



April 2000

ENFORCEMENT OF PREVAILING WAGE LAWS

Prevailing wage laws require contractors engaged in public works projects to pay their workers wages that are at least comparable to those of construction workers performing similar private-sector work in the same county. These laws were first enacted in the early 1930s, in Wisconsin and other states, in response to the Great Depression and as a means of protecting workers' wages and discouraging public works contractors from importing lower-wage workers from outside the community. While prevailing wage laws have traditionally been strongly supported by labor organizations, they are generally opposed by contractors in the construction trades, especially those that employ non-union workers.

The Department of Workforce Development (DWD) enforces prevailing wage laws for state and local public works projects, and the Department of Transportation (DOT) enforces them for state highway projects. In addition, nine local governments—including the cities of Milwaukee and Madison—have enacted and enforce their own prevailing wage ordinances. In June 1999, 11.68 full-time equivalent DWD and DOT staff administered prevailing wage laws at a cost of \$611,800.

Wage Rates Are Accurate, But the Survey Process Is Time-Consuming

DWD determines prevailing wage rates for 233 job classifications in each county through an annual survey of all construction contractors. Both union groups and non-unionized contractors believe DWD's survey provides accurate results. However, the survey process is time-consuming. It could be made more efficient if DWD more strongly encouraged contractors to submit their surveys on computer disks and continued its efforts to make the survey available on the Internet.

Enforcement Efforts Include Investigation and Monitoring

Both DWD and DOT enforce prevailing wage laws by investigating formal complaints. In addition, DOT attempts to identify and resolve violations before complaints are filed by monitoring weekly payroll reports for federally funded highway projects. If both DWD and DOT collected weekly payroll reports from noncompliant contractors engaged in state-funded projects, compliance could be improved and the number of formal complaints could be reduced.

In 1998, DWD completed 116 complaint investigations involving 58 contractors. DWD's written goal is to complete investigations with 120 days; however, the average investigation took 304 days. Only 23.3 percent of DWD's investigations were completed within 120 days. DWD staff collected \$125,811 in back wages owed as a result of the investigations they completed.

It is difficult to compare DOT's enforcement efforts to DWD's, because DOT staff do not keep records of the exact number of investigations completed or completion time. However, DOT appears to complete its investigations in considerably less time and in 1998 collected \$140,700 in back wages owed on federally funded projects.

Statutory Penalty Options Are Seldom Invoked

If a complaint is substantiated, DWD is authorized to assess two types of liquidated damages against contractors: 50 percent and 100 percent of wages owed, depending on the circumstances of the complaint and the contractor's record. However, in most cases DWD assesses only the amount of the back wages owed, without liquidated damages.

Statutes also allow both DWD and DOT to prevent contractors that repeatedly violate prevailing wage laws from signing additional public works contracts for a period of up to three years. From 1994 through 1997, DWD debarred 15

contractors for an average of 2.2 years each; however, no contractor has been debarred since October 1997, even though some contractors have repeatedly violated prevailing wage requirements. DOT has not debarred any contractors since 1994, although it has forbidden one subcontractor from working in its Wisconsin Rapids district because of noncompliance with prevailing wage requirements.

Although most contractors comply with prevailing wage requirements, some do repeatedly violate the law. If the Legislature wishes to broaden available penalty options in order to increase their use by DWD and DOT, it could consider requiring contractors to pay workers interest on all back wages and overtime owed, clarifying statutory language concerning the assessment of liquidated damages, and specifying violation thresholds that would require debarment.

[full report, PDF file \(617KB\)](#)