

**OUTAGAMIE COUNTY BOARD MEETING
MAY 23, 2017**

RESOLUTION NO. 13—2017-18

Supervisor Griesbach moved, seconded by Supervisor T. Krueger, for adoption.

RESOLUTION NO. 13—2017-18 IS ADOPTED.

RollCall-Pro Advanced Tuesday, May 23, 2017					
1. THOMPSON	ABSTAIN	13. WEGAND	YES	25. NOOYEN	YES
2. MILLER	YES	14. DE GROOT	NO	26. DUNCAN	NO
3. GRADY	YES	15. VANDEN HEUVEL	YES	27. CULBERTSON	YES
4. PATIENCE	YES	16. LEMANSKI	Absent	28. STURN	NO
5. GABRIELSON	YES	17. CROATT	NO	29. BUCHMAN	YES
6. FOSS	NO	18. SPEARS	YES	30. GRIESBACH	YES
7. HAMMEN	YES	19. STUECK	NO	31. CLEGG	YES
8. T. KRUEGER	YES	20. THOMAS	NO	32. VANDERHEIDEN	YES
9. J. KRUEGER	YES	21. THYSSEN	YES	O'CONNOR-SCHEVERS	YES
10. LAMERS	NO	22. HAGEN	YES	34. RETTLER	Absent
11. MEYER	YES	23. KLEMP	ABSTAIN	35. MELCHERT	YES
12. McDANIEL	NO	24. PLEUSS	NO	36. SUPRISE	YES
Item 13 Passed (22 Y - 10 N - 2 A - 2 Absent) Majority Vote >					

RESOLUTION NO.: 13—2017-18

TO THE HONORABLE, THE OUTAGAMIE COUNTY BOARD OF SUPERVISORS

LADIES AND GENTLEMEN:

MAJORITY

1 Wisconsin's prevailing wage law was enacted in 1931 and required employers to pay
2 workers what local workers were being paid in the area. Changes were made to the law in
3 1996 and significant changes were made in the 2015-17 State Budget. Beginning January
4 1, 2017 prevailing wage was eliminated for all but state projects, state agencies, and state
5 highway projects if they are \$48,000 or more for single trade and \$100,000 or more for
6 multi-trade. Federal prevailing wage laws are still effective on any public building or
7 works project that receives \$2,000 or more of federal funds.
8

9 Governor Walker's 2017-19 Biennial Executive Budget includes language repealing
10 Wisconsin's prevailing wage requirement. Both the Senate and Assembly have also
11 proposed legislation eliminating Wisconsin's prevailing wage law.
12

13 This resolution urges the Legislature to support Wisconsin workers by opposing the
14 repeal of Wisconsin's prevailing wage law because the skilled construction tradesmen and
15 women working on our public infrastructure deserve to be paid a fair minimum wage.
16 Wisconsin is already experiencing a worker shortage and a skills gap. Repealing
17 prevailing wage will only make the problem worse.
18

19 NOW THEREFORE, the undersigned members of the Legislative/Audit & Human Resources
20 Committee recommend adoption of the following resolution.

21 BE IT RESOLVED, that the Outagamie County Board of Supervisors does urge the Governor
22 and State Legislature to protect Wisconsin workers by opposing legislation to repeal Wisconsin's
23 prevailing wage law, and

24 BE IT FINALLY RESOLVED, that the Outagamie County Clerk be directed to forward a copy
25 of this resolution to the Outagamie County Executive, all Wisconsin counties, and the Outagamie
26 County Lobbyist for distribution to the Governor and the Legislature.

27 Dated this 23rd day of May 2017

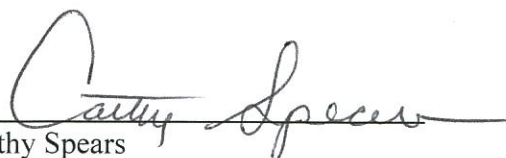
28
29 Respectfully Submitted,

30
31 LEGISLATIVE/AUDIT &
32 HUMAN RESOURCES COMMITTEE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26




Travis Thyssen



Cathy Spears



Shane Griesbach



Justin Krueger

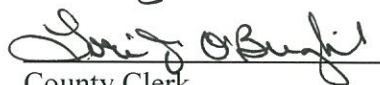


John Foss

Duly and officially adopted by the County Board on: May 23, 2017

Signed: 

Board Chairperson



County Clerk

Approved: 5.25.17 Vetoed: _____

Signed: 

County Executive

Protect Wisconsin Businesses and Workers by Supporting Prevailing Wage

What is the prevailing wage?

A fair minimum wage for the skilled construction tradesmen and women working on our public infrastructure.

It's only fair to be paying those workers a wage that is in line with their skills, training and experience.

Prevailing wage laws protect Wisconsin contractors and workers and keep taxpayer infrastructure dollars in Wisconsin.

In Indiana, 885 jobs along the state line were lost after they weakened their prevailing wage laws. The neighboring, lower wage state of Kentucky gained 770 jobs.

Repealing prevailing wage laws will result in a projected \$500 Million in construction value being completed by out of state contractors on an annual basis.

Weakening Prevailing Wage Hurts Local Contractors And Workers, Economic Commentary #40, Midwest Economic Public Policy Institute (June 2015); How Weakening Wisconsin's Prevailing Wage Policy Would Affect Public Construction Costs and Economic Activity, Duncan & Lantsberg (May 2015).

Construction worker wages will be cut if prevailing wage laws are repealed.

Repeal is projected to reduce construction worker income, health, and retirement benefits by \$756 Million annually.

Decrease in state and local tax revenue is projected to exceed \$39 million annually.

How Weakening Wisconsin's Prevailing Wage Policy Would Affect Public Construction Costs and Economic Activity, Duncan & Lantsberg (May 2015).

Even though wages will be lower, there are no taxpayer savings from repealing prevailing wage laws.

The Wisconsin Legislative Fiscal Bureau has advised legislators that there are **no budget savings** by repealing prevailing wage laws, and the Governor's 2017-19 budget has **no budget savings** assigned to repeal.

As little as 20% of the cost of public construction projects is labor, which means the claims of huge savings are untrue.

Prevailing Wage Laws and 2015 Assembly Bill 32, Wis. Leg. Fiscal Bureau (May 2015); Wisconsin's Prevailing-Wage Law, An Economic Impact Analysis, Philips (April 2015).

You get what you pay for.

Wisconsin's worker are more productive and efficient than workers in states without prevailing wage laws. This means that Wisconsin's infrastructure is constructed cheaper, faster and correctly the first time.

Why are Wisconsin construction workers more productive and efficient? Because the **private construction trades spend \$30 Million annually** on education, training and safety. States that repealed prevailing wage law experienced sharp decline in private construction trades training.

Wisconsin is already experiencing a worker shortage and a skills gaps. Repealing prevailing wage will only make the problem worse.

Wisconsin's Prevailing-Wage Law, An Economic Impact Analysis, Philips (April 2015); Road and Bridge Construction Workers in the Midwest, Manzo & Bruno (March 2015).

**Legislative Fiscal Bureau**

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: <http://legis.wisconsin.gov/ffb>

March 27, 2015

TO: Representative Robb Kahl
Room 322 West, State Capitol

FROM: Ryan Horton, Fiscal Analyst

SUBJECT: Prevailing Wage Laws and 2015 Assembly Bill 32

This memorandum provides information related to federal and state prevailing wage laws and reviews research on the potential impact of prevailing wage requirements on construction costs. In addition, the memo reviews recent changes to Wisconsin's prevailing wage law as well as the proposal to repeal the state prevailing wage requirement, 2015 Assembly Bill 32.

Prevailing Wage

Generally, federal and state prevailing wage laws for municipal and state public work projects require that certain laborers, workers, mechanics, and truck drivers employed on a state or local public works project be paid the prevailing wage rate. This rate is determined by the United States Department of Labor (DOL) with regard to federal law (Davis-Bacon Act), and the Department of Workforce Development (DWD) with regard to the state law. Though federal and state prevailing wage rates are typically similar, when federal and state prevailing wage laws both apply, project contractors must pay workers the higher of the two rates.

Federal and state prevailing wage laws apply based on certain project funding or cost thresholds. Federal prevailing wage applies to any public building or works project that receives \$2,000 or more of federal funds. In Wisconsin, the state law applies under various cost thresholds. For a single trade project, the threshold is \$48,000, whereas the threshold for a multiple-trade project is either \$100,000 or \$234,000 (the latter applies to public works projects erected, constructed, repaired, remodeled, or demolished by a private contractor for a city or village with a population less than 2,500, or for a town). A "single trade project" is defined as one in which a single trade (such as a carpenter, glazier, or electrician) accounts for 85% or more of the total labor cost of the project. A "multiple-trade project" is defined as one in which no single trade accounts for more than 85% of the total labor cost of the project.

With regard to federal funding of state highway projects, federal highway aid typically

requires a non-federal match from state and local funding sources. Therefore, federally funded highway projects are also generally supported by a mix of state or local funding, or a combination thereof. In the absence of state prevailing wage laws, or if highway construction projects were exempted from such state laws, federal prevailing wage laws would continue to apply to highway construction projects using federal funds in excess of \$2,000.

Federal prevailing wage rates are determined by DOL, typically once per year at the county level, based on a survey process. Similarly, state law requires DWD to determine prevailing wage rates, based on a statutorily prescribed annual survey process, for all types of local public works projects, state public works projects (except highways and bridges), and state contracted highway construction projects. Although DWD enforces all local and state prevailing wages laws in other contexts, the Department of Transportation (DOT) administers and enforces federal and state prevailing wages laws for highway and bridge construction projects.

Workers to whom federal and state prevailing wage laws apply may not be permitted to work a greater number of hours per day or per week than the prevailing hours of labor, unless they are paid for all hours worked in excess of prevailing hours of labor (40 hours per week) at a rate of at least 1.5 times their hourly basic rate of pay. State law also stipulates that prevailing hours of labor do not include hours worked in excess of 10 hours per day, on Saturday or Sunday, or on certain holidays, and that these hours must be paid at a rate of at least 1.5 times the hourly basic rate of pay. The term "prevailing wage rate" means the hourly basic rate of pay, plus the hourly contribution for health insurance benefits, vacation benefits, pension benefits and any other bona fide economic benefit, paid directly or indirectly for a majority of the hours worked in a trade or occupation on projects in an area (generally the county).

Prevailing Wage Law Changes and Proposals: 2009 to 2014

Wisconsin's prevailing wage law has recently undergone two significant revisions, in 2009 and 2011.

In 2009, the state budget included provisions which expanded the applicability of the state's prevailing wage laws. The threshold for requiring payment of the prevailing wage rate was lowered to \$25,000 in total project costs and a new class of project was created - publically funded private construction projects - which required the payment of the prevailing wage rate. Publically funded private construction projects included any project that received \$1 million or more in governmental grants, loans, funding, or property transfers from a local government unit. In addition, the bill required a contractor, subcontractor, or agent on a project subject to prevailing wage requirements to electronically submit to DWD a certified monthly payroll report. See Appendix I for a summary of the law changes included in the 2009-11 biennial budget.

In 2011, the state budget reversed several of the 2009 law changes. The act generally prohibits local prevailing wage laws and repealed the applicability of the state prevailing wage law to publically funded private construction projects. The act also created the tri-tiered threshold (\$48,000, \$100,000, and \$234,000) that exists today. Certain project types were exempted from the prevailing wage law. In addition, contractors on a prevailing wage project were no longer required

to submit a monthly certified record of their employees to DWD. See Appendix II for a summary of prevailing wage law changes included in the 2011-13 biennial budget.

In the 2013-14 legislative session, five Assembly bills and three Senate bills were introduced that directly addressed Wisconsin's prevailing wage law. The session expired without passage of any of the eight bills.

From 2009 through 2014, fiscal notes attached to bills addressing the state's prevailing wage law have been produced by state agencies including DWD, DOT, Department of Public Instruction (DPI), Department of Administration (DOA), and Department of Corrections. In no instance did an agency calculate an estimate of the potential project cost savings to a government associated with changes to the state's prevailing wage law. In some instances, fiscal estimates from the Department of Workforce Development have described that project savings "may" or are "likely to" materialize, but do not provide actual estimates. DWD did caution in several of its fiscal notes that "to the extent that prevailing wage rates reflect the rates paid locally there would be no savings by having a construction project not covered by the prevailing wage laws as compared to being covered."

2015 Assembly Bill 32

Under AB 32, the state prevailing wage law, the local prevailing wage law and the state highway prevailing wage law would be eliminated. The bill would retain the prohibition against local governments enacting or administering their own prevailing wage laws or similar ordinances. The effective date of the bill would be January 1, 2016. The initial applicability of provisions within the bill would be on the effective date of the bill for projects subject to bidding, projects subject to a request for bids, and to project contracts entered into. Projects utilizing at least \$2,000 in federal funds would still be subject to the federal Davis-Bacon Act.

Fiscal notes for 2015 AB 32 were submitted by eight state agencies. Fiscal notes from the Department of Natural Resources (DNR), Department of Justice (DOJ) and Wisconsin Technical College System (WTCS) cited either indeterminate or no state and local fiscal effect.

DOA determined that there would be a decrease in existing appropriations and in existing revenues to the Department for project oversight due to decreased state building project costs as a result of the bill. However, the amount of decreased costs were indeterminate because data was not available to ascertain the rate that may be bid by contractors in the absence of the prevailing wage law. DOA noted that for the past two years 93% to 97% of building construction contracts were subject to prevailing wage laws, but the number of these contracts subject to federal law was not available.

The fiscal note from the UW System stated that insufficient data existed to make an estimate of the bill's impact on capital projects while noting that labor is a significant component of construction costs and the impact would likely vary based on local labor markets. The note also raised concerns regarding the potential migration of skilled workers to other states and that a wage reduction could result in hiring more lower skilled workers which could affect project quality and

longer-term maintenance and repair costs.

The Department of Revenue (DOR) identified no state fiscal effect. DOR's fiscal estimate for local governments is marked indeterminate, although the Department did include a description of potential savings on local government construction projects which would no longer be subject to prevailing wage requirements. DOR's calculation assumed \$1.32 billion in local government construction expenditures in Wisconsin subject to state prevailing wage requirements. 18.9% of the net value of construction being attributable to labor costs, a potential decrease in wages of 14.1% due to the absence of prevailing wage laws (derived by comparing a statewide U.S. Bureau of Labor Statistics sample of construction occupations to a weighted average of a sample of DWD prevailing wage determinations), and 50% of labor savings being passed through from contractors to local governments as reduced construction bids. Using this set of assumptions, DOR noted the potential of \$18 million in savings (1.3% of total project costs) on an annual basis to local governments as a result of the bill. The Department does not identify local government expenditures for projects which receive federal funds and thus would still be subject to federal Davis-Bacon wage requirements. The estimate also assumes that the absence of a prevailing wage requirement would not result in any decrease in worker efficiency. Further, the sample of county-level prevailing wage data used does not match up the expenditure data to actual local projects undertaken.

The fiscal note from DWD details administrative cost savings from the elimination of the state's prevailing wage program. The Department would no longer need to administer its annual survey or computer applications that calculate prevailing wage rates. According to DWD, this would enable the Equal Rights Division to reduce total FTE by 4.0. Eliminating these positions would save \$358,000 GPR annually in salary, fringe, supplies and services costs. Further, DWD noted potential savings related to a reduction in complaints from state prevailing wage projects. However, due to construction timelines and the two-year window for complaints to be filed, these savings would not be fully realized for two to five years after enactment. Beyond these savings in administration of the state prevailing wage law, DWD was unable to determine the fiscal impact of the bill on local and state governments.

DOT found that the bill would result in fewer investigations required by staff relating to wage and compliance matters. The Department estimated this would result in an estimated "one-time" decrease in administrative costs of approximately \$194,800 associated with prevailing wage activities; with this workload being absorbed to meet other required duties in the longer term. The Department noted indeterminate cost decreases for state and local units of government. Concerning DOT project costs, construction projects that are advertised for bid, or "let," are generally subject to prevailing wages. DOT project "delivery" costs, such as design, engineering, consulting, real estate, and state staff costs are typically not subject to prevailing wage requirements and were not included in their analysis. Project lets with at least \$2,000 in federal participation would not be impacted by this bill due to Davis-Bacon. State only spending on construction lets with no federal participation represents approximately 17.5% of spending (\$1.12 billion annual average for the last three years) on highway construction projects, or approximately \$196 million annually, with labor costs estimated at 20% to 25% of construction costs. These calculations could result in non-federal project labor costs of roughly \$44 million per year. However, DOT did not make an estimate of

overall labor savings and noted that any potential savings would only be realized if passed on by contractors through lower bids.

The Prevailing Wage Debate

Debates about prevailing wage laws have occurred as long as the laws have existed. Prevailing wage laws are opposed because such laws may unnecessarily increase labor, compliance and administrative costs as well as interfere with the efficient operation of markets. It is also argued that the method of determining the "prevailing" wage may be biased and unfair, because of the nature and extent of prevailing wage surveys (that is, survey results based on limited or unrepresentative returns). The potential negative impact on small firms is also cited as a cost of prevailing wage laws.

Prevailing wage laws are supported as a mechanism for encouraging development of the economy along a high-skill path that leads to more productive and cost-effective production. As a result, it is argued that workers are paid higher wages while not significantly increasing the cost of public construction. It is also argued that prevailing wage laws may increase the likelihood that public construction projects will have a higher multiplier effect on the economy by increasing local economic output and the tax base. Proponents also argue that contractors are more likely to train and hire the most skilled workers available, which increases the level of safety of the workplace, and decreases the likelihood of poor quality and cost over-runs on the project.

The following is a review of research which attempts to assess the impact of prevailing wage laws on construction costs.

Evidence on the Impact of Prevailing Wage Laws on Construction Costs

A large body of research analyzing the impact of prevailing wage laws on construction costs has developed over time. Some of the more recent studies follow:

A 2006 study, conducted by the Kentucky Governor's Office for Policy Research (Jones, 2006), used U.S. Bureau of Labor Statistics (BLS) data to compile a weighted wage rate comparison of prevailing wage rates and average wage rates in Kentucky counties. The study found that, statewide, there was an average savings of 17.1% on the labor share of state construction projects in the absence of a prevailing wage. The county-specific difference ranged from 6.4% to 40.8%. The study estimated that elimination of the prevailing wage requirement would result in average savings of 6.65% of project costs. The report also notes that the prevailing wage requirement artificially raises the price of labor, resulting in a distortion of the capital-labor input ratio used by construction firms on prevailing wage projects. Firms would substitute away from the relatively more expensive labor, and utilize a greater level of capital equipment.

A Mackinac Center for Public Policy study compiled wages in the construction industry in Michigan from BLS statistics and compared those wages to prevailing wages established for various construction workers, such as carpenters and electricians (Kersey, 2007). The data indicated that Michigan's prevailing wage law resulted in an average wage increase of 39.1%. The

study concluded that the prevailing wage law caused contractors to pay wages that averaged 40% to 60% higher than those determined by the market. Based on U.S. Census data, the prevailing wage law was estimated to increase the cost of construction by 10% to 15%. Repeal of the law would have saved state taxpayers an estimated \$216 million in 2002. Exempting school districts from the law would have saved an estimated \$109 million in 2002, and repeal of local prevailing wage laws would have saved municipalities an estimated \$16 million. The report states that although there is some evidence that prevailing wage laws are associated with modest improvements in productivity, the increase would not offset the higher wage costs.

The Center for Governmental Research (CGR) produced a report in 2008 for the New York State Economic Development Council to assess the impact of prevailing wage requirements on the cost of construction in New York State. CGR recorded the median market wages (including benefits) of metropolitan statistical areas in New York and across the U.S., and the prevailing wages in the New York areas and then used the data to determine the costs of constructing a virtual prototype project in each of those regions. The study found that, within the state, the prevailing wage increased the total cost of a typical construction project by 36% across the state's major metropolitan areas. The cost differential ranged from 23% for upstate regions, to 53% for downstate regions. Project costs were 28% higher for upstate projects than for out-of-state competitors, while costs were 76% higher for downstate communities than for out-of-state competitors.

A 2013 report from the Anderson Economic Group commissioned by the Associated Builders and Contractors (Rosaen, 2013), estimated that the state of Michigan could have saved nearly \$225 million annually between 2002 and 2011 on K-12 and public higher-education school construction costs in the absence of the state's prevailing wage law. The study assumed that prevailing wage costs were directly passed on to state and local government. The analysis did not consider changes in worker productivity, material costs, or labor share due to the absence of prevailing wage.

A 2005 econometric analysis found that, all else equal, low-income housing projects were significantly more expensive if developers were required to pay prevailing wages (Dunn, Quigley, and Rosenthal, 2005). Based on a sample of 205 low-income housing projects subsidized by the California Tax Credit Allocation Commission during 1997 through 2002, and using a number of statistical models to determine costs, the authors concluded that prevailing wage requirements increased construction costs between 9% and 37%. Imposition of the law decreased the number of low-income housing units by more than 3,100 units per year.

A 2006 report prepared for the Minnesota Office of the Legislative Auditor (Jordan, 2006) included a review and evaluation of the literature that measured the relationship between prevailing wage laws and the cost of construction. Studies reviewed included: (a) the relationship between prevailing wage and quality of construction and productivity of workers; (b) the effect of prevailing wage laws on project cost; and (c) other impacts of prevailing wage laws, such as the impact on construction worker wages, training and apprenticeship programs, and state tax revenues. In reviewing the various studies of the effects of prevailing wage laws on total costs of construction, the author indicates that some failed to control for the range of variables that affect

costs. The studies failed to allow for factor substitution, and assumed labor is homogeneous. Other studies used regression analysis to control for factors other than prevailing wage laws that might impact total cost. The results of these types of studies is mixed, but the "preponderance" of available studies show that prevailing wage laws do not have a statistically significant impact on the total cost of public construction projects.

Several reports prepared by economist Peter Philips show that prevailing wage laws do not raise costs. Due to technological changes, improved materials, and increased managerial efficiency, the share of wage costs as a percent of total construction costs has been falling. In 1972, wage costs were about 27% of total construction costs in the U.S., while in 2002 wage costs had declined to approximately 20% of total construction costs. During the mid-1990s, Kentucky enacted a prevailing wage law, Ohio, repealed the state law, and a Michigan court suspended prevailing wage regulations on school construction for over two years. Using FW Dodge construction data for 391 new schools constructed in Kentucky, Ohio, and Michigan, Philips found the mean square foot construction cost for rural schools in the periods in which there was no prevailing wage law was \$96, compared to \$98 when there was a law. For urban schools, the mean square foot cost was \$114, with or without a prevailing wage law. The author then applied an econometric model to control for other factors and estimated that prevailing wage regulations raised school construction costs 0.7%, a result that was not statistically significant (Philips, 2001). A subsequent peer-reviewed study of 4,000 new schools built nationally found that there was no measurably or statistically significant effect of prevailing wage regulations on total construction costs (Azari-Rad, Philips, and Prus, 2002).

A 2011 study by economist Kevin C. Duncan examined the effect of prevailing wage requirements on the relative cost of state and federally funded highway resurfacing projects in Colorado. Colorado does not have a state prevailing law but, like all other states, road projects with federal funding are subject to federal Davis-Bacon wage requirements. The report found that, on average, projects funded by the federal government are substantially more expensive than state-level projects which are not subject to prevailing wage requirements. However, the federal projects were larger and more likely to require complex tasks (asphalt removal, blading of road surfaces, etc.) than state-funded projects. When controlling for these and other factors, the study found no statistically significant difference between the costs of projects that do, and do not require the payment of prevailing wages. The author concludes that the results from the study imply that the State of Colorado could adopt current federal wage standards without an increase in the cost of construction.

A review of the literature related to prevailing wages and government contracting costs reveals three main research categories:

- a. wage differential approach,
- b. cross-sectional analysis ("with and without-law" comparisons), and
- c. time series analysis ("before and after" comparisons)

The wage differential approach consists of determining if wages under prevailing wage laws are higher, and assumes that the increase in wages is directly passed on to the government in higher

contract costs. This is an intuitive approach and is consistent with the notion that if wage rates increase, so will the total construction costs. However, such approaches typically assume no change in the behavior of contractors in the face of higher wages and, therefore, pass the entirety of the increase in labor costs on to governments in the form of higher contract costs. This approach typically assumes that productivity, material costs, and the labor share of construction all remain constant. In addition, these studies typically do not control for other factors such as project location, project type, or time of year which also can significantly affect costs. A number of such studies including those studies by the GAO (1979), the Mackinac Center for Public Policy (1999 and 2007), the Beacon Hill Institute (2008), the Center for Government Research (2008), and the Anderson Economic Group (2013) all find that prevailing wage laws increase project costs.

The cross-sectional approach uses econometric techniques to compare the costs of construction when it is subject to prevailing wage laws and when it is not. The first econometric cross-sectional study of prevailing wage laws and construction costs used regression analysis to compare the costs of public construction contracts subject to federal prevailing wage regulation with the costs of private construction contracts that were not (Fraundorf et al. 1984). The results showed that public construction was on average 26.1% more expensive than private construction. (The authors acknowledged that, with labor costs about 30% of total construction costs, the estimate seemed somewhat high). This analysis was partially replicated in 1996 (Prus), but the comparison made was between public and private construction costs in states with prevailing wage laws to those costs in states without the laws. Prus did not find a statistically significant difference in construction costs in states with prevailing wage laws and in states without such laws. Studies by Philips (1996, 1998), Prus (1999), Azari-Rad et al. (2002; 2003), and Duncan (2011) generally found construction costs were not statistically different for contracts subject to prevailing wage laws and those that were not. However, a study by Dunn et al. (2005) did conclude that prevailing wage rates in California increased construction costs for low-income residential projects. A study by Vincent and Monkkonen (2010) found that while the presence of prevailing wages laws increased school construction costs by 13%, it was the entire regulatory environment of a particular place that had the largest cost impact.

Time series analysis also uses econometric techniques to compare construction costs before and after, either repeal or enactment, of prevailing wage laws. Thieblot (1986) used President Nixon's suspension of the Davis Bacon Act in 1971 to compare contract bids before suspension with rebids after suspension. The differences in re-bids suggested a savings of 4.7% on government construction contract costs from suspension of Davis-Bacon. However, the original contract bids were made public before the re-bid process, meaning bidders had knowledge of their competitors' offers for projects. Studies by Bilginsoy and Philips (2000), and Philips (2001) found that prevailing wage laws caused no statistically significant increase in government construction costs. A 2009 and 2012 follow-up study by Duncan et al. finds that the introduction of prevailing wage laws in British Columbia disrupted construction efficiency in the short term but that, within a relatively short period of time, the construction industry adjusted to wage requirements by increasing overall efficiency. The authors conclude that a short-term decrease in construction efficiency, followed by a sharp and durable increase, supports the view that prevailing wage laws are not associated with higher, long-term construction costs.

Existing research on the impact of prevailing wage laws on construction costs is mixed and inconclusive. Excluding studies which assume that the entirety of any increase in wages is passed on to the government in higher contract costs (wage differential), the evidence on prevailing wage effects generally range from relatively small effects to no statistically significant effects (cross sectional and time series). These findings echo a 2007 report prepared by the nonpartisan Minnesota Office of the Legislative Auditor which, in a review of the literature that measured the relationship between prevailing wage laws and the cost of construction, concluded that while some studies found a small impact on costs, more comprehensive studies have found that the impact is not statistically significant. These findings are further corroborated in a comprehensive review of research related to prevailing wages and government contracting costs by Mahalia (2008). The report concluded that a growing body of economic studies finds that prevailing wage regulations do not inflate the cost of government construction contracts. The report indicates that a basic premise is that prevailing wage laws raise costs for contractors, and contractors pass the costs on to the government. Possible explanations for the breakdown in the seemingly intuitive relationship between wage rates and projects costs may include: (a) contractors might already be paying wages that are required under prevailing wage laws; (b) labor costs are not the predominant costs in government contracts; (c) prevailing wage rates can attract higher-skilled workers, and more efficient management, so that increased productivity would offset higher wages; and (d) higher wages may be offset by factor substitution, such as more efficient materials.

RH/sas
Attachments

ATTACHMENT I

Prevailing Wage Provisions included in 2009 Wisconsin Act 28

Publicly Funded Private Construction Projects

- Creates a prevailing wage law for publicly funded private construction projects, other than a project of public works, that receives financial assistance from a local governmental unit.
- Applies to workers employed on the site of the project.
- Excludes most residential development projects and the Milwaukee Riverwalk.

Project Threshold

- \$25,000 for municipal and state projects.
- Direct financial assistance of \$1,000,000, for publicly funded private construction projects.

Reporting Requirements

- Monthly submission of individual records or submission of collective bargaining agreements.
- DWD posting of records or agreements on internet site.
- Creates penalty for frivolous requests to examine records.
- Requires DWD to post exceptions or waivers included in contracts related to employment of apprentices.

Liability and Penalties

- Specifies payment of unpaid wages plus 100% of the amount as liquidated damages where DWD determines underpayment.
- Specifies payment of unpaid wages plus 100% of the amount as liquidated damages where underpayment is determined in court action.

Other Provisions

- Excludes projects with labor provided by unpaid volunteers.
- Specifies that municipal and state laws apply to projects undertaken by one local governmental unit or state agency under contract for another local governmental unit or state agency.
- Specifies that municipal and state laws apply to sanitary sewer and water main projects turned over to a local governmental unit or state agency. (Also, applies to road and bridge projects for local governmental units.)
- Specifies that municipal and state laws apply to projects in which a completed facility is acquired, leased, or dedicated to a local governmental unit or state agency.
- Creates a statutory definition of minor service and maintenance work and a statutory exclusion for minor service or maintenance work, warranty work, or work under a supply and installation contract.
- Creates a definition of bonafide economic benefit.

ATTACHMENT II

Prevailing Wage Provisions included in 2011 Wisconsin Act 32

Exemption for Nursing Homes

Provide an exemption from local prevailing wage law for a nursing home project of public works in a county with a population of less than 50,000. if the project breaks ground within one year after the effective date of the budget bill.

Exemption for Residential Projects

Specify that a project of state or local public works involving the erection, construction, repair, remodeling, or demolition of a residential property containing two dwelling units or less is not subject to prevailing wage law.

Exemption for Residential Development

Provide an exemption for any residential development from laws governing municipal prevailing wage and hour scales. Define "residential development" to mean any development where 90% of the approved lots contain or will contain a dwelling. Define "dwelling" to mean any building that contains one or two dwelling units. Specify that the determination of whether a development is a residential development is determined at the time the development was approved by the applicable government authority. Specify that this exemption would apply to any work that is paid for by a developer and then dedicated over to a municipality, including work performed on a road, street, bridge, sanitary sewer, or water main project.

Exemption for Chip/Slurry Seal

Specify that, in addition to the exemption under current law for chip and slurry work with a projected life span of less than five years, all chip and slurry work performed by towns is exempt from the prevailing wage law, except for work funded through the Town Road Improvement Program under the Local Roads Improvement Program.

Exemption for Trucking Activities

Make the following changes to pre-existing state and local prevailing wage laws governing covered employees. Prior law stated that the prevailing wage provisions not apply to a laborer, worker, mechanic, or truck driver who is regularly employed to process, manufacture, pick up or deliver materials or products from a commercial establishment that has a fixed place of business from which the establishment regularly supplies processed or manufactured materials or products unless either of the following applies:

- a. The individual is employed to go to the source of mineral aggregate that is to be immediately incorporated into the work, and not stockpiled or further transported by truck, pick up

that mineral aggregate, and deliver that mineral aggregate to the site of a covered project by depositing the material substantially in place, directly or through spreaders from the transporting vehicle: or

b. The individual is employed to go to the site of a covered project, pick up excavated material or spoil from the site of the project, and transport that excavated material or spoil away from the site of the project.

The act modified the above provisions by: (1) specifying that the individual would not have to be regularly employed in the activities described above in order to be exempt from coverage; (2) specify that prevailing wage law also does not apply to an individual delivering products from a facility that is not dedicated to a project; and (3) amending "a" above to specify that in order to be covered, the individual would have to be employed to go to the source of mineral aggregate and deliver that mineral aggregate to the site of a covered project by depositing the materials directly in final place, from the transporting vehicle or through spreaders from the transporting vehicle.

Work Performed Without Compensation

Eliminate the current law exemption from the municipal and state prevailing wage laws for public works projects in which labor for the project is provided by unpaid volunteers. Instead, specify that the state and municipal prevailing wage laws do not apply to projects for which the governmental unit contracting for the project is not required to compensate any contractor, subcontractor, contractor's or subcontractor's agent, or individual for performing the work.

Night Shift Differential and Holiday Pay

Modify current law regarding certification of prevailing wage rates for highway projects to require that DWD must, in addition to the current prevailing wage rates, include Sunday pay, holiday pay, and shift differential, with the exception of height pay, pay for work with particular products, and supervisory pay, provided for in the collective bargaining agreement or a successor agreement.

Prevailing Wage Survey

Specify that governmental units are exempt and precluded from filing a prevailing wage survey if the governmental unit performs any construction work

Statewide Concern; Uniformity - - Local Ordinances

Provide that the Legislature finds that the enactment of ordinances or other enactments by local governmental units requiring laborers, workers, mechanics, and truck drivers employed on projects of public works or on publicly funded private construction projects to be paid the prevailing wage rate and to be paid at least 1.5 times their hourly basic rate of pay for hours worked in excess of the prevailing hours of labor would be logically inconsistent with, would defeat the purpose of, and would go against the spirit of laws governing municipal prevailing wage and hours and the repeal of laws governing publicly funded private construction projects. Specify

that these provisions must be construed as an enactment of statewide concern for the purpose of providing uniform prevailing wage rate and prevailing hours of labor requirements throughout the state.

Prohibit a local governmental unit from enacting and administering an ordinance or other enactment requiring laborers, workers, mechanics, and truck drivers employed on projects of public works or on publicly funded private construction projects to be paid the prevailing wage rate and to be paid at least 1.5 times their hourly basic rate of pay for hours worked in excess of the prevailing hours of labor or any similar ordinance or enactment. Specify that any such ordinance or other enactment that is in effect on the effective date of this provision is void.

Project Thresholds

Eliminate the current provision specifying that the prevailing wage laws for municipal and state public works projects do not apply to projects for which the estimated cost of completion is below \$25,000. Instead, specify project thresholds of: (a) \$48,000 for single-trade projects; (b) \$234,000 for multiple-trade construction projects conducted by townships or by cities and villages with populations of less than 2,500, provided that the work is contracted with a private contractor; and (c) \$100,000 for all other multiple-trade municipal and state public works projects. Define "single-trade project" as a project in which a single trade accounted for 85% or more of the total labor cost of the project. Define "multiple-trade project" as a project in which no single trade accounted for 85% or more of the total labor cost of the project.

Reporting Requirements

Repeal the monthly wage reporting requirements for contractors, subcontractors, or contractor's or subcontractor's agents enacted in 2009 Act 28. Under prior law, if a contractor, subcontractor, or agent of a contractor or subcontractor performed work on a project that is subject to the prevailing wage laws, the contractor, subcontractor, or agent must submit to DWD in an electronic format a certified record of hours worked by, and wages paid to, its employees who worked on the project in that preceding month. However, if all persons employed by the contractor, subcontractor, or agent who were performing work on a covered project are covered under a collective bargaining agreement and the wage rates for those persons are not less than the prevailing wage rate, the contractor, subcontractor, or agent must submit to DWD in an electronic format a copy of all collective bargaining agreements that are pertinent to the project of public works by no later than the end of the first week of the first month in which the contractor, subcontractor, or agent performed work on the project of public works.

Repeal the requirement that DWD post the reported information on its Internet site. Prior law required DWD to post on its Internet site all certified records and collective bargaining agreements submitted under the above (prior law) provisions, except that DWD may not post the name of or any other personally identifiable information relating to any employee of a contractor, subcontractor, or agent that submitted the information to the Department.

Inspection of Records

Modify the prior law provisions requiring DWD to inspect contractor wage records for state and local projects subject to prevailing wage law when requested by individuals to, instead, specify that if another party requests that DWD inspect a contractor's records, the contractor is required to submit records for four weeks of payroll only once per calendar quarter for each project. Require these reports to be available for public inspection. Specify that, once a request is made under this provision, the Department may not approve a request for an inspection of records if made by any other party in the same calendar quarter for that project. Specify that no fee would be charged to any party making such a request. Require that a unique identifier must be included on the report so that the identity of employees listed is in compliance with state and federal laws governing divulging personal information. These provisions would replace the prior law provisions governing inspection of records.

Publicly Funded Private Construction Projects

Repeal the prevailing wage statutes regarding publicly funded private construction projects, which were adopted in 2009 Act 28.

2009 Act 28 created the state prevailing wage law for publicly funded private construction projects, which is similar to prevailing wage laws for municipal and state public works projects. These provisions generally applied to any owner or developer of real property who enters into a contract for the erection, construction, remodeling, repairing, or demolition of any publicly funded private construction project. "Publicly funded private construction project" means a construction project in which the developer, investor, or owner of the project receives direct financial assistance from a local governmental unit for the erection, construction, repair, remodeling, or demolition, including any alteration, painting, decorating, or grading, of a private facility, including land, a building, or other infrastructure. A "publicly funded private construction project" does not include a project involving any of the following:

- a. Residential property, if the project is supported by affordable housing grants, home improvement grants, or grants from a local housing trust fund.
- b. A residential property containing four dwelling units or less.
- c. A residential property that contains retail, office, or commercial components, if the project is intended to increase the supply of affordable housing in the community.

"Direct financial assistance" is defined as moneys, in the form of a grant or other arrangement or included as part of a contract or cooperative agreement, or any other arrangement, including a redevelopment agreement under the municipal blight elimination and slum clearance law, economic development agreement contract for a project under the tax increment finance law, or assistance provided under the municipal business improvement district law, that a local governmental unit directly provides or otherwise makes available to assist in the erection, construction, repair, remodeling, or demolition of a private facility. The Act 28 provisions did not apply to projects that receive less than \$1 million in direct financial assistance from local units of government.