



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-0747/1
MED:amn

2017 ASSEMBLY BILL 296

May 4, 2017 - Introduced by Representatives HUTTON, SANFELIPPO, JACQUE, ALLEN, AUGUST, BORN, BRANDTJEN, E. BROOKS, R. BROOKS, DUCHOW, FELZKOWSKI, GANNON, HORLACHER, JAGLER, JARCHOW, KATSMA, KLEEFISCH, KNODL, KOOYENGA, KREMER, KUGLITSCH, MACCO, NEYLON, NYGREN, OTT, PETERSEN, QUINN, ROHRKASTE, SCHRAA, SKOWRONSKI, STEINEKE, TAUCHEN, THIESFELDT, TITTL, TUSLER, VOS and WICHGERS, cosponsored by Senators VUKMIR, STROEBEL, CRAIG, DARLING, KAPENGA, LASEE, LEMAHIEU, NASS, TIFFANY and WANGGAARD. Referred to Committee on Labor.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT to repeal** 16.856, 19.36 (12), 84.062, 84.41 (3), 106.04, 111.322 (2m) (c)
2 and 946.15; **to amend** 19.36 (3), 59.20 (3) (a), 66.0903 (1) (c), 66.0903 (1) (f),
3 66.0903 (1) (g), 66.0903 (1) (j), 103.503 (1) (a), 103.503 (1) (c), 103.503 (1) (e),
4 103.503 (1) (g), 103.503 (2), 103.503 (3) (a) 2., 109.09 (1), 111.322 (2m) (d), 230.13
5 (1) (intro.), 233.13 (intro.) and 978.05 (6) (a); and **to create** 103.503 (1) (fm) and
6 103.503 (1) (j) of the statutes; **relating to:** elimination of the requirement that
7 laborers, workers, mechanics, and truck drivers employed on the site of a
8 project of public works be paid the prevailing wage.

Analysis by the Legislative Reference Bureau

Generally, under the current prevailing wage laws, laborers, workers, mechanics, and truck drivers employed on the site of certain projects of public works 1) must be paid the prevailing wage rate, as determined by the U.S. Department of Labor under the federal Davis-Bacon Act; and 2) may not be required or permitted to work a greater number of hours per day and per week than the prevailing hours of labor, which is no more than 10 hours per day and 40 hours per week, unless they are paid 1.5 times their basic rate of pay (commonly referred to as overtime pay) for all hours worked in excess of the prevailing hours of labor. The prevailing wage laws include two separate laws: one that applies to certain projects of public works to

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which the state or any state agency is a party (state prevailing wage law) and one that applies to projects under a contract based on bids to which the state is a party for the construction or improvement of highways (highway prevailing wage law). Also under current law, no local government may enact or administer a prevailing wage law ordinance or any similar ordinance.

This bill eliminates the state prevailing wage law and the highway prevailing wage law but retains the prohibition against local governments enacting or administering their own prevailing wage laws or similar ordinances.

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

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

1 **SECTION 1.** 16.856 of the statutes is repealed.

2 **SECTION 2.** 19.36 (3) of the statutes is amended to read:

3 19.36 (3) CONTRACTORS' RECORDS. ~~Subject to sub. (12), each~~ Each authority shall
4 make available for inspection and copying under s. 19.35 (1) any record produced or
5 collected under a contract entered into by the authority with a person other than an
6 authority to the same extent as if the record were maintained by the authority. This
7 subsection does not apply to the inspection or copying of a record under s. 19.35 (1)
8 (am).

9 **SECTION 3.** 19.36 (12) of the statutes is repealed.

10 **SECTION 4.** 59.20 (3) (a) of the statutes is amended to read:

11 59.20 (3) (a) Every sheriff, clerk of the circuit court, register of deeds, treasurer,
12 comptroller, register of probate, clerk, and county surveyor shall keep his or her office
13 at the county seat in the offices provided by the county or by special provision of law;
14 or if there is none, then at such place as the board directs. The board may also require
15 any elective or appointive county official to keep his or her office at the county seat
16 in an office to be provided by the county. All such officers shall keep their offices open
17 during the usual business hours of any day except Sunday, as the board directs. With

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1 proper care, the officers shall open to the examination of any person all books and
2 papers required to be kept in his or her office and permit any person so examining
3 to take notes and copies of such books, records, papers, or minutes therefrom except
4 as authorized in par. (c) and ss. 19.36 (10) ~~to (12)~~ and (11) and 19.59 (3) (d) or under
5 ch. 69.

6 **SECTION 5.** 66.0903 (1) (c) of the statutes is amended to read:

7 66.0903 (1) (c) “Hourly basic rate of pay” has the meaning given in s. 16.856
8 (1) (b), 2015 stats.

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

10 66.0903 (1) (f) “Prevailing hours of labor” has the meaning given in s. 16.856
11 (1) (e), 2015 stats.

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

13 66.0903 (1) (g) “Prevailing wage rate” includes the meanings given under s.
14 66.0903 (1) (g), 2013 stats., and s. 16.856 (1) (f), 2015 stats.

15 **SECTION 8.** 66.0903 (1) (j) of the statutes is amended to read:

16 66.0903 (1) (j) “Truck driver” ~~has the meaning given in s. 16.856 (1) (j)~~ includes
17 an owner-operator of a truck.

18 **SECTION 9.** 84.062 of the statutes is repealed.

19 **SECTION 10.** 84.41 (3) of the statutes is repealed.

20 **SECTION 11.** 103.503 (1) (a) of the statutes is amended to read:

21 103.503 (1) (a) “Accident” means an incident caused, contributed to, or
22 otherwise involving an employee that resulted or could have resulted in death,
23 personal injury, or property damage and that occurred while the employee was
24 performing the work described in s. 66.0903 (4), 2013 stats., or s. 16.856 (2m), 2015

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1 stats., on a project of public works or while the employee was performing work on a
2 public utility project.

3 **SECTION 12.** 103.503 (1) (c) of the statutes is amended to read:

4 103.503 (1) (c) “Contracting agency” means a local governmental unit,~~as~~
5 ~~defined in s. 66.0903 (1) (d), or a state agency, as defined in s. 16.856 (1) (h),~~ that has
6 contracted for the performance of work on a project of public works or a public utility
7 that has contracted for the performance of work on a public utility project.

8 **SECTION 13.** 103.503 (1) (e) of the statutes is amended to read:

9 103.503 (1) (e) “Employee” means a laborer, worker, mechanic, or truck driver
10 who performs the work described in s. 66.0903 (4), 2013 stats., or s. 16.856 (2m), 2015
11 stats., on a project of public works or on a public utility project.

12 **SECTION 14.** 103.503 (1) (fm) of the statutes is created to read:

13 103.503 (1) (fm) “Local governmental unit” means a political subdivision of this
14 state, a special purpose district in this state, an instrumentality or corporation of
15 such a political subdivision or special purpose district, a combination or subunit of
16 any of the foregoing, or an instrumentality of the state and any of the foregoing.

17 **SECTION 15.** 103.503 (1) (g) of the statutes is amended to read:

18 103.503 (1) (g) “Project of public works” means a project of public works that
19 ~~is subject to s. 16.856 or that would be subject to s. 66.0903, 2013 stats., if the project~~
20 ~~were erected, constructed, repaired, remodeled, or demolished prior to January 1,~~
21 ~~2017, or that would be subject to s. 16.856, 2015 stats., if the project were erected,~~
22 constructed, repaired, remodeled, or demolished prior to the effective date of this
23 paragraph [LRB inserts date].

24 **SECTION 16.** 103.503 (1) (j) of the statutes is created to read:

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1 103.503 (1) (j) “State agency” means any office, department, independent
2 agency, institution of higher education, association, society, or other body in state
3 government created or authorized to be created by the constitution or any law,
4 including the legislature and the courts. “State agency” also includes the University
5 of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System
6 Authority, and the Wisconsin Aerospace Authority.

7 **SECTION 17.** 103.503 (2) of the statutes is amended to read:

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

16 **SECTION 18.** 103.503 (3) (a) 2. of the statutes is amended to read:

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

25 **SECTION 19.** 106.04 of the statutes is repealed.

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1 **SECTION 20.** 109.09 (1) of the statutes is amended to read:

2 109.09 (1) The department shall investigate and attempt equitably to adjust
3 controversies between employers and employees as to alleged wage claims. The
4 department may receive and investigate any wage claim that is filed with the
5 department, or received by the department under s. 109.10 (4), no later than 2 years
6 after the date the wages are due. The department may, after receiving a wage claim,
7 investigate any wages due from the employer against whom the claim is filed to any
8 employee during the period commencing 2 years before the date the claim is filed.
9 The department shall enforce this chapter and s. 66.0903, 2013 stats., s. 103.49, 2013
10 stats., and s. 229.8275, 2013 stats., and s. 16.856, 2015 stats., and ~~ss. 16.856, 103.02,~~
11 ~~103.82, and 104.12.~~ In pursuance of this duty, the department may sue the employer
12 on behalf of the employee to collect any wage claim or wage deficiency and ss. 109.03
13 (6) and 109.11 (2) and (3) shall apply to such actions. Except for actions under s.
14 109.10, the department may refer such an action to the district attorney of the county
15 in which the violation occurs for prosecution and collection and the district attorney
16 shall commence an action in the circuit court having appropriate jurisdiction. Any
17 number of wage claims or wage deficiencies against the same employer may be joined
18 in a single proceeding, but the court may order separate trials or hearings. In actions
19 that are referred to a district attorney under this subsection, any taxable costs
20 recovered by the district attorney shall be paid into the general fund of the county
21 in which the violation occurs and used by that county to meet its financial
22 responsibility under s. 978.13 (2) (b) for the operation of the office of the district
23 attorney who prosecuted the action.

24 **SECTION 21.** 111.322 (2m) (c) of the statutes is repealed.

25 **SECTION 22.** 111.322 (2m) (d) of the statutes is amended to read:

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1 111.322 **(2m)** (d) The individual's employer believes that the individual
2 engaged or may engage in any activity described in pars. (a) to ~~(e)~~ (bm).

3 **SECTION 23.** 230.13 (1) (intro.) of the statutes is amended to read:

4 230.13 **(1)** (intro.) Except as provided in sub. (3) and ss. 19.36 (10) ~~to (12)~~ and
5 (11) and 103.13, the director and the administrator may keep records of the following
6 personnel matters closed to the public:

7 **SECTION 24.** 233.13 (intro.) of the statutes is amended to read:

8 **233.13 Closed records.** (intro.) Except as provided in ss. 19.36 (10) ~~to (12)~~
9 and (11) and 103.13, the authority may keep records of the following personnel
10 matters closed to the public:

11 **SECTION 25.** 946.15 of the statutes is repealed.

12 **SECTION 26.** 978.05 (6) (a) of the statutes is amended to read:

13 978.05 **(6)** (a) Institute, commence or appear in all civil actions or special
14 proceedings under and perform the duties set forth for the district attorney under ch.
15 980 and ss. 17.14, 30.03 (2), 48.09 (5), 59.55 (1), 59.64 (1), 70.36, ~~84.062 (8)~~, 89.08,
16 103.92 (4), 109.09, 343.305 (9) (a), 806.05, 938.09, 938.18, 938.355 (6) (b) and (6g) (a),
17 946.86, 946.87, 961.55 (5), 971.14 and 973.075 to 973.077, perform any duties in
18 connection with court proceedings in a court assigned to exercise jurisdiction under
19 chs. 48 and 938 as the judge may request and perform all appropriate duties and
20 appear if the district attorney is designated in specific statutes, including matters
21 within chs. 782, 976 and 979 and ss. 51.81 to 51.85. Nothing in this paragraph limits
22 the authority of the county board to designate, under s. 48.09 (5), that the corporation
23 counsel provide representation as specified in s. 48.09 (5) or to designate, under s.
24 48.09 (6) or 938.09 (6), the district attorney as an appropriate person to represent the
25 interests of the public under s. 48.14 or 938.14.

