



State of Wisconsin
2023 - 2024 LEGISLATURE

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**ASSEMBLY SUBSTITUTE AMENDMENT 2,
TO ASSEMBLY BILL 621**

February 22, 2024 - Offered by Representative NEUBAUER.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT** *to repeal* 16.75 (1p), 16.855 (1p), 66.0901 (1) (ae), 66.0901 (1) (am),
2 66.0901 (6m), 66.0901 (6s), 84.54, 86.51, 111.04 (3) and 947.20; *to consolidate,*
3 *renumber and amend* 111.04 (1) and (2); *to amend* 66.0129 (5), 66.0901 (6),
4 66.0903 (1) (c), 66.0903 (1) (f), 66.0903 (1) (j), 66.0903 (1m) (b), 103.005 (12) (a),
5 103.503 (1) (a), 103.503 (1) (e), 103.503 (2), 103.503 (3) (a) 2., 109.09 (1), 111.06
6 (1) (c), 111.06 (1) (e), 111.06 (1) (i), 111.322 (2m) (a), 111.322 (2m) (b) and 978.05
7 (6) (a); *to repeal and recreate* 66.0903 (1) (g) and 103.503 (1) (g); and *to create*
8 19.36 (12), 66.0903 (1) (a), (am), (b), (cm), (dr), (em), (hm) and (im), 66.0903 (2)
9 to (12), 84.41 (3), 103.49, 103.50, 104.001 (4), 106.04, 111.01, 111.322 (2m) (c),
10 227.01 (13) (t), 229.682 (2), 229.8275 and 946.15 of the statutes; **relating to:**
11 eliminating the right-to-work law, project labor agreements and public

1 contracts, prevailing wage, granting rule-making authority, and providing a
2 penalty.

Analysis by the Legislative Reference Bureau

Right-to-work repeal

The current right-to-work law prohibits a person from requiring, as a condition of obtaining or continuing employment, an individual to refrain or resign from membership in a labor organization, to become or remain a member of a labor organization, to pay dues or other charges to a labor organization, or to pay any other person an amount that is in place of dues or charges required of members of a labor organization. This bill repeals these prohibitions and the associated misdemeanor offense for violating the right-to-work law.

The bill explicitly provides that, when an all-union agreement is in effect, it is not an unfair labor practice to encourage or discourage membership in a labor organization or to deduct labor organization dues or assessments from an employee's earnings. The bill sets conditions under which an employer may enter into an all-union agreement. The bill also sets conditions for the continuation or termination of all-union agreements, including that, if the Wisconsin Employment Relations Commission determines there is reasonable ground to believe employees in an all-union agreement have changed their attitude about the agreement, WERC is required to conduct a referendum to determine whether the employees wish to continue the agreement. WERC is required to terminate an all-union agreement if it finds the union unreasonably refused to admit an employee into the union.

Project labor agreements

Under current law, the state and local units of government are prohibited from engaging in certain practices in letting bids for state procurement or public works contracts. Among these prohibitions, as established by 2017 Wisconsin Act 3, the state and local governments may not do any of the following in specifications for bids for the contracts: 1) require that a bidder enter into an agreement with a labor organization; 2) consider, when awarding a contract, whether a bidder has or has not entered into an agreement with a labor organization; or 3) require that a bidder enter into an agreement that requires that the bidder or bidder's employees become or remain members of a labor organization or pay any dues or fees to a labor organization. This bill repeals these bidding specification restrictions.

Prevailing wage

This bill requires that laborers, workers, mechanics, and truck drivers employed on the site of certain projects of public works be paid the prevailing wage and not be required or allowed to work a greater number of hours per day and per week than the prevailing hours of labor unless they are paid overtime for all hours worked in excess of the prevailing hours of labor. Projects subject to the bill include state and local projects of public works, including state highway projects, with exceptions including projects below certain cost thresholds, minor service or

maintenance work, and certain residential projects. Under the bill, “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. “Prevailing hours of labor” is defined as 10 hours per day and 40 hours per week, excluding weekends and holidays. The bill requires the Department of Workforce Development 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 of 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. The bill contains certain other provisions regarding the calculation of prevailing wage rates by DWD, including provisions allowing persons to request recalculations or reviews of the prevailing wage rates determined by DWD.

The bill requires contracts and notices for bids for projects subject to the bill to include and incorporate provisions ensuring compliance with the requirements. The bill also establishes a requirement that state agencies and local governments post prevailing wage rates and hours of labor in areas readily accessible to persons employed on the project or in sites regularly used for posting notices.

The bill makes a contractor that fails to pay the prevailing wage rate or overtime pay to an employee as required under the prevailing wage law liable to the affected employee for not only the amount of unpaid wages and overtime pay, but also for liquidated damages in an amount equal to 100 percent of the unpaid wages and overtime pay.

Finally, the bill includes, for both state and local projects of public works, provisions regarding coverage, compliance, enforcement, and penalties, including 1) requirements for affidavits to be filed by contractors affirming compliance with the prevailing wage law; 2) record retention requirements for contractors regarding wages paid to workers and provisions allowing for the inspection of those records by DWD; 3) liability and penalty provisions for certain violations, including criminal penalties; and 4) provisions prohibiting contracts from being awarded to persons who have failed to comply with the prevailing wage law.

Transportation projects

Under current law, for certain highway projects for which the Department of Transportation spends federal money, federal money must make up at least 70 percent of the funding for those projects. DOT is required to notify political subdivisions receiving aid for local projects whether the aid includes federal moneys and how those moneys must be spent. For certain projects that receive no federal money, DOT may not require political subdivisions to comply with any portion of DOT’s facilities development manual other than design standards. Any local project funded with state funds under the surface transportation program or the local bridge

program must be let through competitive bidding and by contract to the lowest responsible bidder. The bill repeals all of these requirements.

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

1 **SECTION 1.** 16.75 (1p) of the statutes is repealed.

2 **SECTION 2.** 16.855 (1p) of the statutes is repealed.

3 **SECTION 3.** 19.36 (12) of the statutes is created to read:

4 **19.36 (12) INFORMATION RELATING TO CERTAIN EMPLOYEES.** Unless access is
5 specifically authorized or required by statute, an authority may not provide access
6 to a record prepared or provided by an employer performing work on a project to
7 which s. 66.0903, 103.49, or 103.50 applies, or on which the employer is otherwise
8 required to pay prevailing wages, if that record contains the name or other personally
9 identifiable information relating to an employee of that employer, unless the
10 employee authorizes the authority to provide access to that information. In this
11 subsection, “personally identifiable information” does not include an employee’s
12 work classification, hours of work, or wage or benefit payments received for work on
13 such a project.

14 **SECTION 4.** 66.0129 (5) of the statutes is amended to read:

15 **66.0129 (5) BIDS FOR CONSTRUCTION.** The nonprofit corporation shall let all
16 contracts exceeding \$1,000 for the construction, maintenance or repair of hospital
17 facilities to the lowest responsible bidder after advertising for bids by the publication
18 of a class 2 notice under ch. 985. ~~Section~~ Sections 66.0901 applies and 66.0903 apply
19 to bids and contracts under this subsection.

20 **SECTION 5.** 66.0901 (1) (ae) of the statutes is repealed.

21 **SECTION 6.** 66.0901 (1) (am) of the statutes is repealed.

1 **SECTION 7.** 66.0901 (6) of the statutes is amended to read:

2 66.0901 **(6)** SEPARATION OF CONTRACTS; CLASSIFICATION OF CONTRACTORS. In public
3 contracts for the construction, repair, remodeling or improvement of a public
4 building or structure, other than highway structures and facilities, a municipality
5 may bid projects based on a single or multiple division of the work. Public contracts
6 shall be awarded according to the division of work selected for bidding. ~~Except as~~
7 ~~provided in sub. (6m), the~~ The municipality may set out in any public contract
8 reasonable and lawful conditions as to the hours of labor, wages, residence, character
9 and classification of workers to be employed by any contractor, classify contractors
10 as to their financial responsibility, competency and ability to perform work and set
11 up a classified list of contractors. The municipality may reject the bid of any person,
12 if the person has not been classified for the kind or amount of work in the bid.

13 **SECTION 8.** 66.0901 (6m) of the statutes is repealed.

14 **SECTION 9.** 66.0901 (6s) of the statutes is repealed.

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

17 66.0903 **(1)** (a) “Area” means the county in which a proposed project of public
18 works that is subject to this section is located or, if the department determines that
19 there is insufficient wage data in that county, “area” means those counties that are
20 contiguous to that county or, if the department determines that there is insufficient
21 wage data in those counties, “area” means those counties that are contiguous to those
22 counties or, if the department determines that there is insufficient wage data in those
23 counties, “area” means the entire state or, if the department is requested to review
24 a determination under sub. (3) (br), “area” means the city, village, or town in which
25 a proposed project of public works that is subject to this section is located.

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

2 (b) “Department” means the department of workforce development.

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

4 (dr) “Minor service or maintenance work” means a project of public works that
5 is limited to minor crack filling, chip or slurry sealing, or other minor pavement
6 patching, not including overlays, that has a projected life span of no longer than 5
7 years or that is performed for a town and is not funded under s. 86.31, regardless of
8 projected life span; the depositing of gravel on an existing gravel road applied solely
9 to maintain the road; road shoulder maintenance; cleaning of drainage or sewer
10 ditches or structures; or any other limited, minor work on public facilities or
11 equipment that is routinely performed to prevent breakdown or deterioration.

12 (em) “Multiple-trade project of public works” has the meaning given in s.
13 103.49 (1) (br).

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

16 (im) “Supply and installation contract” has the meaning given in s. 103.49 (1)
17 (fm).

18 **SECTION 11.** 66.0903 (1) (c) of the statutes is amended to read:

19 66.0903 (1) (c) “Hourly basic rate of pay” has the meaning given in s. ~~16.856~~
20 103.49 (1) (b), ~~2015 stats.~~

21 **SECTION 12.** 66.0903 (1) (f) of the statutes is amended to read:

22 66.0903 (1) (f) “Prevailing hours of labor” has the meaning given in s. ~~16.856~~
23 103.49 (1) (e), ~~2015 stats.~~ (c).

24 **SECTION 13.** 66.0903 (1) (g) of the statutes is repealed and recreated to read:

1 66.0903 (1) (g) “Prevailing wage rate” has the meaning given in s. 103.49 (1)
2 (d).

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

4 66.0903 (1) (j) “Truck driver” ~~includes an owner-operator of a truck~~ has the
5 meaning given in s. 103.49 (1) (g).

6 **SECTION 15.** 66.0903 (1m) (b) of the statutes is amended to read:

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

22 **SECTION 16.** 66.0903 (2) to (12) of the statutes are created to read:

23 66.0903 (2) APPLICABILITY. Subject to sub. (5), this section applies to any project
24 of public works erected, constructed, repaired, remodeled, or demolished for a local
25 governmental unit, including all of the following:

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

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

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

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

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

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

8 (av) In determining prevailing wage rates under par. (am) or (ar), the
9 department may not use data from projects that are subject to this section, s. 103.49
10 or 103.50, or 40 USC 3142 unless the department determines that there is
11 insufficient wage data in the area to determine those prevailing wage rates, in which
12 case the department may use data from projects that are subject to this section, s.
13 103.49 or 103.50, or 40 USC 3142. In determining prevailing wage rates under par.
14 (am) or (ar), the department may not use data from any construction work that is
15 performed by a local governmental unit or a state agency.

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

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

15 (dm) A local governmental unit that is subject to this section shall include a
16 reference to the prevailing wage rates determined by the department and to the
17 prevailing hours of labor in the notice published for the purpose of securing bids for
18 the project of public works. Except as otherwise provided in this paragraph, if any
19 contract or subcontract for a project of public works is entered into, the prevailing
20 wage rates determined by the department and the prevailing hours of labor shall be
21 physically incorporated into and made a part of the contract or subcontract. For a
22 minor subcontract, as determined by the department, the department shall
23 prescribe by rule the method of notifying the minor subcontractor of the prevailing
24 wage rates and prevailing hours of labor applicable to the minor subcontract. The
25 prevailing wage rates and prevailing hours of labor applicable to a contract or

1 subcontract may not be changed during the time that the contract or subcontract is
2 in force.

3 (e) No contractor, subcontractor, or contractor's or subcontractor's agent that
4 is subject to this section may do any of the following:

5 1. Pay an individual performing the work described in sub. (4) less than the
6 prevailing wage rate in the same or most similar trade or occupation determined
7 under this subsection.

8 2. Allow an individual performing the work described in sub. (4) to work a
9 greater number of hours per day or per week than the prevailing hours of labor,
10 unless the contractor, subcontractor, or contractor's or subcontractor's agent pays
11 the individual for all hours worked in excess of the prevailing hours of labor at a rate
12 of at least 1.5 times the individual's hourly basic rate of pay.

13 **(4) COVERED EMPLOYEES.** (a) Subject to par. (b), any person subject to this
14 section shall pay all of the following employees the prevailing wage rate determined
15 under sub. (3) and may not allow such employees to work a greater number of hours
16 per day or per week than the prevailing hours of labor, unless the person pays the
17 employee for all hours worked in excess of the prevailing hours of labor at a rate of
18 at least 1.5 times the employee's hourly basic rate of pay:

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

21 2. All laborers, workers, mechanics, and truck drivers employed in the
22 manufacturing or furnishing of materials, articles, supplies, or equipment on the site
23 of a project of public works that is subject to this section or from a facility dedicated
24 exclusively, or nearly so, to a project of public works that is subject to this section by

1 a contractor, subcontractor, agent, or other person performing any work on the site
2 of the project.

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

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

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

20 (c) A person subject to this section shall pay a truck driver who is an
21 owner-operator of a truck separately for his or her work and for the use of his or her
22 truck.

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

24 (a) A single-trade project of public works for which the estimated project cost
25 of completion is less than \$48,000, a multiple-trade project of public works for which

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

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

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

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

15 (g) A road, street, bridge, sanitary sewer, or water main project that is a part
16 of a development in which not less than 90 percent of the lots contain or will contain
17 2 dwelling units or less, as determined by the local governmental unit at the time of
18 approval of the development, and that, on completion, is acquired by, or dedicated to,
19 a local governmental unit, including under s. 236.13 (2), for ownership or
20 maintenance by the local governmental unit.

21 **(8) POSTING.** A local governmental unit that has contracted for a project of
22 public works shall post the prevailing wage rates determined by the department, the
23 prevailing hours of labor, and the provisions of subs. (10) (a) and (11) (a) in at least
24 one conspicuous place on the site of the project that is easily accessible by employees

1 working on the project, or, if there is no common site on the project, at the place
2 normally used by the local governmental unit to post public notices.

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

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

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

1 any person performing the work specified in sub. (4) has been or may have been paid
2 less than the prevailing wage rate or less than 1.5 times the hourly basic rate of pay
3 for all hours worked in excess of the prevailing hours of labor and requests that the
4 local governmental unit withhold all or part of the final payment, but the local
5 governmental unit fails to do so, the local governmental unit is liable for all back
6 wages payable up to the amount of the final payment.

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

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

22 (c) If requested by any person, the department shall inspect the payroll records
23 of any contractor, subcontractor, or agent performing work on a project of public
24 works that is subject to this section as provided in this paragraph to ensure
25 compliance with this section. On receipt of such a request, the department shall

1 request that the contractor, subcontractor, or agent submit to the department a
2 certified record of the information specified in par. (a), other than personally
3 identifiable information relating to an employee of the contractor, subcontractor, or
4 agent, for no longer than a 4-week period. The department may request that a
5 contractor, subcontractor, or agent submit those records no more than once per
6 calendar quarter for each project of public works on which the contractor,
7 subcontractor, or agent is performing work. The department may not charge a
8 requester a fee for obtaining that information. Certified records submitted to the
9 department under this paragraph are open for public inspection and copying under
10 s. 19.35 (1).

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

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

24 2. If the department determines upon inspection under sub. (10) (b) or (c) that
25 a contractor, subcontractor, or contractor's or subcontractor's agent has failed to pay

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

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

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

24 (b) 1. Except as provided in subds. 2., 4., and 6., any contractor, subcontractor,
25 or contractor's or subcontractor's agent who violates this section may be fined not

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

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

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

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

1 the deduction would be allowed under 29 CFR 3.5 or 3.6 from an individual who is
2 working on a project that is subject to 40 USC 3142.

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

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

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

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

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

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

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

22 **SECTION 17.** 84.41 (3) of the statutes is created to read:

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

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

3 **SECTION 18.** 84.54 of the statutes is repealed.

4 **SECTION 19.** 86.51 of the statutes is repealed.

5 **SECTION 20.** 103.005 (12) (a) of the statutes is amended to read:

6 103.005 (12) (a) If any employer, employee, owner, or other person violates chs.
7 103 to 106, or fails or refuses to perform any duty required under chs. 103 to 106,
8 within the time prescribed by the department, for which no penalty has been
9 specifically provided, or fails, neglects or refuses to obey any lawful order given or
10 made by the department or any judgment or decree made by any court in connection
11 with chs. 103 to 106, for each such violation, failure or refusal, the employer,
12 employee, owner or other person shall forfeit not less than \$10 nor more than \$100
13 for each offense. This paragraph does not apply to any person that fails to provide
14 any information to the department to assist the department in determining
15 prevailing wage rates or prevailing hours of labor under s. 103.49 (3) (a) or (am) or
16 103.50 (3) or (4).

17 **SECTION 21.** 103.49 of the statutes is created to read:

18 **103.49 Wage rate on state work. (1) DEFINITIONS.** In this section:

19 (a) “Area” means the county in which a proposed project of public works that
20 is subject to this section is located or, if the department determines that there is
21 insufficient wage data in that county, “area” means those counties that are
22 contiguous to that county or, if the department determines that there is insufficient
23 wage data in those counties, “area” means those counties that are contiguous to those
24 counties or, if the department determines that there is insufficient wage data in those
25 counties, “area” means the entire state or, if the department is requested to review

1 a determination under sub. (3) (c), “area” means the city, village, or town in which
2 a proposed project of public works that is subject to this section is located.

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

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

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

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

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

1 (c) "Prevailing hours of labor" for any trade or occupation in any area means
2 10 hours per day and 40 hours per week and may not include any hours worked on
3 a Saturday or Sunday or on any of the following holidays:

4 1. January 1.

5 2. The last Monday in May.

6 3. July 4.

7 4. The first Monday in September.

8 5. The 4th Thursday in November.

9 6. December 25.

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

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

12 (d) 1. Except as provided in subd. 2., "prevailing wage rate" for any trade or
13 occupation engaged in the erection, construction, remodeling, repairing, or
14 demolition of any project of public works in any area means the hourly basic rate of
15 pay, plus the hourly contribution for health insurance benefits, vacation benefits,
16 pension benefits, and any other bona fide economic benefit, paid directly or indirectly
17 for a majority of the hours worked in the trade or occupation on projects in the area.

18 2. If there is no rate at which a majority of the hours worked in the trade or
19 occupation on projects in the area is paid, "prevailing wage rate" for any trade or
20 occupation engaged in the erection, construction, remodeling, repairing, or
21 demolition of any project of public works in any area means the average hourly basic
22 rate of pay, weighted by the number of hours worked, plus the average hourly
23 contribution, weighted by the number of hours worked, for health insurance benefits,
24 vacation benefits, pension benefits, and any other bona fide economic benefit, paid
25 directly or indirectly for all hours worked at the hourly basic rate of pay of the

1 highest-paid 51 percent of hours worked in that trade or occupation on projects in
2 that area.

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

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

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

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

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

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

24 (b) A project in which the completed facility is leased, purchased, lease
25 purchased, or otherwise acquired by, or dedicated to, the state in lieu of the state or

1 a state agency contracting for the erection, construction, repair, remodeling, or
2 demolition of the facility.

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

6 **(2) PREVAILING WAGE RATES AND HOURS OF LABOR.** Any contract made for the
7 erection, construction, remodeling, repairing, or demolition of any project of public
8 works to which the state or any state agency is a party shall contain a stipulation that
9 no individual performing the work described in sub. (2m) may be allowed to work a
10 greater number of hours per day or per week than the prevailing hours of labor,
11 except that any such individual may be allowed or required to work more than such
12 prevailing hours of labor per day and per week if he or she is paid for all hours worked
13 in excess of the prevailing hours of labor at a rate of at least 1.5 times his or her hourly
14 basic rate of pay; nor may he or she be paid less than the prevailing wage rate
15 determined under sub. (3) in the same or most similar trade or occupation in the area
16 in which the project of public works is situated. The notice published for the purpose
17 of securing bids for the project must contain a reference to the prevailing wage rates
18 determined under sub. (3) and the prevailing hours of labor. Except as otherwise
19 provided in this subsection, if any contract or subcontract for a project of public works
20 that is subject to this section is entered into, the prevailing wage rates determined
21 under sub. (3) and the prevailing hours of labor shall be physically incorporated into
22 and made a part of the contract or subcontract. For a minor subcontract, as
23 determined by the department, the department shall prescribe by rule the method
24 of notifying the minor subcontractor of the prevailing wage rates and prevailing
25 hours of labor applicable to the minor subcontract. The prevailing wage rates and

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

3 **(2m) COVERED EMPLOYEES.** (a) Subject to par. (b), any person subject to this
4 section shall pay all of the following employees the prevailing wage rate determined
5 under sub. (3) and may not allow such employees to work a greater number of hours
6 per day or per week than the prevailing hours of labor, unless the person pays for all
7 hours worked in excess of the prevailing hours of labor at a rate of at least 1.5 times
8 the employees' hourly basic rate of pay:

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

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

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

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

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

10 (c) A person that is subject to this section shall pay a truck driver who is an
11 owner-operator of a truck separately for his or her work and for the use of his or her
12 truck.

13 **(3) INVESTIGATION; DETERMINATION.** (a) Before a state agency issues a request
14 for bids for any work to which this section applies, the state agency having the
15 authority to prescribe the specifications shall apply to the department to determine
16 the prevailing wage rate for each trade or occupation required in the work under
17 contemplation in the area in which the work is to be done. The department shall
18 conduct investigations and hold public hearings as necessary to define the trades or
19 occupations that are commonly employed on projects that are subject to this section
20 and to inform itself of the prevailing wage rates in all areas of the state for those
21 trades or occupations, in order to determine the prevailing wage rate for each trade
22 or occupation. The department shall issue its determination within 30 days after
23 receiving the request and shall file the determination with the requesting state
24 agency. A state agency that has contracted for a project of public works subject to this
25 section shall post the prevailing wage rates determined by the department, the

1 prevailing hours of labor, and the provisions of subs. (2) and (6m) in at least one
2 conspicuous place on the site of the project that is easily accessible by employees
3 working on the project.

4 (am) The department shall, by January 1 of each year, compile the prevailing
5 wage rates for each trade or occupation in each area. The compilation shall, in
6 addition to the current prevailing wage rates, include future prevailing wage rates
7 when those prevailing wage rates can be determined for any trade or occupation in
8 any area and shall specify the effective date of those future prevailing wage rates.
9 If a project of public works extends into more than one area, the department shall
10 determine only one standard of prevailing wage rates for the entire project.

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

20 (b) Any person may request a recalculation of any portion of an initial
21 determination within 30 days after the initial determination date if the person
22 submits evidence with the request showing that the prevailing wage rate for any
23 given trade or occupation included in the initial determination does not represent the
24 prevailing wage rate for that trade or occupation in the area. The evidence shall
25 include wage rate information reflecting work performed by individuals working in

1 the contested trade or occupation in the area during the current survey period. The
2 department shall affirm or modify the initial determination within 15 days after the
3 date on which the department receives the request for recalculation.

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

18 **(3g) NONAPPLICABILITY.** This section does not apply to any of the following:

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

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

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

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

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

7 (h) A road, street, bridge, sanitary sewer, or water main project that is a part
8 of a development in which not less than 90 percent of the lots contain or will contain
9 2 dwelling units or less, as determined by the local governmental unit at the time of
10 approval of the development, and that, on completion, is acquired by, or dedicated to,
11 the state for ownership or maintenance by the state.

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

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

1 (c) Upon completion of a project of public works and before receiving final
2 payment for his or her work on the project, each contractor shall file with the state
3 agency authorizing the work an affidavit stating that the contractor has complied
4 fully with the requirements of this section and that the contractor has received an
5 affidavit under par. (b) from each of the contractor's agents and subcontractors. A
6 state agency may not authorize a final payment until the affidavit is filed in proper
7 form and order. If a state agency authorizes a final payment before an affidavit is
8 filed in proper form and order or if the department determines, based on the greater
9 weight of the credible evidence, that any person performing the work specified in sub.
10 (2m) has been or may have been paid less than the prevailing wage rate or less than
11 1.5 times the hourly basic rate of pay for all hours worked in excess of the prevailing
12 hours of labor and requests that the state agency withhold all or part of the final
13 payment, but the state agency fails to do so, the state agency is liable for all back
14 wages payable up to the amount of the final payment.

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

21 (b) The department shall enforce this section. The department may demand
22 and examine, and every contractor, subcontractor, and contractor's and
23 subcontractor's agent shall keep, and furnish upon request by the department,
24 copies of payrolls and other records and information relating to the wages paid to
25 individuals performing the work described in sub. (2m) for work to which this section

1 applies. The department may inspect records in the manner provided in this chapter.
2 Every contractor, subcontractor, or agent performing work on a project of public
3 works that is subject to this section is subject to the requirements of this chapter
4 relating to the examination of records. Section 111.322 (2m) applies to discharge and
5 other discriminatory acts arising in connection with any proceeding under this
6 section.

7 (c) If requested by any person, the department shall inspect the payroll records
8 of any contractor, subcontractor, or agent performing work on a project of public
9 works that is subject to this section as provided in this paragraph to ensure
10 compliance with this section. On receipt of such a request, the department shall
11 request that the contractor, subcontractor, or agent submit to the department a
12 certified record of the information specified in par. (a), other than personally
13 identifiable information relating to an employee of the contractor, subcontractor, or
14 agent, for no longer than a 4-week period. The department may request a contractor,
15 subcontractor, or agent to submit those records no more than once per calendar
16 quarter for each project of public works on which the contractor, subcontractor, or
17 agent is performing work. The department may not charge a requester a fee for
18 obtaining that information. Certified records submitted to the department under
19 this paragraph are open for public inspection and copying under s. 19.35 (1).

20 **(6m)** LIABILITY AND PENALTIES. (ag) 1. A contractor, subcontractor, or
21 contractor's or subcontractor's agent who fails to pay the prevailing wage rate
22 determined by the department under sub. (3) or who pays less than 1.5 times the
23 hourly basic rate of pay for all hours worked in excess of the prevailing hours of labor
24 is liable to any affected employee in the amount of his or her unpaid wages or his or

1 her unpaid overtime compensation and in an additional amount as liquidated
2 damages as provided in subd. 2. or 3., whichever is applicable.

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

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

23 5. No employee may be a party plaintiff to an action under subd. 3. unless the
24 employee consents in writing to become a party and the consent is filed in the court
25 in which the action is brought. Notwithstanding s. 814.04 (1), the court shall, in

1 addition to any judgment awarded to the plaintiff, allow reasonable attorney fees
2 and costs to be paid by the defendant.

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

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

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

1 (d) Whoever induces any individual who seeks to be or is employed on any
2 project of public works that is subject to this section to allow any part of the wages
3 to which the individual is entitled under the contract governing the project to be
4 deducted from the individual's pay is guilty of an offense under s. 946.15 (3), unless
5 the deduction would be allowed under 29 CFR 3.5 or 3.6 from an individual who is
6 working on a project that is subject to 40 USC 3142.

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

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

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

1 from the date the department issued its findings or date of final determination by a
2 court of competent jurisdiction, whichever is later.

3 (b) The department may not include in a notification under par. (a) the name
4 of any person on the basis of having subcontracted a contract for a project of public
5 works to a person that the department has found to have failed to pay the prevailing
6 wage rate determined under sub. (3) or has found to have paid less than 1.5 times
7 the hourly basic rate of pay for all hours worked in excess of the prevailing hours of
8 labor.

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

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

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

23 **SECTION 22.** 103.50 of the statutes is created to read:

24 **103.50 Highway contracts. (1) DEFINITIONS.** In this section:

1 (a) “Area” means the county in which a proposed project that is subject to this
2 section is located or, if the department determines that there is insufficient wage
3 data in that county, “area” means those counties that are contiguous to that county
4 or, if the department determines that there is insufficient wage data in those
5 counties, “area” means those counties that are contiguous to those counties or, if the
6 department determines that there is insufficient wage data in those counties, “area”
7 means the entire state.

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

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

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

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

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

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

24 **(2) PREVAILING WAGE RATES AND HOURS OF LABOR.** No contractor, subcontractor,
25 agent, or other person performing any work on a project under a contract based on

1 bids as provided in s. 84.06 (2) to which the state is a party for the construction or
2 improvement of any highway may do any of the following:

3 (a) Pay an individual performing the work described in sub. (2m) less than the
4 prevailing wage rate in the area in which the work is to be done determined under
5 sub. (3).

6 (b) Allow an individual performing the work described in sub. (2m) to work a
7 greater number of hours per day or per week than the prevailing hours of labor,
8 unless the contractor, subcontractor, or contractor's or subcontractor's agent pays
9 the individual for all hours worked in excess of the prevailing hours of labor at a rate
10 of at least 1.5 times the individual's hourly basic rate of pay.

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

16 **(2m) COVERED EMPLOYEES.** (a) Subject to par. (b), any person subject to this
17 section shall pay all of the following employees the prevailing wage rate determined
18 under sub. (3) and may not allow such employees to work a greater number of hours
19 per day or per week than the prevailing hours of labor, unless the person pays for all
20 hours worked in excess of the prevailing hours of labor at a rate of at least 1.5 times
21 the employees' hourly basic rate of pay:

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

24 2. All laborers, workers, mechanics, and truck drivers employed in the
25 manufacturing or furnishing of materials, articles, supplies, or equipment on the site

1 of a project that is subject to this section or from a facility dedicated exclusively, or
2 nearly so, to a project that is subject to this section by a contractor, subcontractor,
3 agent, or other person performing any work on the site of the project.

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

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

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

21 (c) A contractor, subcontractor, agent, or other person performing work on a
22 project subject to this section shall pay a truck driver who is an owner-operator of
23 a truck separately for his or her work and for the use of his or her truck.

24 **(3) INVESTIGATIONS; DETERMINATIONS.** The department shall conduct
25 investigations and hold public hearings necessary to define the trades or occupations

1 that are commonly employed in the highway construction industry and to inform the
2 department of the prevailing wage rates in all areas of the state for those trades or
3 occupations, in order to ascertain and determine the prevailing wage rates
4 accordingly.

5 (4) CERTIFICATION OF PREVAILING WAGE RATES. The department of workforce
6 development shall, by May 1 of each year, certify to the department of transportation
7 the prevailing wage rates in each area for all trades or occupations commonly
8 employed in the highway construction industry. The certification shall, in addition
9 to the current prevailing wage rates, include future prevailing wage rates when such
10 prevailing wage rates can be determined for any such trade or occupation in any area
11 and shall specify the effective date of those future prevailing wage rates. The
12 certification shall also include wage rates for work performed on Sundays or the
13 holidays specified in s. 103.49 (1) (c) and shift differentials based on the time of day
14 or night when work is performed. If a construction project extends into more than
15 one area, the department shall determine only one standard of prevailing wage rates
16 for the entire project.

17 (4m) WAGE RATE DATA. In determining prevailing wage rates for projects that
18 are subject to this section, the department shall use data from projects that are
19 subject to this section, s. 66.0903 or 103.49, or 40 USC 3142. In determining
20 prevailing wage rates for those projects, the department may not use data from any
21 construction work that is performed by a state agency or a local governmental unit,
22 as defined in s. 66.0903 (1) (d).

23 (5) APPEALS TO GOVERNOR. If the department of transportation considers any
24 determination of the department of workforce development of the prevailing wage

1 rates in an area to be incorrect, it may appeal to the governor, whose determination
2 is final.

3 **(6) CONTENTS OF CONTRACTS.** The department of transportation shall include
4 a reference to the prevailing wage rates determined under sub. (3) and the prevailing
5 hours of labor in the notice published for the purpose of securing bids for a project.
6 Except as otherwise provided in this subsection, if any contract or subcontract for a
7 project that is subject to this section is entered into, the prevailing wage rates
8 determined under sub. (3) and the prevailing hours of labor shall be physically
9 incorporated into and made a part of the contract or subcontract. For a minor
10 subcontract, as determined by the department of workforce development, that
11 department shall prescribe by rule the method of notifying the minor subcontractor
12 of the prevailing wage rates and prevailing hours of labor applicable to the minor
13 subcontract. The prevailing wage rates and prevailing hours of labor applicable to
14 a contract or subcontract may not be changed during the time that the contract or
15 subcontract is in force. The department of transportation shall post the prevailing
16 wage rates determined by the department, the prevailing hours of labor, and the
17 provisions of subs. (2) and (7) in at least one conspicuous place that is easily
18 accessible to the employees on the site of the project.

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

23 (b) Whoever induces any individual who seeks to be or is employed on any
24 project that is subject to this section to give up, waive, or return any part of the wages
25 to which the individual is entitled under the contract governing the project, or who

1 reduces the hourly basic rate of pay normally paid to an individual for work on a
2 project that is not subject to this section during a week in which the individual works
3 both on a project that is subject to this section and on a project that is not subject to
4 this section, by threat not to employ, by threat of dismissal from employment, or by
5 any other means is guilty of an offense under s. 946.15 (1).

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

15 (d) Whoever induces any individual who seeks to be or is employed on any
16 project that is subject to this section to allow any part of the wages to which the
17 individual is entitled under the contract governing the project to be deducted from
18 the individual's pay is guilty of an offense under s. 946.15 (3), unless the deduction
19 would be allowed under 29 CFR 3.5 or 3.6 from an individual who is working on a
20 project that is subject to 40 USC 3142.

21 (e) Any individual employed on a project that is subject to this section who
22 knowingly allows any part of the wages to which he or she is entitled under the
23 contract governing the project to be deducted from his or her pay is guilty of an
24 offense under s. 946.15 (4), unless the deduction would be allowed under 29 CFR 3.5
25 or 3.6 from an individual who is working on a project that is subject to 40 USC 3142.

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

4 **(8) ENFORCEMENT AND PROSECUTION.** The department of transportation shall
5 require adherence to subs. (2), (2m), and (6). The department of transportation may
6 demand and examine, and every contractor, subcontractor, and contractor's or
7 subcontractor's agent shall keep and furnish upon request by the department of
8 transportation, copies of payrolls and other records and information relating to
9 compliance with this section. Upon request of the department of transportation or
10 upon complaint of alleged violation, the district attorney of the county in which the
11 work is located shall investigate as necessary and prosecute violations in a court of
12 competent jurisdiction. Section 111.322 (2m) applies to discharge and other
13 discriminatory acts arising in connection with any proceeding under this section.

14 **SECTION 23.** 103.503 (1) (a) of the statutes is amended to read:

15 103.503 (1) (a) "Accident" means an incident caused, contributed to, or
16 otherwise involving an employee that resulted or could have resulted in death,
17 personal injury, or property damage and that occurred while the employee was
18 performing the work described in s. 66.0903 (4), ~~2013 stats.~~, or s. 16.856 103.49 (2m),
19 ~~2015 stats.~~, on a project of public works or while the employee was performing work
20 on a public utility project.

21 **SECTION 24.** 103.503 (1) (e) of the statutes is amended to read:

22 103.503 (1) (e) "Employee" means a laborer, worker, mechanic, or truck driver
23 who performs the work described in s. 66.0903 (4), ~~2013 stats.~~, or s. 16.856 103.49
24 (2m), ~~2015 stats.~~, on a project of public works or on a public utility project.

25 **SECTION 25.** 103.503 (1) (g) of the statutes is repealed and recreated to read:

1 103.503 (1) (g) “Project of public works” means a project of public works that
2 is subject to s. 66.0903 or 103.49.

3 **SECTION 26.** 103.503 (2) of the statutes is amended to read:

4 103.503 (2) SUBSTANCE ABUSE PROHIBITED. No employee may use, possess,
5 attempt to possess, distribute, deliver, or be under the influence of a drug, or use or
6 be under the influence of alcohol, while performing the work described in s. 66.0903
7 (4), ~~2013 stats.~~, or s. ~~16.856~~ 103.49 (2m), ~~2015 stats.~~, on a project of public works or
8 while performing work on a public utility project. An employee is considered to be
9 under the influence of alcohol for purposes of this subsection if he or she has an
10 alcohol concentration that is equal to or greater than the amount specified in s.
11 885.235 (1g) (d).

12 **SECTION 27.** 103.503 (3) (a) 2. of the statutes is amended to read:

13 103.503 (3) (a) 2. A requirement that employees performing the work described
14 in s. 66.0903 (4), ~~2013 stats.~~, or s. ~~16.856~~ 103.49 (2m), ~~2015 stats.~~, on a project of
15 public works or performing work on a public utility project submit to random,
16 reasonable suspicion, and post-accident drug and alcohol testing and to drug and
17 alcohol testing before commencing work on the project, except that testing of an
18 employee before commencing work on a project is not required if the employee has
19 been participating in a random testing program during the 90 days preceding the
20 date on which the employee commenced work on the project.

21 **SECTION 28.** 104.001 (4) of the statutes is created to read:

22 104.001 (4) This section does not affect the requirement that employees
23 employed on a public works project contracted for by a city, village, town, or county
24 be paid at the prevailing wage rate, as defined in s. 66.0903 (1) (g), as required under
25 s. 66.0903.

1 **SECTION 29.** 106.04 of the statutes is created to read:

2 **106.04 Employment of apprentices on state public works projects. (1)**

3 DEFINITION. In this section, “project” means a project of public works that is subject
4 to s. 103.49 or 103.50 in which work is performed by employees employed in trades
5 that are apprenticeable under this subchapter.

6 **(2) WAIVER.** If the department grants an exception or modification to any
7 requirement in any contract for the performance of work on a project relating to the
8 employment and training of apprentices, the department shall post that information
9 on its website, together with a detailed explanation for granting the exception or
10 modification.

11 **SECTION 30.** 109.09 (1) of the statutes is amended to read:

12 109.09 (1) The department shall investigate and attempt equitably to adjust
13 controversies between employers and employees ~~as to~~ regarding alleged wage
14 claims. The department may receive and investigate any wage claim that is filed
15 with the department, or received by the department under s. 109.10 (4), no later than
16 2 years after the date the wages are due. The department may, after receiving a wage
17 claim, investigate any wages due from the employer against whom the claim is filed
18 to any employee during the period commencing 2 years before the date the claim is
19 filed. The department shall enforce this chapter and ~~s. ss. 66.0903, 2013 stats., s.~~
20 ~~103.49, 2013 stats., s. 229.8275, 2013 stats., and s. 16.856, 2015 stats., and ss. 103.02,~~
21 103.49, 103.82, and 104.12, and 229.8275. In pursuance of this duty, the department
22 may sue the employer on behalf of the employee to collect any wage claim or wage
23 deficiency and ss. 109.03 (6) and 109.11 (2) and (3) shall apply to such actions. Except
24 for actions under s. 109.10, the department may refer such an action to the district
25 attorney of the county in which the violation occurs for prosecution and collection and

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

9 **SECTION 31.** 111.01 of the statutes is created to read:

10 **111.01 Declaration of policy.** The public policy of the state as to employment
11 relations and collective bargaining, in the furtherance of which this subchapter is
12 enacted, is declared to be as follows:

13 (1) It recognizes that there are 3 major interests involved, namely: the public,
14 the employee, and the employer. These 3 interests are to a considerable extent
15 interrelated. It is the policy of the state to protect and promote each of these interests
16 with due regard to the situation and to the rights of the others.

17 (2) Industrial peace, regular and adequate income for the employee, and
18 uninterrupted production of goods and services are promotive of all of these
19 interests. They are largely dependent upon the maintenance of fair, friendly, and
20 mutually satisfactory employment relations and the availability of suitable
21 machinery for the peaceful adjustment of whatever controversies may arise. It is
22 recognized that certain employers, including farmers, farmer cooperatives, and
23 unincorporated farmer cooperative associations, in addition to their general
24 employer problems, face special problems arising from perishable commodities and
25 seasonal production that require adequate consideration. It is also recognized that

1 whatever may be the rights of disputants with respect to each other in any
2 controversy regarding employment relations, they should not be permitted, in the
3 conduct of their controversy, to intrude directly into the primary rights of 3rd parties
4 to earn a livelihood, transact business, and engage in the ordinary affairs of life by
5 any lawful means and free from molestation, interference, restraint, or coercion.

6 (3) Negotiations of terms and conditions of work should result from voluntary
7 agreement between employer and employee. For the purpose of such negotiation an
8 employee has the right, if the employee desires, to associate with others in organizing
9 and bargaining collectively through representatives of the employee's own choosing,
10 without intimidation or coercion from any source.

11 (4) It is the policy of the state, in order to preserve and promote the interests
12 of the public, the employee, and the employer alike, to establish standards of fair
13 conduct in employment relations and to provide a convenient, expeditious, and
14 impartial tribunal by which these interests may have their respective rights and
15 obligations adjudicated. While limiting individual and group rights of aggression
16 and defense, the state substitutes processes of justice for the more primitive methods
17 of trial by combat.

18 **SECTION 32.** 111.04 (1) and (2) of the statutes are consolidated, renumbered
19 111.04 and amended to read:

20 **111.04 Rights of employees.** Employees shall have the right of
21 self-organization and the right to form, join or assist labor organizations, to bargain
22 collectively through representatives of their own choosing, and to engage in lawful,
23 concerted activities for the purpose of collective bargaining or other mutual aid or
24 protection. (2) Employees shall also have the right to refrain from self-organization;
25 ~~forming, joining, or assisting labor organizations; bargaining collectively through~~

1 ~~representatives; or engaging in activities for the purpose of collective bargaining or~~
2 ~~other mutual aid or protection~~ such activities.

3 **SECTION 33.** 111.04 (3) of the statutes is repealed.

4 **SECTION 34.** 111.06 (1) (c) of the statutes is amended to read:

5 111.06 (1) (c) To encourage or discourage membership in any labor
6 organization, employee agency, committee, association, or representation plan by
7 discrimination in regard to hiring, tenure, or other terms or conditions of
8 employment except in a collective bargaining unit where an all-union agreement is
9 in effect. An employer may enter into an all-union agreement with the voluntarily
10 recognized representative of the employees in a collective bargaining unit, where at
11 least a majority of such employees voting have voted affirmatively, by secret ballot,
12 in favor of the all-union agreement in a referendum conducted by the commission,
13 except that where the bargaining representative has been certified by either the
14 commission or the national labor relations board as the result of a representation
15 election, no referendum is required to authorize the entry into an all-union
16 agreement. An authorization of an all-union agreement continues, subject to the
17 right of either party to the all-union agreement to petition the commission to conduct
18 a new referendum on the subject. Upon receipt of the petition, if the commission
19 determines there is reasonable ground to believe that the employees concerned have
20 changed their attitude toward the all-union agreement, the commission shall
21 conduct a referendum. If the continuance of the all-union agreement is supported
22 on a referendum by a vote at least equal to that provided in this paragraph for its
23 initial authorization, it may continue, subject to the right to petition for a further
24 vote by the procedure under this paragraph. If the continuance of the all-union
25 agreement is not supported on a referendum, it terminates at the expiration of the

1 contract of which it is then a part or at the end of one year from the date of the
2 announcement by the commission of the result of the referendum, whichever is
3 earlier. The commission shall declare any all-union agreement terminated
4 whenever it finds that the labor organization involved has unreasonably refused to
5 receive as a member any employee of such employer. An interested person may, as
6 provided in s. 111.07, request the commission to perform this duty.

7 **SECTION 35.** 111.06 (1) (e) of the statutes is amended to read:

8 111.06 (1) (e) To bargain collectively with the representatives of less than a
9 majority of the employer's employees in a collective bargaining unit, or to enter into
10 an all-union agreement except in the manner provided in par. (c).

11 **SECTION 36.** 111.06 (1) (i) of the statutes is amended to read:

12 111.06 (1) (i) To deduct labor organization dues or assessments from an
13 employee's earnings, unless the employer has been presented with an individual
14 order therefor, signed by the employee personally, and terminable at the end of any
15 year of its life by the employee giving to the employer at least 30 days' written notice
16 of the termination. ~~This paragraph applies to the extent permitted under federal law~~
17 unless there is an all-union agreement in effect. The employer shall give notice to
18 the labor organization of receipt of a notice of termination.

19 **SECTION 37.** 111.322 (2m) (a) of the statutes is amended to read:

20 111.322 (2m) (a) The individual files a complaint or attempts to enforce any
21 right under s. 103.02, 103.10, 103.11, 103.13, 103.28, 103.32, 103.34, 103.455,
22 103.50, 104.12, 109.03, 109.07, 109.075, 146.997, or 995.55, or ss. 101.58 to 101.599
23 or 103.64 to 103.82.

24 **SECTION 38.** 111.322 (2m) (b) of the statutes is amended to read:

1 111.322 **(2m)** (b) The individual testifies or assists in any action or proceeding
2 held under or to enforce any right under s. 103.02, 103.10, 103.11, 103.13, 103.28,
3 103.32, 103.34, 103.455, 103.50, 104.12, 109.03, 109.07, 109.075, 146.997, or 995.55,
4 or ss. 101.58 to 101.599 or 103.64 to 103.82.

5 **SECTION 39.** 111.322 (2m) (c) of the statutes is created to read:

6 111.322 **(2m)** (c) The individual files a complaint or attempts to enforce a right
7 under s. 66.0903, 103.49, or 229.8275 or testifies or assists in any action or
8 proceeding under s. 66.0903, 103.49, or 229.8275.

9 **SECTION 40.** 227.01 (13) (t) of the statutes is created to read:

10 227.01 **(13)** (t) Ascertains and determines prevailing wage rates under ss.
11 66.0903, 103.49, 103.50, and 229.8275, except that any action or inaction which
12 ascertains and determines prevailing wage rates under ss. 66.0903, 103.49, 103.50,
13 and 229.8275 is subject to judicial review under s. 227.40.

14 **SECTION 41.** 229.682 (2) of the statutes is created to read:

15 229.682 **(2)** PREVAILING WAGE. The construction of a baseball park facility that
16 is financed in whole or in part by a district is subject to s. 66.0903.

17 **SECTION 42.** 229.8275 of the statutes is created to read:

18 **229.8275 Prevailing wage.** A district may not enter into a contract under s.
19 229.827 with a professional football team, as described in s. 229.823, or a related
20 party that requires the team or related party to acquire and construct or renovate
21 football stadium facilities that are part of any facilities that are leased by the district
22 to the team or to a related party unless the professional football team or related party
23 agrees to all of the following:

24 **(1)** Not to allow any employee working on the football stadium facilities who
25 would be entitled to receive the prevailing wage rate under s. 66.0903 and who would

1 not be required or allowed to work more than the prevailing hours of labor, if the
2 football stadium facilities were a project of public works subject to s. 66.0903, to be
3 paid less than the prevailing wage rate or to be required or allowed to work more than
4 the prevailing hours of labor, except as allowed under s. 66.0903 (4) (a).

5 (2) To require any contractor, subcontractor, or agent of a contractor or
6 subcontractor performing work on the football stadium facilities to keep and allow
7 inspection of records in the same manner as a contractor, subcontractor, or agent of
8 a contractor or subcontractor performing work on a project of public works that is
9 subject to s. 66.0903 is required to keep and allow inspection of records under s.
10 66.0903 (10).

11 (3) To comply with s. 66.0903 in the same manner as a local governmental unit
12 contracting for the erection, construction, remodeling, repairing, or demolition of a
13 project of public works is required to comply with s. 66.0903 and to require any
14 contractor, subcontractor, or agent of a contractor or subcontractor performing work
15 on the football stadium facilities to comply with s. 66.0903 in the same manner as
16 a contractor, subcontractor, or agent of a contractor or subcontractor performing
17 work on a project of public works that is subject to s. 66.0903 is required to comply
18 with s. 66.0903.

19 **SECTION 43.** 946.15 of the statutes is created to read:

20 **946.15 Public construction contracts at less than full rate.** (1) Any
21 employer, or any agent or employee of an employer, who induces any individual who
22 seeks to be or is employed pursuant to a public contract, as defined in s. 66.0901 (1)
23 (c), or who seeks to be or is employed on a project on which a prevailing wage rate
24 determination has been issued by the department of workforce development under
25 s. 66.0903 (3), 103.49 (3), 103.50 (3), or 229.8275 (3) to give up, waive, or return any

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

9 (2) Any individual employed pursuant to a public contract, as defined in s.
10 66.0901 (1) (c), or employed on a project on which a prevailing wage rate
11 determination has been issued by the department of workforce development under
12 s. 66.0903 (3), 103.49 (3), 103.50 (3), or 229.8275 (3) who gives up, waives, or returns
13 to the employer or agent of the employer any part of the compensation to which the
14 employee is entitled under his or her contract of employment or under the prevailing
15 wage determination issued by the department, or who gives up any part of the
16 compensation to which he or she is normally entitled for work on a project on which
17 a prevailing wage rate determination has not been issued under s. 66.0903 (3),
18 103.49 (3), 103.50 (3), or 229.8275 (3) during a week in which the individual works
19 part-time on a project on which a prevailing wage rate determination has been
20 issued and part-time on a project on which a prevailing wage rate determination has
21 not been issued, is guilty of a Class C misdemeanor.

22 (3) Any employer or labor organization, or any agent or employee of an
23 employer or labor organization, who induces any individual who seeks to be or is
24 employed on a project on which a prevailing wage rate determination has been issued
25 by the department of workforce development under s. 66.0903 (3), 103.49 (3), 103.50

1 (3), or 229.8275 (3) to allow any part of the wages to which that individual is entitled
2 under the prevailing wage rate determination issued by the department or local
3 governmental unit to be deducted from the individual's pay is guilty of a Class I
4 felony, unless the deduction would be allowed under 29 CFR 3.5 or 3.6 from an
5 individual who is working on a project that is subject to 40 USC 3142.

6 (4) Any individual employed on a project on which a prevailing wage rate
7 determination has been issued by the department of workforce development under
8 s. 66.0903 (3), 103.49 (3), 103.50 (3), or 229.8275 (3) who allows any part of the wages
9 to which that individual is entitled under the prevailing wage rate determination
10 issued by the department or local governmental unit to be deducted from his or her
11 pay is guilty of a Class C misdemeanor, unless the deduction would be allowed under
12 29 CFR 3.5 or 3.6 from an individual who is working on a project that is subject to
13 40 USC 3142.

14 **SECTION 44.** 947.20 of the statutes is repealed.

15 **SECTION 45.** 978.05 (6) (a) of the statutes, as affected by 2023 Wisconsin Act 12,
16 is amended to read:

17 978.05 (6) (a) Institute, commence or appear in all civil actions or special
18 proceedings under and perform the duties set forth for the district attorney under ch.
19 980 and ss. 17.14, 30.03 (2), 48.09 (5), 59.55 (1), 59.64 (1), 89.08, 103.50 (8), 103.92
20 (4), 109.09, 343.305 (9) (a), 806.05, 938.09, 938.18, 938.355 (6) (b) and (6g) (a), 946.86,
21 946.87, 961.55 (5), 971.14 and 973.075 to 973.077, perform any duties in connection
22 with court proceedings in a court assigned to exercise jurisdiction under chs. 48 and
23 938 as the judge may request and perform all appropriate duties and appear if the
24 district attorney is designated in specific statutes, including matters within chs. 782,
25 976 and 979 and ss. 51.81 to 51.85. Nothing in this paragraph limits the authority

1 of the county board to designate, under s. 48.09 (5), that the corporation counsel
2 provide representation as specified in s. 48.09 (5) or to designate, under s. 48.09 (6)
3 or 938.09 (6), the district attorney as an appropriate person to represent the interests
4 of the public under s. 48.14 or 938.14.

5 **SECTION 46. Initial applicability.**

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

11 (2) DISCRIMINATION. The treatment of ss. 66.0903 (10) (d), 111.322 (2m) (c), and
12 229.8275 first applies to acts of discrimination that occur on the effective date of this
13 subsection.

14 (END)