To: All Legislators

From: Representative Rob Hutton

Date: January 23, 2015

Re: Co-Sponsorship of LRB-0698: Repeal of Prevailing wage requirement for state and local public works and highway projects

DEADLINE: Friday, February 6th

Contact: 7-9837 or Rep.Hutton@legis.wisconsin.gov

      This legislation simply eliminates Wisconsin's prevailing wage law, allowing for broader participation in the governmental bidding process at wage levels that more accurately reflect market conditions.

      Wisconsin has 3 separate prevailing wage laws. According to DWD's website, our first prevailing wage laws were enacted in 1931, and covered projects bid by a state agency and state highway and bridge projects. In 1933, the third law was added, which covers projects bid or negotiated by local governmental units. These laws were implemented during an era when the government was trying to protect the wages of certain middleclass workers during the severe economic effects of the great depression. In 1996 these laws went through many revisions and in 2011 new thresholds were set to bring us to the current prevailing wage laws we have today. (1)

      Our current law generally states that prevailing wage rate must be applied to projects of public works that the state is a party to or municipalities are a party to when the single trade threshold of $48,000 is met or the multiple trade threshold of $100,000 is met. Additionally, all state highway projects and bridge projects fall under prevailing wage law with similar thresholds.

      Prevailing wage rates are determined through a survey conducted by the Department of Workforce Development (DWD). Each year DWD sends a survey to construction contractors in Wisconsin requesting "the name of each project, project type, public or private work, location, numerical labor classification of the trade reported, hourly base wage for journey workers, the hourly fringe benefit rate for journey workers, union affiliation, and finally the total hours worked in the survey base period (1)." Data collected from these surveys are then computed to determine the wages and benefits paid to these workers.

      Last year, DWD sent out 18,673 surveys and received 1,774 valid returns. These 1,774 surveys, which only represent 9.5% of the industry, will determine the prevailing wage rate for the 2016 year. This means that 90.5% of the construction industry will not be represented in determining the prevailing wage rate, a major factor in the costs of public projects, potentially eliminating the opportunity to bid on the project. Over a 9 year period, since 2006, the average return rate for surveys stands at 10.58%.

      Calculating the cost falls into two separate categories. The first is weighted average. Using this method DWD uses the highest 50% of wages weighted by hour before averaging them to determine the rate for the county. A minimum of 500 hours is required in the county to complete this calculation. If there is less than 500 hours DWD then includes all of the surrounding counties, tier 1. If there are still not enough hours DWD moves out to neighboring counties of tier 1, these are tier 2 counties. At this point if there is still not enough data DWD calculates based on state wide data. This means that a project in Grant County could be based off of wage data from Dane County. The second method for determining prevailing wage rate uses the same tier system but if one wage makes up 50% of the total hours worked in the profession that wage is automatically the prevailing wage rate.

We have seen these laws, passed in the early to mid-1900's, cause considerable negative effects, stifling competition by inflating wages, and ultimately increasing the costs of public projects, paid by taxpayers, by millions of dollars. A 2009 study by the Public Policy Foundation of West Virginia found that West Virginia's state prevailing wage rate on average is 49% higher than market wages (2). A 2004 study conducted by the California Institute for County Government at California State University, Sacramento illustrated that on average federal and state prevailing wage laws cause rates to be 36% to 55% higher than market wages leading to an 11% increase in overall project costs (3).

These costs and reductions in innovation are then passed on to the tax payers of our state. A study by the Minnesota Taxpayers Association (2005) showed that their prevailing wage calculation method leads to a 7.4 to 10 percent increase in project costs totaling an extra $126 million to $171 million (4). Studies in Michigan (2007 and 2013) and Ohio (2002) have shown by exempting school districts and higher education facilities alone there is potential to save $100 million to $225 million annually (5,6,7). Since the 1980's we have seen states like Arizona, Colorado and Florida repeal their prevailing wage laws. Similarly, Pennsylvania, Connecticut, and Michigan are currently working on reforms to their prevailing wage law.

1. http://dwd.wisconsin.gov/er/prevailing_wage_rate/publication_erd_8731_p.htm#4 How
2. http://heartland.org/sites/default/files/West%20Virginia%20Prevailing%20Wage%20Report_0.pdf
3. http://laborissuessolutions.com/wp-content/uploads/2014/01/CA-Prevailing-Wage-Study-2004-CSUS.pdf
4. https://www.fiscalexcellence.org/our-studies/prevailing-wage-final.pdf
5. http://www.mackinac.org/archives/2007/s2007-09.pdf
6. http://www.prevailingwagetruth.com/wp-content/uploads/2013/11/AEG-Report-MI-PW-Law-and-Education-Construction-2.pdf
7. http://www.lsc.state.oh.us/research/srr149.pdf

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, as well as 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.