevailing wage rates ~~determined under sub. (3)~~ and the prevailing hours of
13 labor shall be published in the notice issued for the purpose of securing bids for the
14 project. If any contract or subcontract for a project of public works that is subject to
15 this section is entered into, the prevailing wage rates ~~determined under sub. (3)~~ and
16 the prevailing hours of labor shall be physically incorporated into and made a part
17 of the contract or subcontract, except that for a minor subcontract, as determined by
18 the department, the department shall prescribe by rule the method of notifying the
19 minor subcontractor of the prevailing wage rates and prevailing hours of labor
20 applicable to the minor subcontract. The prevailing wage rates and prevailing hours
21 of labor applicable to a contract or subcontract may not be changed during the time
22 that the contract or subcontract is in force.

23 **SECTION 21.** 103.49 (2m) of the statutes is renumbered 16.856 (2m), and 16.856
24 (2m) (a) (intro.) and (b), as renumbered, are amended to read:

1 16.856 **(2m)** (a) (intro.) Subject to par. (b), all of the following employees shall
2 be paid the prevailing wage rate ~~determined under sub. (3)~~ and may not be permitted
3 to work a greater number of hours per day or per week than the prevailing hours of
4 labor, unless they are paid for all hours worked in excess of the prevailing hours of
5 labor at a rate of at least 1.5 times their hourly basic rate of pay:

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

15 1. ~~The A laborer, worker, mechanic, or truck driver who is employed to go to the~~
16 ~~source of mineral aggregate such as sand, gravel, or stone and deliver that mineral~~
17 ~~aggregate to the site of a project of public works that is subject to this section ~~by~~~~
18 ~~depositing the material directly in final place, from the transporting vehicle or~~
19 ~~through spreaders from the transporting vehicle.~~

20 2. ~~The A laborer, worker, mechanic, or truck driver who is employed to go to the~~
21 ~~site of a project that is subject to this section, pick up excavated material or spoil from~~
22 ~~the site of the project of public works, and transport that excavated material or spoil~~
23 ~~away from the site of the project.~~

24 **SECTION 22.** 103.49 (3), (4r) and (5) of the statutes are repealed.

1 **SECTION 23.** 103.49 (6m) (title) of the statutes is renumbered 16.856 (6m)
2 (title).

3 **SECTION 24.** 103.49 (6m) (ag) of the statutes is renumbered 16.856 (6m) (ag),
4 and 16.856 (6m) (ag) 1., 2. and 3., as renumbered, are amended to read:

5 16.856 **(6m)** (ag) 1. Any contractor, subcontractor, or contractor's or
6 subcontractor's agent who fails to pay the prevailing wage rate ~~determined by the~~
7 ~~department under sub. (3)~~ or who pays less than 1.5 times the hourly basic rate of
8 pay for all hours worked in excess of the prevailing hours of labor is liable to any
9 affected employee in the amount of his or her unpaid wages or his or her unpaid
10 overtime compensation and in an additional amount as liquidated damages as
11 provided in subd. 2. or 3., whichever is applicable.

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

21 3. In addition to or in lieu of recovering the liability specified in subd. 1. as
22 provided in subd. 2., any employee for and in behalf of that employee and other
23 employees similarly situated may commence an action to recover that liability in any
24 court of competent jurisdiction. If the court finds that a contractor, subcontractor,
25 or contractor's or subcontractor's agent has failed to pay the prevailing wage rate

1 ~~determined by the department under sub. (3)~~ or has paid less than 1.5 times the
2 hourly basic rate of pay for all hours worked in excess of the prevailing hours of labor,
3 the court shall order the contractor, subcontractor, or agent to pay to any affected
4 employee the amount of his or her unpaid wages or his or her unpaid overtime
5 compensation and an additional amount equal to 100 percent of the amount of those
6 unpaid wages or that unpaid overtime compensation as liquidated damages.

7 **SECTION 25.** 103.49 (6m) (am) of the statutes is renumbered 16.856 (6m) (am)
8 and amended to read:

9 16.856 **(6m)** (am) Except as provided in pars. (b), and (d) ~~and (f)~~, any contractor,
10 subcontractor or contractor's or subcontractor's agent who violates this section may
11 be fined not more than \$200 or imprisoned for not more than 6 months or both. Each
12 day that a violation continues is a separate offense.

13 **SECTION 26.** 103.49 (6m) (b) to (e) of the statutes are renumbered 16.856 (6m)
14 (b) to (e).

15 **SECTION 27.** 103.49 (6m) (f) of the statutes is repealed.

16 **SECTION 28.** 103.49 (7) of the statutes is repealed.

17 **SECTION 29.** 103.50 (title) and (1) of the statutes are repealed.

18 **SECTION 30.** 103.50 (2) of the statutes is renumbered 84.062 (2) and amended
19 to read:

20 84.062 **(2)** PREVAILING WAGE RATES AND HOURS OF LABOR. No person performing
21 the work described in sub. (2m) in the employ of a contractor, subcontractor, agent
22 or other person performing any work on a project under a contract based on bids as
23 provided in s. 84.06 (2) to which the state is a party for the construction or
24 improvement of any highway may be permitted to work a greater number of hours
25 per day or per week than the prevailing hours of labor; nor may he or she be paid a

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

6 **SECTION 31.** 103.50 (2g) of the statutes is renumbered 84.062 (2g) and amended
7 to read:

8 84.062 (2g) NONAPPLICABILITY. This section does not apply to a single-trade
9 project of public works, as defined in s. ~~103.49~~ 16.856 (1) ~~(em)~~ (g), for which the
10 estimated project cost of completion is less than \$48,000 or a multiple-trade project
11 of public works, as defined in s. ~~103.49~~ 16.856 (1) ~~(br)~~ (d), for which the estimated
12 project cost of completion is less than \$100,000.

13 **SECTION 32.** 103.50 (2m) of the statutes is renumbered 84.062 (2m), and 84.062
14 (2m) (a) (intro.) and (b), as renumbered, are amended to read:

15 84.062 (2m) (a) (intro.) Subject to par. (b), all of the following employees shall
16 be paid the prevailing wage rate ~~determined under sub. (3)~~ and may not be permitted
17 to work a greater number of hours per day or per week than the prevailing hours of
18 labor, unless they are paid for all hours worked in excess of the prevailing hours of
19 labor at a rate of at least 1.5 times their hourly basic rate of pay:

20 (b) A laborer, worker, mechanic, or truck driver who is employed to process,
21 manufacture, pick up, or deliver materials or products from a commercial
22 establishment that has a fixed place of business from which the establishment
23 supplies processed or manufactured materials or products or from a facility that is
24 not dedicated exclusively, or nearly so, to a project that is subject to this section,
25 including any of the following, is not entitled to receive the prevailing wage rate

1 ~~determined under sub. (3) or to receive at least 1.5 times his or her hourly basic rate~~
2 ~~of pay for all hours worked in excess of the prevailing hours of labor unless any of the~~
3 ~~following applies:~~

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

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

13 **SECTION 33.** 103.50 (3) to (5) of the statutes are repealed.

14 **SECTION 34.** 103.50 (6) of the statutes is renumbered 84.062 (6) and amended
15 to read:

16 84.062 (6) ~~CONTENTS OF CONTRACTS; NOTIFICATION.~~ A reference to the prevailing
17 wage rates ~~determined under sub. (3) and the prevailing hours of labor 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 determined under sub. (3) and the prevailing hours of labor~~
21 ~~shall be physically incorporated into and made a part of the contract or subcontract,~~
22 ~~except that for a minor subcontract, as determined by the department of workforce~~
23 ~~development, that department the department of administration shall prescribe by~~
24 ~~rule under s. 16.856 (2) the method of notifying the minor subcontractor of the~~
25 ~~prevailing wage rates and prevailing hours of labor applicable to the minor~~

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

8 **SECTION 35.** 103.50 (7) (title) and (a) to (e) of the statutes are renumbered
9 84.062 (7) (title) and (a) to (e), and 84.062 (7) (a), as renumbered, is amended to read:

10 84.062 (7) (a) Except as provided in pars. (b), and (d) ~~and~~ (f), any contractor,
11 subcontractor, or contractor's or subcontractor's agent who violates this section may
12 be fined not more than \$200 or imprisoned for not more than 6 months or both. Each
13 day that a violation continues is a separate offense.

14 **SECTION 36.** 103.50 (7) (f) of the statutes is repealed.

15 **SECTION 37.** 103.50 (8) of the statutes is renumbered 84.062 (8) and amended
16 to read:

17 84.062 (8) ENFORCEMENT AND PROSECUTION. The department ~~of transportation~~
18 shall require adherence to subs. (2), (2m), and (6). The department ~~of transportation~~
19 may demand and examine, and every contractor, subcontractor, and contractor's or
20 subcontractor's agent shall keep and furnish upon request by the department of
21 ~~transportation~~, copies of payrolls and other records and information relating to
22 compliance with this section. Upon request of the department ~~of transportation~~ or
23 upon complaint of alleged violation, the district attorney of the county in which the
24 work is located shall investigate as necessary and prosecute violations in a court of

1 competent jurisdiction. Section 111.322 (2m) applies to discharge and other
2 discriminatory acts arising in connection with any proceeding under this section.

3 **SECTION 38.** 103.503 (1) (a) of the statutes is amended to read:

4 103.503 (1) (a) “Accident” means an incident caused, contributed to, or
5 otherwise involving an employee that resulted or could have resulted in death,
6 personal injury, or property damage and that occurred while the employee was
7 performing the work described in s. 66.0903 (4), 2013 stats., or ~~103.49 s. 16.856~~ (2m)
8 on a project of public works or while the employee was performing work on a public
9 utility project.

10 **SECTION 39.** 103.503 (1) (c) of the statutes is amended to read:

11 103.503 (1) (c) “Contracting agency” means a local governmental unit, as
12 defined in s. 66.0903 (1) (d), or a state agency, as defined in s. ~~103.49~~ 16.856 (1) (~~f~~)
13 (h), that has contracted for the performance of work on a project of public works or
14 a public utility that has contracted for the performance of work on a public utility
15 project.

16 **SECTION 40.** 103.503 (1) (e) of the statutes is amended to read:

17 103.503 (1) (e) “Employee” means a laborer, worker, mechanic, or truck driver
18 who performs the work described in s. 66.0903 (4), 2013 stats., or ~~103.49 s. 16.856~~
19 (2m) on a project of public works or on a public utility project.

20 **SECTION 41.** 103.503 (1) (g) of the statutes is amended to read:

21 103.503 (1) (g) “Project of public works” means a project of public works that
22 is subject to s. 16.856 or that would be subject to s. 66.0903 or ~~103.49, 2013 stats.~~, if
23 the project were erected, constructed, repaired, remodeled, or demolished prior to the
24 effective date of this paragraph [LRB inserts date].

25 **SECTION 42.** 103.503 (2) of the statutes is amended to read:

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

9 **SECTION 43.** 103.503 (3) (a) 2. of the statutes is amended to read:

10 103.503 (3) (a) 2. A requirement that employees performing the work described
11 in s. 66.0903 (4), 2013 stats., or ~~103.49 s. 16.856~~ (2m) on a project of public works or
12 performing work on a public utility project submit to random, reasonable suspicion,
13 and post-accident drug and alcohol testing and to drug and alcohol testing before
14 commencing work on the project, except that testing of an employee before
15 commencing work on a project is not required if the employee has been participating
16 in a random testing program during the 90 days preceding the date on which the
17 employee commenced work on the project.

18 **SECTION 44.** 104.001 (3) (intro.) and (b) of the statutes are consolidated,
19 renumbered 104.001 (3) and amended to read:

20 104.001 (3) This section does not affect any of the following: ~~(b)~~ An an
21 ordinance that, subject to s. 66.0903, requires an employee of a county, city, village,
22 or town, an employee who performs work under a contract for the provision of
23 services to a county, city, village, or town, or an employee who performs work that is
24 funded by financial assistance from a county, city, village, or town, to be paid at a
25 minimum wage rate specified in the ordinance.

1 **SECTION 45.** 104.001 (3) (a) of the statutes is repealed.

2 **SECTION 46.** 106.04 (1) (d) of the statutes is amended to read:

3 106.04 (1) (d) “Project” means a project of public works that is subject to s.
4 ~~103.49 or 103.50~~ 16.856 or 84.062 in which work is performed by employees employed
5 in trades that are apprenticeable under this subchapter.

6 **SECTION 47.** 109.09 (1) of the statutes is amended to read:

7 109.09 (1) The department shall investigate and attempt equitably to adjust
8 controversies between employers and employees as to alleged wage claims. The
9 department may receive and investigate any wage claim ~~which~~ that is filed with the
10 department, or received by the department under s. 109.10 (4), no later than 2 years
11 after the date the wages are due. The department may, after receiving a wage claim,
12 investigate any wages due from the employer against whom the claim is filed to any
13 employee during the period commencing 2 years before the date the claim is filed.
14 The department shall enforce this chapter and ss. ~~66.0903, 103.02, 103.49, 103.82,~~
15 and 104.12, and 229.8275. In pursuance of this duty, the department may sue the
16 employer on behalf of the employee to collect any wage claim or wage deficiency and
17 ss. 109.03 (6) and 109.11 (2) and (3) shall apply to such actions. Except for actions
18 under s. 109.10, the department may refer such an action to the district attorney of
19 the county in which the violation occurs for prosecution and collection and the
20 district attorney shall commence an action in the circuit court having appropriate
21 jurisdiction. Any number of wage claims or wage deficiencies against the same
22 employer may be joined in a single proceeding, but the court may order separate
23 trials or hearings. In actions that are referred to a district attorney under this
24 subsection, any taxable costs recovered by the district attorney shall be paid into the
25 general fund of the county in which the violation occurs and used by that county to

1 meet its financial responsibility under s. 978.13 (2) (b) for the operation of the office
2 of the district attorney who prosecuted the action.

3 **SECTION 48.** 111.322 (2m) (a) of the statutes is amended to read:

4 111.322 (2m) (a) The individual files a complaint or attempts to enforce any
5 right under s. 103.02, 103.10, 103.13, 103.28, 103.32, 103.34, 103.455, ~~103.50,~~
6 104.12, 109.03, 109.07, 109.075, 146.997, or 995.55, or ss. 101.58 to 101.599 or 103.64
7 to 103.82.

8 **SECTION 49.** 111.322 (2m) (b) of the statutes is amended to read:

9 111.322 (2m) (b) The individual testifies or assists in any action or proceeding
10 held under or to enforce any right under s. 103.02, 103.10, 103.13, 103.28, 103.32,
11 103.34, 103.455, ~~103.50,~~ 104.12, 109.03, 109.07, 109.075, 146.997, or 995.55, or ss.
12 101.58 to 101.599 or 103.64 to 103.82.

13 **SECTION 50.** 111.322 (2m) (c) of the statutes is amended to read:

14 111.322 (2m) (c) The individual files a complaint or attempts to enforce a right
15 under s. ~~66.0903, 103.49, or 229.8275~~ 16.856 or 84.062 or testifies or assists in any
16 action or proceeding under s. ~~66.0903, 103.49, or 229.8275~~ 16.856 or 84.062.

17 **SECTION 51.** 227.01 (13) (t) of the statutes is repealed.

18 **SECTION 52.** 229.682 (2) of the statutes is repealed.

19 **SECTION 53.** 229.8275 of the statutes is repealed.

20 **SECTION 54.** 946.15 (1) of the statutes is amended to read:

21 946.15 (1) Any employer, or any agent or employee of an employer, who induces
22 any person who seeks to be or is employed pursuant to a public contract, as defined
23 in s. 66.0901 (1) (c), or who seeks to be or is employed on a project ~~on which a~~
24 prevailing wage rate determination has been issued by the department of workforce
25 development under s. ~~66.0903 (3), 103.49 (3), 103.50 (3), or 229.8275 (3)~~ that is

1 subject to s. 16.856 or 84.062 to give up, waive, or return any part of the compensation
2 to which that person is entitled under his or her contract of employment or under the
3 ~~prevailing wage rate determination issued by the department~~ s. 16.856 or 84.062, or
4 who reduces the hourly basic rate of pay normally paid to an employee for work on
5 a project ~~on which a prevailing wage rate determination has not been issued under~~
6 ~~s. 66.0903 (3), 103.49 (3), 103.50 (3), or 229.8275 (3)~~ that is not subject to s. 16.856
7 or 84.062 during a week in which the employee works both on a project ~~on which a~~
8 ~~prevailing wage rate determination has been issued~~ that is subject to s. 16.856 or
9 84.062 and on a project ~~on which a prevailing wage rate determination has not been~~
10 ~~issued~~ that is not subject to s. 16.856 or 84.062, is guilty of a Class I felony.

11 **SECTION 55.** 946.15 (2) of the statutes is amended to read:

12 946.15 (2) Any person employed pursuant to a public contract, as defined in s.
13 66.0901 (1) (c), or employed on a project ~~on which a prevailing wage rate~~
14 ~~determination has been issued by the department of workforce development under~~
15 ~~s. 66.0903 (3), 103.49 (3), 103.50 (3), or 229.8275 (3)~~ that is subject to s. 16.856 or
16 84.062 who gives up, waives, or returns to the employer or agent of the employer any
17 part of the compensation to which the employee is entitled under his or her contract
18 of employment or under the ~~prevailing wage determination issued by the~~
19 ~~department~~ s. 16.856 or 84.062, or who gives up any part of the compensation to
20 which he or she is normally entitled for work on a project ~~on which a prevailing wage~~
21 ~~rate determination has not been issued under s. 66.0903 (3), 103.49 (3), 103.50 (3),~~
22 ~~or 229.8275 (3)~~ that is not subject to s. 16.856 or 84.062 during a week in which the
23 person works part-time on a project ~~on which a prevailing wage rate determination~~
24 ~~has been issued~~ that is subject to s. 16.856 or 84.062 and part-time on a project ~~on~~

1 ~~which a prevailing wage rate determination has not been issued~~ that is not subject
2 to s. 16.856 or 84.062, is guilty of a Class C misdemeanor.

3 **SECTION 56.** 946.15 (3) of the statutes is amended to read:

4 946.15 (3) Any employer or labor organization, or any agent or employee of an
5 employer or labor organization, who induces any person who seeks to be or is
6 employed on a project ~~on which a prevailing wage rate determination has been issued~~
7 ~~by the department of workforce development under s. 66.0903 (3), 103.49 (3), 103.50~~
8 ~~(3), or 229.8275 (3)~~ that is subject to s. 16.856 or 84.062 to permit any part of the
9 wages to which that person is entitled under ~~the prevailing wage rate determination~~
10 ~~issued by the department or local governmental unit~~ s. 16.856 or 84.062 to be
11 deducted from the person's pay is guilty of a Class I felony, unless the deduction
12 would be permitted under 29 CFR 3.5 or 3.6 from a person who is working on a project
13 that is subject to 40 USC 3142.

14 **SECTION 57.** 946.15 (4) of the statutes is amended to read:

15 946.15 (4) Any person employed on a project ~~on which a prevailing wage rate~~
16 ~~determination has been issued by the department of workforce development under~~
17 ~~s. 66.0903 (3), 103.49 (3), 103.50 (3), or 229.8275 (3)~~ that is subject to s. 16.856 or
18 84.062 who permits any part of the wages to which that person is entitled under ~~the~~
19 ~~prevailing wage rate determination issued by the department or local governmental~~
20 ~~unit~~ s. 16.856 or 84.062 to be deducted from his or her pay is guilty of a Class C
21 misdemeanor, unless the deduction would be permitted under 29 CFR 3.5 or 3.6 from
22 a person who is working on a project that is subject to 40 USC 3142.

23 **SECTION 58.** 978.05 (6) (a) of the statutes is amended to read:

24 978.05 (6) (a) Institute, commence or appear in all civil actions or special
25 proceedings under and perform the duties set forth for the district attorney under ch.

1 980 and ss. 17.14, 30.03 (2), 48.09 (5), 59.55 (1), 59.64 (1), 70.36, ~~103.50~~ 84.062 (8),
2 103.92 (4), 109.09, 343.305 (9) (a), 453.08, 806.05, 938.09, 938.18, 938.355 (6) (b) and
3 (6g) (a), 946.86, 946.87, 961.55 (5), 971.14 and 973.075 to 973.077, perform any duties
4 in connection with court proceedings in a court assigned to exercise jurisdiction
5 under chs. 48 and 938 as the judge may request and perform all appropriate duties
6 and appear if the district attorney is designated in specific statutes, including
7 matters within chs. 782, 976 and 979 and ss. 51.81 to 51.85. Nothing in this
8 paragraph limits the authority of the county board to designate, under s. 48.09 (5),
9 that the corporation counsel provide representation as specified in s. 48.09 (5) or to
10 designate, under s. 48.09 (6) or 938.09 (6), the district attorney as an appropriate
11 person to represent the interests of the public under s. 48.14 or 938.14.

12 **SECTION 59. Nonstatutory provisions.**

13 (1) Using the procedure under section 227.24 of the statutes, the department
14 of administration may promulgate rules under section 16.856 (7) of the statutes, as
15 created by this act, for the period before the effective date of any corresponding
16 permanent rules, but not to exceed the period authorized under section 227.24 (1) (c)
17 of the statutes, subject to extension under section 227.24 (2) of the statutes.
18 Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department
19 is not required to provide evidence that promulgating a rule under this subsection
20 as an emergency rule is necessary for the preservation of the public peace, health,
21 safety, or welfare and is not required to provide a finding of emergency for a rule
22 promulgated under this subsection.

23 **SECTION 60. Initial applicability.**

24 (1) This act first applies, with respect to a project of public works that is subject
25 to bidding, to a project for which the request for bids is issued on the effective date

1 of this subsection and, with respect to a project of public works that is not subject to
2 bidding, to a project the contract for which is entered into on the effective date of this
3 subsection.

4 (2) The treatment of section 109.09 (1) of the statutes first applies to a wage
5 claim filed on the effective date of this subsection.

6 (3) The treatment of sections 66.0903 (10) (d), 111.322 (2m) (c), and 229.8275
7 of the statutes first applies to acts of discrimination that occur on the effective date
8 of this subsection.

9 **SECTION 61. Effective date.**

10 (1) This act takes effect on the January 1 after publication.

11 (END)