



## CO-SPONSORSHIP MEMORANDUM

**TO: All Legislators**

**FROM: Representative Katrina Shankland, Rep. Christine Sinicki and Senator Tim Carpenter**

**DATE: Thursday, September 7, 2023**

**RE: Co-Sponsorship of LRB-0239/1 and LRB-4299/1 relating to: prevailing wage, granting rule-making authority, and providing a penalty.**

**DEADLINE: Friday, September 22, 2023**

*We are introducing the **Workers First** package to ensure every worker has access to fair wages, good benefits, workplace protections, and a high quality of life. For too long, the Legislature has ignored the needs of working people, from rolling back workers' rights to undermining local control and diminishing the economic well-being of the men and women who work hard for a living. As our state continues to experience a worker shortage, it is past time to put Wisconsin workers first.*

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In 2017, Wisconsin's historic Prevailing Wage Law was repealed in the biennial state budget. The repeal left most state public works projects subject only to the federal law ([Davis-Bacon Act](#), US DOL). The state's PWL for local public works projects had also been repealed previously.

Prevailing wage laws apply to skilled workers on public construction projects and generally require employers to pay workers the hourly minimum wage and fringe benefits paid to the majority of workers in a particular county, [as calculated by the Department of Workforce Development \(DWD\)](#).

By 2020, the repeal of the state's prevailing wage laws already had shown measurably negative effects on skilled workers and the construction industry, while failing to deliver the promised cost savings or increased bid competition (*see attachment*):

1. Since repeal, blue-collar construction worker earnings have dropped by 6%, on average.

2. The repeal is associated with a 4% decrease in employer-provided health insurance coverage for blue-collar construction workers.
3. Since repeal, the total annual incomes of construction industry CEOs in Wisconsin have increased by an average of 54%.
4. Repeal has had no impact on racial diversity but resulted in less gender diversity in Wisconsin's construction workforce.
5. The number of active apprentices and the number of graduates from apprenticeship programs have grown more slowly in Wisconsin than in Illinois and Minnesota following repeal.
6. Total construction worker turnover has increased by 8% in Wisconsin's heavy and highway construction sector after repeal.
7. The average number of bidders on WisDOT projects was 3.5 before repeal and 2.9 after repeal, a 16% decrease in bid competition.
8. There has been a 60% increase in new WisDOT projects being awarded to out-of-state contractors following repeal.
9. Repeal has had no statistical impact on the average cost per mile of resurfacing or maintaining roads in Wisconsin.
10. There has been no discernible difference in WisDOT projects coming in under budget following repeal.

It is time to return Wisconsin's public construction industry to its former prosperity and support Wisconsin's hard-working, skilled construction workers. Please join us in cosponsoring this legislation to show Wisconsin workers that they come first.

***If you are interested in co-sponsoring this legislation, please reply to this e-mail or contact Representative Shankland's office at 9171 or Senator Carpenter's office at 6-8535 by **Friday, September 22, 2023 at 5:00 PM**. Co-sponsors will be added to both the Assembly and Senate versions of the proposal unless specified otherwise.***

#### ***Analysis by the Legislative Reference Bureau***

##### **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. Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report.

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