



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-0698/3
MED&GMM:wlj:rs

2015 ASSEMBLY BILL 32

February 17, 2015 – Introduced by Representatives HUTTON, SANFELIPPO, JACQUE, KNODL, KAPENGA, CRAIG, KOOYENGA, ALLEN, AUGUST, BALLWEG, BERNIER, BORN, BRANDTJEN, E. BROOKS, R. BROOKS, CZAJA, GANNON, JAGLER, JARCHOW, KATZMA, KLEEFISCH, KNUDSON, KREMER, KUGLITSCH, KULP, T. LARSON, NEYLON, J. OTT, PETERSEN, SCHRAA, SKOWRONSKI, SWEARINGEN, THIESFELDT, TITTL and WEATHERSTON, cosponsored by Senators VUKMIR, NASS, WANGGAARD, LASEE, LEMAHIEU and MOULTON. Referred to Committee on Labor.

1 **AN ACT** *to repeal* 19.36 (12), 66.0903 (1) (a), (am), (b), (cm), (dr), (em), (hm) and
2 (im), 66.0903 (1m) (a) 1. to 3., 66.0903 (2) to (12), 84.41 (3), 103.49, 103.50,
3 104.001 (3) (a), 106.04, 111.322 (2m) (c), 227.01 (13) (t), 229.682 (2), 229.8275
4 and 946.15; *to renumber and amend* 66.0903 (1m) (a) (intro.); *to*
5 **consolidate, renumber and amend** 104.001 (3) (intro.) and (b); *to amend*
6 19.36 (3), 59.20 (3) (a), 66.0129 (5), 66.0903 (1) (c), 66.0903 (1) (f), 66.0903 (1)
7 (j), 66.0903 (1m) (b), 103.005 (12) (a), 103.503 (1) (a), 103.503 (1) (c), 103.503 (1)
8 (e), 103.503 (1) (g), 103.503 (2), 103.503 (3) (a) 2., 109.09 (1), 111.322 (2m) (a),
9 111.322 (2m) (b), 111.322 (2m) (d), 230.13 (1) (intro.), 233.13 (intro.) and 978.05
10 (6) (a); and *to repeal and recreate* 66.0903 (title) and 66.0903 (1) (g) of the
11 statutes; **relating to:** elimination of the requirement that laborers, workers,

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1 mechanics, and truck drivers employed on the site of a project of public works
2 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 at the rate paid for a majority of the hours worked in the person's trade or occupation in the area in which the project is located, as determined by the Department of Workforce Development; 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 three separate laws: one that applies to certain projects of public works to which the state or any state agency is a party (state prevailing wage law), one that applies to certain projects of public works undertaken by local governments (local 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). Projects to which the prevailing wage laws do not apply include: 1) single-trade projects of public works for which the estimated project cost of completion is less than \$48,000; 2) multiple-trade projects of public works for which the estimated project cost of completion is less than \$100,000; and 3) with respect to the local prevailing wage law, multiple-trade projects of public works erected, constructed, repaired, remodeled, or demolished by a private contractor for a city or village having a population of less than 2,500 or for a town for which the estimated project cost of completion is less than \$234,000. 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, the local prevailing wage law, and the highway prevailing wage law but retains the prohibition against local governments enacting or administrating 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:

3 **SECTION 1.** 19.36 (3) of the statutes is amended to read:

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

7 **SECTION 2.** 19.36 (12) of the statutes is repealed.

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

9 59.20 (3) (a) Every sheriff, clerk of the circuit court, register of deeds, treasurer,
10 comptroller, register of probate, clerk, and county surveyor shall keep his or her office
11 at the county seat in the offices provided by the county or by special provision of law;
12 or if there is none, then at such place as the board directs. The board may also require
13 any elective or appointive county official to keep his or her office at the county seat
14 in an office to be provided by the county. All such officers shall keep their offices open
15 during the usual business hours of any day except Sunday, as the board directs. With
16 proper care, the officers shall open to the examination of any person all books and
17 papers required to be kept in his or her office and permit any person so examining
18 to take notes and copies of such books, records, papers, or minutes therefrom except
19 as authorized in par. (c) and ss. 19.36 (10) ~~to (12)~~ and (11) and 19.59 (3) (d) or under
20 ch. 69.

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

22 66.0129 (5) BIDS FOR CONSTRUCTION. The nonprofit corporation shall let all
23 contracts exceeding \$1,000 for the construction, maintenance or repair of hospital
24 facilities to the lowest responsible bidder after advertising for bids by the publication

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1 of a class 2 notice under ch. 985. ~~Sections~~ Section 66.0901 and ~~66.0903~~ applies
2 to bids and contracts under this subsection.

3 **SECTION 5.** 66.0903 (title) of the statutes is repealed and recreated to read:

4 **66.0903 (title) Prevailing wage.**

5 **SECTION 6.** 66.0903 (1) (a), (am), (b), (cm), (dr), (em), (hm) and (im) of the
6 statutes are repealed.

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

8 66.0903 (1) (c) “Hourly basic rate of pay” has the meaning given in s. 103.49
9 (1) (b), 2013 stats.

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

11 66.0903 (1) (f) “Prevailing hours of labor” has the meaning given in s. 103.49
12 (1) (c), 2013 stats.

13 **SECTION 9.** 66.0903 (1) (g) of the statutes is repealed and recreated to read:

14 66.0903 (1) (g) “Prevailing wage rate” has the meaning given in s. 66.0903 (1)
15 (g), 2013 stats.

16 **SECTION 10.** 66.0903 (1) (j) of the statutes is amended to read:

17 66.0903 (1) (j) “Truck driver” has the meaning given in s. 103.49 (1) (g), 2013
18 stats.

19 **SECTION 11.** 66.0903 (1m) (a) (intro.) of the statutes is renumbered 66.0903 (1)
20 (h) and amended to read:

21 66.0903 (1) (h) ~~In this subsection, “publicly~~ Publicly funded private
22 construction project” means a construction project in which the developer, investor,
23 or owner of the project receives direct financial assistance from a local governmental
24 unit for the erection, construction, repair, remodeling, demolition, including any
25 alteration, painting, decorating, or grading, of a private facility, including land, a

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1 building, or other infrastructure. “Publicly funded private construction project” does
2 not include a project of public works ~~or a housing project involving the erection,~~
3 ~~construction, repair, remodeling, or demolition of any of the following:~~

4 **SECTION 12.** 66.0903 (1m) (a) 1. to 3. of the statutes are repealed.

5 **SECTION 13.** 66.0903 (1m) (b) of the statutes is amended to read:

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

20 **SECTION 14.** 66.0903 (2) to (12) of the statutes are repealed.

21 **SECTION 15.** 84.41 (3) of the statutes is repealed.

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

23 103.005 **(12)** (a) If any employer, employee, owner, or other person violates chs.
24 103 to 106, or fails or refuses to perform any duty required under chs. 103 to 106,
25 within the time prescribed by the department, for which no penalty has been

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1 specifically provided, or fails, neglects, or refuses to obey any lawful order given or
2 made by the department or any judgment or decree made by any court in connection
3 with chs. 103 to 106, for each such violation, failure, or refusal, the employer,
4 employee, owner, or other person shall forfeit not less than \$10 nor more than \$100
5 for each offense. ~~This paragraph does not apply to any person who fails to provide~~
6 ~~any information to the department to assist the department in determining~~
7 ~~prevailing wage rates or prevailing hours of labor under s. 103.49 (3) (a) or (am) or~~
8 ~~103.50 (3) or (4).~~

9 **SECTION 17.** 103.49 of the statutes is repealed.

10 **SECTION 18.** 103.50 of the statutes is repealed.

11 **SECTION 19.** 103.503 (1) (a) of the statutes is amended to read:

12 103.503 (1) (a) "Accident" means an incident caused, contributed to, or
13 otherwise involving an employee that resulted or could have resulted in death,
14 personal injury, or property damage and that occurred while the employee was
15 performing the work described in s. 66.0903 (4), 2013 stats., or s. 103.49 (2m), 2013
16 stats., on a project of public works or while the employee was performing work on a
17 public utility project.

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

19 103.503 (1) (c) "Contracting agency" means a local governmental unit, as
20 defined in s. 66.0903 (1) (d), or a state agency, as defined in s. 103.49 (1) (f), 2013
21 stats., that has contracted for the performance of work on a project of public works
22 or a public utility that has contracted for the performance of work on a public utility
23 project.

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

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

4 **SECTION 22.** 103.503 (1) (g) of the statutes is amended to read:

5 103.503 (1) (g) “Project of public works” means a project of public works that
6 is would be subject to s. 66.0903, 2013 stats., or s. 103.49, 2013 stats., if the project
7 were erected, constructed, repaired, remodeled, or demolished prior to the effective
8 date of this paragraph ... [LRB inserts date].

9 **SECTION 23.** 103.503 (2) of the statutes is amended to read:

10 103.503 (2) SUBSTANCE ABUSE PROHIBITED. No employee may use, possess,
11 attempt to possess, distribute, deliver, or be under the influence of a drug, or use or
12 be under the influence of alcohol, while performing the work described in s. 66.0903
13 (4), 2013 stats., or 103.49 (2m), 2013 stats., on a project of public works or while
14 performing work on a public utility project. An employee is considered to be under
15 the influence of alcohol for purposes of this subsection if he or she has an alcohol
16 concentration that is equal to or greater than the amount specified in s. 885.235 (1g)
17 (d).

18 **SECTION 24.** 103.503 (3) (a) 2. of the statutes is amended to read:

19 103.503 (3) (a) 2. A requirement that employees performing the work described
20 in s. 66.0903 (4), 2013 stats., or s. 103.49 (2m), 2013 stats., on a project of public works
21 or performing work on a public utility project submit to random, reasonable
22 suspicion, and post-accident drug and alcohol testing and to drug and alcohol testing
23 before commencing work on the project, except that testing of an employee before
24 commencing work on a project is not required if the employee has been participating

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1 in a random testing program during the 90 days preceding the date on which the
2 employee commenced work on the project.

3 **SECTION 25.** 104.001 (3) (intro.) and (b) of the statutes are consolidated,
4 renumbered 104.001 (3) and amended to read:

5 104.001 (3) This section does not affect ~~any of the following: (b) An an~~
6 ordinance that, subject to s. 66.0903, requires an employee of a county, city, village,
7 or town, an employee who performs work under a contract for the provision of
8 services to a county, city, village, or town, or an employee who performs work that is
9 funded by financial assistance from a county, city, village, or town, to be paid at a
10 minimum wage rate specified in the ordinance.

11 **SECTION 26.** 104.001 (3) (a) of the statutes is repealed.

12 **SECTION 27.** 106.04 of the statutes is repealed.

13 **SECTION 28.** 109.09 (1) of the statutes is amended to read:

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

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

10 **SECTION 29.** 111.322 (2m) (a) of the statutes is amended to read:

11 111.322 (2m) (a) The individual files a complaint or attempts to enforce any
12 right under s. 103.02, 103.10, 103.13, 103.28, 103.32, 103.34, 103.455, ~~103.50~~,
13 104.12, 109.03, 109.07, 109.075, 146.997, or 995.55, or ss. 101.58 to 101.599 or 103.64
14 to 103.82.

15 **SECTION 30.** 111.322 (2m) (b) of the statutes is amended to read:

16 111.322 (2m) (b) The individual testifies or assists in any action or proceeding
17 held under or to enforce any right under s. 103.02, 103.10, 103.13, 103.28, 103.32,
18 103.34, 103.455, ~~103.50~~, 104.12, 109.03, 109.07, 109.075, 146.997, or 995.55, or ss.
19 101.58 to 101.599 or 103.64 to 103.82.

20 **SECTION 31.** 111.322 (2m) (c) of the statutes is repealed.

21 **SECTION 32.** 111.322 (2m) (d) of the statutes is amended to read:

22 111.322 (2m) (d) The individual's employer believes that the individual
23 engaged or may engage in any activity described in pars. (a) to ~~(e)~~ (bm).

24 **SECTION 33.** 227.01 (13) (t) of the statutes is repealed.

25 **SECTION 34.** 229.682 (2) of the statutes is repealed.

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1 **SECTION 35.** 229.8275 of the statutes is repealed.

2 **SECTION 36.** 230.13 (1) (intro.) of the statutes is amended to read:

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

6 **SECTION 37.** 233.13 (intro.) of the statutes is amended to read:

7 **233.13 Closed records.** (intro.) Except as provided in ss. 19.36 (10) ~~to (12)~~
8 and (11) and 103.13, the authority may keep records of the following personnel
9 matters closed to the public:

10 **SECTION 38.** 946.15 of the statutes is repealed.

11 **SECTION 39.** 978.05 (6) (a) of the statutes is amended to read:

12 978.05 (6) (a) Institute, commence or appear in all civil actions or special
13 proceedings under and perform the duties set forth for the district attorney under ch.
14 980 and ss. 17.14, 30.03 (2), 48.09 (5), 59.55 (1), 59.64 (1), 70.36, ~~103.50 (8)~~, 103.92
15 (4), 109.09, 343.305 (9) (a), 453.08, 806.05, 938.09, 938.18, 938.355 (6) (b) and (6g) (a),
16 946.86, 946.87, 961.55 (5), 971.14, and 973.075 to 973.077, perform any duties in
17 connection with court proceedings in a court assigned to exercise jurisdiction under
18 chs. 48 and 938 as the judge may request and perform all appropriate duties and
19 appear if the district attorney is designated in specific statutes, including matters
20 within chs. 782, 976 and 979 and ss. 51.81 to 51.85. Nothing in this paragraph limits
21 the authority of the county board to designate, under s. 48.09 (5), that the corporation
22 counsel provide representation as specified in s. 48.09 (5) or to designate, under s.
23 48.09 (6) or 938.09 (6), the district attorney as an appropriate person to represent the
24 interests of the public under s. 48.14 or 938.14.

25 **SECTION 40. Initial applicability.**

