

# WPRI

## SPECIAL REPORT

May 2015



# REAL-WORLD IMPACTS *of* PREVAILING WAGE

**5** stories from around Wisconsin



## President's Note

Four months ago, only 31% of Wisconsinites had ever heard of the term “prevailing wage,” according to the January WPRI Poll of Public Opinion. And it’s a pretty safe bet most of the rest of us had a superficial understanding.

I know I did. I thought the prevailing wage law used surveys of contractors in various parts of Wisconsin to set an average wage that the state, local governments and school districts had to pay private contractors for public construction jobs.

In fact, because of flaws in the surveys, prevailing wages are not averages, the Wisconsin Taxpayers Alliance (WTA) pointed out in a paper released in March. If prevailing wages reflected average wages and benefits, taxpayers in this state could save hundreds of millions of dollars each and every year. If state and local project managers were able to work out deals with reputable contractors who were willing to work a little harder for a little less than most of their competitors, it stands to reason, the savings would be even more dramatic.

But WPRI has found that’s far from the only issue.

This is not a traditional WPRI white paper that examines the impact of laws or policies from a 30,000-foot level. Instead, we asked five veteran Wisconsin journalists to take a closer look at how the prevailing wage law impacts Wisconsin businesses, workers and government employees each and every day.

And what we heard is that the prevailing wage law is often somewhere between a

burden and a nightmare.

The law makes some contractors spend hundreds of hours filling out forms, trying to communicate with bureaucrats, lodging appeals and scratching their heads when they’d rather be working. Those who land the contracts have to deal with internal issues that arise from paying normal wages to some employees and government wages to others. Other contractors just give up trying to compete for government projects altogether.

It’s not fair, at the same time, to pretend “government” is some sort of monolithic sinkhole full of bureaucrats who just don’t care. We found smart elected officials and administrators who have a hard time planning projects because of ever-vacillating prevailing wage rates, who want to provide better schools for kids but struggle to explain the exorbitant costs to taxpayers, who have a hard time even determining which projects are subject to prevailing wage requirements and which ones are not. Wisconsin’s prevailing wage law, we found, applies to a lot more than just construction projects.

There’s ample evidence, in sum, that Wisconsin’s prevailing wage law is harming taxpayers and contractors, frustrating good government servants and diverting resources away from those in need. Some legislators think the law somehow can be “fixed” rather than repealed. Having read the stories that follow, it’s hard to see how.

**Mike Nichols**  
WPRI President

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WISCONSIN POLICY  
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## MISSION >

**Founded in 1987**, the Wisconsin Policy Research Institute is a non-profit, non-partisan 501(c)3 guided by the belief that free markets, individual initiative, limited and efficient government and educational opportunity are the key to economic prosperity and human dignity.



COVER photo by Tom Lynn / [www.tomlynnphotography.com](http://www.tomlynnphotography.com)

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# The savings that local taxpayers could see

Veterans Park pool in Hartford

Without  
prevailing wage law,  
money could be spent  
on other needs

By Greg Pearson

The City of Hartford's outdoor pool at Veterans Park is in its 57th – and last – year. In April 2014, voters overwhelmingly approved spending millions of dollars to replace the pool with a new aquatics center. The projected price tag is \$8.6 million, and engineering estimates say \$400,000 of that cost will be due to Wisconsin's prevailing wage law.

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“That’s a lot of money for a community of 14,300 souls,” Hartford Common Council President Tim Michalak says of the \$400,000 in prevailing wage costs. “We could replace all the vehicles our Police Department uses and still have money left over.”

Because of this, Michalak and other Hartford officials are keeping a close watch as the Legislature debates the future of the prevailing wage law, enacted in 1931 to govern wages paid on many public construction projects.

With bidding on the aquatics center to begin soon, “prevailing wage for us in Hartford has an urgency that it may not have for others,” Michalak says.

Opponents see the prevailing wage law as outdated, cumbersome to administer and expensive for taxpayers.

Michalak says the law probably made sense during the Great Depression’s economic downturn. “It was so hard to hang on to a livable wage. Back then, people were hoping to be able to put food on the table. With the wages you’re talking about now, it’s, ‘How big of a boat can I buy?’ ”

### **\$400,000 in savings**

Hartford residents last year voted, by a 4-to-1 margin, to spend \$5 million on the aquatics center. The current pool – one of the few outdoor 50-meter pools in Wisconsin – had a life expectancy of 40 years. Trying to repair it is no longer financially sensible, Michalak says.

A fundraising campaign is aiming to generate more than \$2 million for the aquatics center, which should open in July 2016 and will be built to serve the entire community. It will have zero-depth entry for toddlers and a lazy river that older residents can use for aquatics therapy.

“The idea is to let people have a stay-cation,” Michalak says. “This is a blue-collar city.”



Tom Lynn / [www.tomlynnphotography.com](http://www.tomlynnphotography.com)

The fact that his community could save \$400,000 without the prevailing wage law is a key reason Michalak supports repealing the law. “Those savings are big to us,” he says. Without that added \$400,000, the city would have to borrow less to finance the project, he says.

### **State’s methodology questioned**

A recent study by the nonpartisan Wisconsin Taxpayers Alliance says the state’s methodology for calculating prevailing wages is flawed because the state averages only the highest wages. The study also points to a low percentage of contractors responding to the wage survey, which further skews the numbers.

“This response bias inflates both wages and benefits above true market averages,” the study notes.

John Dipko, communications director for the state Department of Workforce Development, says the agency bases its calculations on what the prevailing wage law dictates. “The law is very prescriptive about how the calculations are done. Our responsibilities are clearly spelled out in the statute,” he says.

**Even projects that aren't publicly funded have become entangled with the prevailing wage law.**

### **'A huge difference in price'**

Like Michalak in Hartford, other municipal and school officials have become familiar with the effects of the prevailing wage law.

Tom Rufenacht has spent more than three decades as director of buildings and grounds/safety and security for the Monroe School District in south-central Wisconsin.

He recently oversaw bidding for a roofing project at the district's Parkside Elementary School. Because the project was small, he had contractors submit bids with and without prevailing wage calculations. (The prevailing wage law's threshold for single-trade projects is \$48,000 or more. The threshold for multi-trade projects is \$100,000 or more.)

The low bidder for the roofing project submitted estimates of \$72,430 without prevailing wage and \$87,680 with it, or 21% higher.

"Not a huge job, but a huge difference in price," says Rufenacht, adding his view on prevailing wage: "Obviously, it makes the building projects cost more, which means less money for other projects, which means those projects don't get done."

### **Private project affected**

Even projects that aren't publicly funded have become entangled with the prevailing wage law.

Steve Mode learned about the law during a fundraising effort to build a warming hut/shelter next to Haumerson's Pond in Fort Atkinson.

The pond was "the center of winter life in Fort Atkinson for many years," he says, recalling the pond's frequent use by ice skaters. Mode, who is spearheading the effort to build the shelter, wants to revive that tradition.

The volunteer effort has raised \$300,000 to construct the timber-frame structure. While no public money is being used on the project and some of the contractor work is being donated, the prevailing wage law likely will apply



**Mode**



John Lemke / Nasco International

**This rendering shows the warming house/trail head building that will be built at Haumerson's Pond in Fort Atkinson. The revitalization of the park is being done by local volunteers without public funding. Capitol improvements will be funded through monetary donations and donations of time and labor, but long-term maintenance of the park will be managed by the City Parks Department.**

because the completed structure will be given to the city, Mode was told by a city official.

Mode and his group, the Friends of Haumerson's Pond, are proceeding as if prevailing wage will be a factor when construction starts later this spring. He wants to ensure they don't get involved in a bureaucratic fight that could halt work.

"I just want to make sawdust fly," he says.

However, the prevailing wage law already has had an impact on the project. Some contractors who were donating at least some of their services have pulled out of the project because they don't want to deal with the administrative details required by the wage law.

And, as Mode notes, "What is the prevailing wage for a timber-frame carpenter?"

He adds, "It's been a real learning curve, I can tell you that. I'm sure it has added cost to the project, but it's kind of the world we live in."

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*Greg Pearson is a freelance writer and former Milwaukee Journal Sentinel copy editor.*



Dunn County  
benefited from an exemption to the  
prevailing wage law that was added  
to the state budget

The Neighbors of Dunn County  
nursing home in Menomonie,  
owned by the county, opened  
in October 2013.

The Neighbors of Dunn County Facebook photos

Architectural rendering

# A million-dollar exemption?

By Dave Daley

**I**n Dunn County in western Wisconsin, local officials four years ago shaved as much as \$1 million in construction costs from a \$23 million nursing home complex by getting an exemption from the prevailing wage law added to the state budget.

Numerous other local officials in other parts of Wisconsin have told WPRI in recent weeks that they also would like to save money for local taxpayers funding projects made more costly by the Depression-era law.

The exemption raises questions about whether legislators who supported the exemption and allowed Dunn County taxpayers to save money will now spare other local officials and taxpayers from what appear to be similarly costly impacts of the law.

Dunn County Board Chair Steven A. Rasmussen says get-

ting the exemption was a key factor in reducing construction costs for the new county-owned nursing home in Menomonie.

In July 2011, Rasmussen told The Dunn County News that the exemption could save the county in the neighborhood of \$1 million. "We did save a considerable amount of money (with the exemption)," Rasmussen says. The exact savings were not available, he says.

## Prevailing wage was 'huge issue'

Supervisor Paul DeLong, chair of the Dunn County Health Care Center Committee, says obtaining an exemption came up in talks with the developer as the county worked to reduce the project's costs. "Prevailing wage was a huge issue



Rasmussen



DeLong

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in getting reasonable finances for the center,” he says.

The prevailing wage law, enacted in Wisconsin in 1931, sets pay for workers on most public construction projects. Supporters say the law guarantees fair pay and ensures quality work.

Critics say the law artificially inflates wages and raises costs to taxpayers.

Rasmussen says the paperwork involved in determining what different workers are paid under prevailing wage also adds to a project’s costs. “The biggest beef is there is so much administration,” he says.



**The \$23 million complex replaced the Dunn County Health Care Center. The facility has all private rooms.**

**The homes have screened-in front porches and outdoor courtyards.**



“It (the exemption) was put in the budget,” Rasmussen says. “I know Sheila Harsdorf helped.” Harsdorf did not return phone calls requesting comment.

The budget motion stated: “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.” Dunn County’s

population was 43,857, according to the 2010 census.

The exemption was added to the budget during a Joint Finance Committee meeting just before midnight on June 3, 2011. Records do not reflect who added the item. It was incorporated into a “wrap-up” motion that included 27 other items, so legislators on the committee did not take a separate, stand-alone vote on it.

All 16 members of the committee were present that night, and the vote on the wrap-up motion was 12-4, with all of the Republicans in favor: Alberta Darling, Glenn Grothman, Harsdorf, Randy Hopper, Joel Kleefisch, Joe Leibham, Daniel LeMahieu, Dan Meyer, John Nygren, Luther Olsen, Pat Strachota and Robin Vos.

The full budget, with the exemption intact, was passed by both the Senate and Assembly and was signed by Walker.

In January 2012, the Dunn County Board approved the issuance and sale of general obligation bonds of up to \$23.4 million to fund the construction, and the county broke ground on the project in May 2012.

The Neighbors of Dunn County opened in October 2013. The 137-bed facility replaced the old Dunn County Health Care Center.

It could not be determined whether any other public construction projects in Wisconsin have been granted exemptions.



**Harsdorf**

his division chiefs.

In the end, though, it was the help of legislators who represent Dunn County in Madison, chiefly Sen. Sheila Harsdorf, that won the county the exemption, Rasmussen says.

Harsdorf (R-River Falls) represents part of Dunn County, including Menomonie, and is a longtime member of the powerful Joint Finance Committee.

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*Dave Daley, a journalist for 30 years, covered the Capitol for The Milwaukee Journal and legal affairs for the Milwaukee Journal Sentinel.*





# School districts grapple with added costs

The Florence County School District in northeastern Wisconsin is in the beginning stages of exploring renovations at Florence High School.

Tom Lynn / [www.tomlynnphotography.com](http://www.tomlynnphotography.com)

By Betsy Thatcher

Prevailing wage law hits small, lower-income districts harder

What a difference a year makes in the world of Wisconsin's prevailing wage law.

Last year, the Oakfield School District needed a small painting job done as part of a refurbishing project at one of the small district's two schools. The project fell within the state's prevailing wage law – which meant the Fond du Lac County District had to pay painters \$22.53 per hour in wages and benefits, according to Jackie Hungerford, administrative assistant with the district.

The work won't take place until this year, but because the district signed the contract with a local painter in 2014, it was able to lock in that year's rate, Hungerford says.

That's a good thing. This year, she says, the state's prevailing wage and benefits package for that painter in Fond du Lac County is \$42.35 per hour, nearly double the cost.

"You never know from year to year what the dollar amount is," says Hungerford. "It makes it hard to bid a job."

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The Oakfield School District was able to lock in a \$22.53 per hour rate in 2014 to have a school gym painted this year. That's a good thing because the rate in 2015 is up to \$42.35 an hour.

Tom Lynn / [www.tomlynnphotography.com](http://www.tomlynnphotography.com)

While the painting job will be done, other projects affected by the prevailing wage law will not.

### **Project canceled in Oakfield**

John Nyhuis, an Oakfield School Board member, says a remodeling project that had been planned was scrapped chiefly because of the law.

Two years ago, the small, rural district with about 550 students needed to move a grade into the middle school, which is located in the high school building. The plan included moving some rooms around, buying some new science and chemistry cabinetry and equipment, replacing some hallway flooring, adding acoustical ceiling and doing electrical

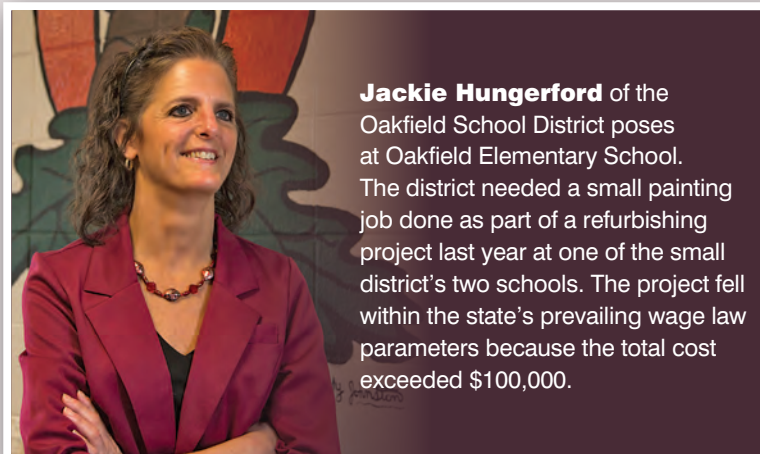
and plumbing work.

Local contractors quoted a budget estimate around \$125,000, Nyhuis says. Because the cost exceeded \$100,000, the threshold at which the school district must apply the prevailing wage law to a project, those same contractors ended up walking away from the job, he says.

"They didn't want to expose their employees to the major wage differences between the prevailing wage law and what

they were (normally) paying their employees," says Nyhuis. In addition, the weekly paperwork required by the law is especially burdensome to small contractors, he says.

State Rep. Rob Hutton (R-Brookfield) has introduced legislation to repeal Wisconsin's 84-year-old prevailing wage law.



**Jackie Hungerford** of the Oakfield School District poses at Oakfield Elementary School. The district needed a small painting job done as part of a refurbishing project last year at one of the small district's two schools. The project fell within the state's prevailing wage law parameters because the total cost exceeded \$100,000.



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While Nyhuis doesn't call for outright repeal, he does believe changes need to be made, especially when it comes to smaller, rural school districts that do not have the same ability to pay for big projects as larger, wealthier districts do. The Oakfield district's current annual budget is about \$6.3 million.

"I think the Wisconsin version of the prevailing wage law should be scrapped on the wage data side, and if they insist on having thresholds, they should be higher and adjusted every few years with one threshold for all types of work on buildings and property attached to that building," says Nyhuis.

### **Small, rural districts 'punished'**

School districts are particularly "punished" by the law, he believes, because of the \$100,000 project cost threshold. For cities, villages and townships with populations below 2,500, the threshold is a minimum of \$234,000 before the prevailing wage law applies.



**Nyhuis**

"Small, financially strapped, rural school districts are punished the worst by this law because even small projects requiring outside labor, material and furnishings can easily top \$100,000," Nyhuis says. "At a minimum, the prevailing wage law should include small, rural school districts in the \$234,000 threshold."

The wild variation in the painter's cost that the Oakfield district was looking at is an example of the findings of a recent evaluation of the state prevailing wage law.

Research conducted by the nonpartisan Wisconsin Taxpayers Alliance found flaws in the way the state Department of Workforce Development calculates wages that must be paid as part of publicly funded construction projects.

The law sets minimum compensation for more than 200 occupations that must be paid to workers on multi-trade, publicly funded construction and improvement projects.

The study found that the state uses methodology to calculate wages that often highly overestimates wage and benefit packages that must be paid on public projects. If prevailing wages had reflected true average wages and benefits for public projects in the state in 2014, state and local governments – and taxpayers – could have saved as much as \$299.5 mil-

*“The elimination of prevailing wage has the potential to be another tool that our school district can use to limit construction or maintenance repair costs.”*



Tom Lynn / [www.tomlynnphtography.com](http://www.tomlynnphtography.com)

**Elmbrook School Superintendent Mark Hansen stands in the boiler room at Swanson Elementary School in Brookfield, where HVAC work will begin this summer.**

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lion, according to the Taxpayers Alliance report.

### **Poorer counties hit harder**

Low-wage, low-income counties, particularly those in northern Wisconsin, bear a heavier fiscal burden as a result of the way the state calculates the wages, the study found.

One of the major flaws in the law is the way the state determines the wages based on non-mandatory surveys it sends to contractors yearly.

Only about 10% of the surveys are returned. Of those, 87% of the hours reported are covered under union contracts. But only approximately 25% of the industry is unionized in Wisconsin.

That method of calculating wages tends to raise prevailing wage rates above market rates, the Taxpayers Alliance study concluded.

In poorer counties, actual wages are lower than those in more populated counties, yet the state's "prevailing wages" often vary little from county to county, according to the study.

The bottom line is that prevailing wages are often 20% to 40% above the rate of market average wages.

Residents of Wisconsin's income-poor counties end up devoting a greater share of their incomes to public projects than residents of more prosperous counties, the study concluded.

Yet even large, wealthy school districts are feeling the pinch of the law.

### **Affluent districts not immune**

The Elmbrook School District, which serves the affluent communities of Brookfield and Elm Grove in Waukesha County, is contemplating about \$13 million worth of heating and ventilating projects over the next three years, according to District Superintendent Mark Hansen.

About 7,000 students are enrolled in Elmbrook Schools, which has a current annual budget of about \$100 million.

The HVAC work will start in one of the district's elementary schools this summer, and estimates reveal that if the work was not subject to the state's prevailing wage law, the district could save 7% to 9% in labor costs, says Hansen. That would result in about \$300,000 savings to taxpayers in the district.

"We believe the elimination of prevailing wage has the potential to be another tool that our school district can

use to limit construction or maintenance repair costs, ultimately supporting our effort to spend 75% or more of our district budget on teaching and learning expenses that have a direct impact on student learning," Hansen says.

### **Florence school district's dilemma**

Florence County Schools have an unusual conundrum, according to that district's superintendent, Ben Niehaus.

The district receives minimal state school aid because of its high property value

stemming from the multitude of second vacation homes in the county and the federally aided federal forestland, which covers about 27% of the county land mass, Niehaus notes.

"We're minimally aided even though we're the most income-poor in the state," Niehaus says.

The district, whose enrollment is relatively small at about 400, is the 10th-largest school district in the state geographically. It covers the entire 488 square miles of Florence County. The district is in the beginning stages of exploring renovations for Florence High School. The district's current annual budget is about \$7 million.

"We're going to be going into a project where prevailing wage could be adversely affecting the cost of our project and what the taxpayers are going to fund," Niehaus says. "My issue as administrator of Florence County Schools is that 80 percent of our funds come from the local (property tax) levy already. We're aided negatively at the secondary and tertiary levels.

"Our state aid decreases 15 percent like clockwork each



Tom Lynn / [www.tomlynnphotography.com](http://www.tomlynnphotography.com)

**Florence High School, built in four parts starting in 1930 and ending in the 1990s, is in need of renovations.**



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Florence County School Superintendent **Ben Niehaus** believes the prevailing wage law should not apply to public school districts. “We want to make sure we are being good stewards of taxpayer dollars, and we want a well-built facility that uses local contractors that save the taxpayers money,” he says.



Tom Lynn / [www.tomlynnphotography.com](http://www.tomlynnphotography.com)

year. So if your revenue cap (for capital project costs) stays the same, it forces the board of education to levy more property taxes. It's just the nature of it."

Niehaus says the high school is in sore need of renovation. It's a structure that was built in four parts starting in 1930 and ending in the late 1990s.

"We look at it this way. Say the community makes a decision to say, OK this is what we want to do, and the cost of that project is \$3 million," he hypothesizes. "Well, prevailing wage is going to keep the cost of the project up."

"If prevailing wage wasn't there, would the cost of that \$3 million project maybe be only \$2.75 million or \$2.8 million?" The renovations in the Florence district will be done but at a higher cost to taxpayers.

Niehaus believes the law should not apply to public school systems. "There's no doubt about it that it's adversely affecting the taxpayer that is already funding 80 percent of our school system," Niehaus says.

"We want to make sure we are being good stewards of taxpayer dollars, and we want a well-built facility that uses local contractors that save the taxpayers money."

### **Public construction costs inflated**

The public is also a concern of Brillion School Board

Vice President Steve Klessig in Calumet County. In his 28 years on the board, Klessig has seen the price tag of projects inflated by 10% to 15% over what they'd cost without the prevailing wage law.

"That always puzzled me – why lawmakers always seem to be struggling for money, but yet they're willing to support a system that inflates the cost of public construction, whether it's roadways, city halls or schools," says Klessig, an architect.

The pay under these jobs just doesn't reflect real-world wages, he says. "Some of these wages, if paid on an annual basis, could be \$100,000. And so are we really trying to say that some of these construction jobs are worth \$100,000 a year?"

Many good companies don't open the door to such jobs, Klessig notes. "Most companies that I have talked to will not even bid a prevailing wage project because of the paperwork needed just to bid a project. You just don't have the time it takes to make all these filings," he says. "Why put up with that?"

The result, he says: "The public only gets a limited number of people bidding on these jobs."

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*Betsy Thatcher is a freelance writer in Germantown and a former Milwaukee Journal Sentinel reporter.*

This 4,000-square-foot storage building at West Bend Municipal Airport is at the center of a prevailing wage dispute between Ford Construction Co. of Waukesha and the State of Wisconsin.

MIKE FORD PHOTOS

# A Web of Confusion and Disparity for Contractors

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# Wisconsin's wage-calculating system for public projects can be a nightmare for construction companies

By Jan Uebelherr

**B**ob Ford, the longtime owner of a Waukesha construction company, says it was a simple building: a big metal storage place for snow plows at the West Bend Municipal Airport. The 4,000-square-foot structure was straightforward in design and construction.

Figuring out how much the state and federal governments eventually would require him to pay his employees under prevailing wage laws, filling out necessary paperwork and trying to collect money he's still owed has been immensely more complicated.

Two years ago, Ford won the \$419,000 contract with the state to build the storage building. It has been finished for a year – though Ford says he is still waiting for \$29,000 from the state, which won't make its final payment until the case is resolved. Ford's predicament is the result of a web of appeals (both state and federal) and confusion over what workers on the job should have been paid under Wisconsin's prevailing wage law.

It was a small job – never more than four guys working on it at one time, says Ford, who has owned Ford Construction Co. for 20 years and has worked in construction since he got out of college. "I'm a project-oriented person," Ford says of his love of construction. "I like a start and a finish. And I also like that we're solving problems all day long. We have to come up with creative solutions all the time."

He's still working on a solution for this one.

"I've got hundreds of hours in this – hours that I can't be bidding work and getting business," says Ford, who hired an attorney to handle appeals on the federal and state levels. Currently, he has taken it to the state Department of Administration.

Some suggest changing or eliminating the wage-calculating system, enacted in Wisconsin in 1931. It was designed to ensure that contractors from distant areas

of the state with lower-wage workers could not outbid local contractors with higher-paid workers on public projects. Through the Department of Workforce Development, Wisconsin's prevailing wage law sets the minimum hourly pay for 200 occupations – carpenters, electricians, ironworkers and more – on most publicly funded projects.

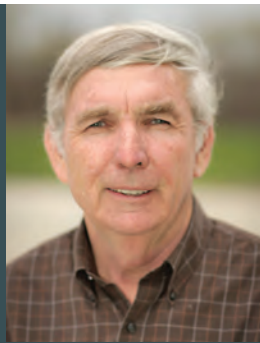
## Study reveals flaws in Wisconsin's law

The nonpartisan Wisconsin Taxpayers Alliance studied the law recently at the request of Associated Builders and Contractors of Wisconsin. The Taxpayers Alliance set out not to evaluate the law's strengths and weaknesses but to examine the method of calculating wages.

It found two major flaws. First, only about 10% of state wage surveys are filled out correctly and returned – heavily weighted toward unions. About 25% of the construction industry is unionized, the Taxpayers Alliance reports, but 87% of the hours reported are under union contracts. "This tends to raise

prevailing wage rates above market values," the group reports.

The other major flaw that inflates wage rates: Unlike other states that conduct such wage surveys, Wiscon-



**"I've got hundreds of hours in this – hours that I can't be bidding work and getting business."**

– **Bob Ford**, owner of Ford Construction Co. in Waukesha

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***“As a taxpayer, I’m concerned ... this extra money is for what? And it’s not representative of what the majority of the state makes. That means that state institutions are paying a lot more and getting a lot less for their construction dollar.”***

**– Stan Johnson**, president of A.C.E. Building Service in Manitowoc

sin “selects and averages only the top portion of wage distribution,” the Taxpayers Alliance says. “This unique method results in prevailing wages that can be 20% to 40% above the rate that results from a true average from all respondents.”

The study found that the way wages were calculated meant wide fluctuations from year to year, unskilled workers being paid more than skilled workers and more “costly” wages in low-wage, low-income counties.

As an example of pay disparities between skilled and unskilled workers, the Taxpayers Alliance noted last year, the prevailing wage and benefit package for an electrician in Lafayette County was \$21 an hour but was \$37.97 – 80% higher – for a general laborer.

The survey itself is so detailed and time-consuming, Ford says, that few non-union contractors participate. “It’s so much work to participate in the survey for a non-union contractor,” says Ford. “Details on every project for the last year ...”

And it costs the taxpayer. The Taxpayers Alliance figures state and local governments could save between \$199.7 million and \$299.5 million on such projects if real market values were used rather than the current system.

### **Contractors frustrated by system**

What the Taxpayers Alliance found confirmed the frustrations of Ford and other contractors who take on public projects and the prevailing wage rates that go with them. They find a web of administration at every step, hourly pay rates that can change mid-project and rates that just don’t make sense.

That’s sure what Ford found. After winning the West

Bend contract, Ford consulted the bidding document for wage rates. Such documents can have up to five pay rates for workers, though they typically contain three – local, state and federal – for various workers, he says. The contractor looks at the rates for a given type of worker and must pay the highest rate.

“How much are we going to pay the carpenter? Find the highest rate and pay that,” says Ford.

For the West Bend building, he looked at the occupations listed in the document and figured “metal building erectors” most closely matched the type of work being done: assembly work of the structure. The prevailing wage rate was \$23.30 an hour.

On other prevailing wage projects, a meeting is usually held with the government handling the project before work begins to go through wages. That didn’t happen with the West Bend project, Ford says.

The trouble began when Ford began filing weekly pay reports with the state, as required for projects like this one overseen by the Wisconsin Department of Transportation. He notes that on such projects, he essentially runs two sets of payroll: his own and the one required by the state.

### **Another big headache**

The state told him he was using the wrong occupation. He should be paying ironworkers rates. That would be \$54.21 an hour. Ford couldn’t understand it. There was no welding involved on this very simple building. “Everything was precut and ready to erect,” he says.

Since the wage rate he was being asked to pay was a federal rate, he had to appeal at the federal level. So he did. He was supposed to get an answer in 30 days, but



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that turned into 90 days.

Work continued on the simple snow plow building. Ford kept paying his workers the \$23.30 rate.

The federal government came back with a reduction of \$3 an hour from the \$54.21. Ford asked how the feds arrived at that but says he couldn't get a response. He appealed again, and they came back with an hourly wage of \$45.45. He asked again what that was based upon but got no answer.

"We think they picked the lowest skilled trade laborer ... looks like ceramic tile installer rate," says Ford, though he's not entirely sure.

He's now appealing the case to the state Department of Administration. A state DOT public affairs spokeswoman declined to comment on the matter since it is still an open case.

### **Some contractors simply walk away**

Even given his experience with the West Bend building, Ford isn't ready to walk away from such projects – he notes that he's had good experiences working with local governments managing the projects – but some construction companies do.

Stan Johnson, president of A.C.E. Building Service in Manitowoc, has had enough. He doesn't bid on such jobs anymore.

Johnson compares the prevailing wage to Garrison Keillor's Lake Wobegon, "where no one's below average." While it may be a charming idea, it's not reality. "They don't represent the wages that we normally see in my world. My wages are very competitive ... it's the benefit rates (under prevailing wage) that are ridiculous. It really is just insane," he says.

For example, he pays an experienced carpenter nearly \$30 an hour. That includes \$5 for benefits. Under the prevailing wage system, he has to add another \$15 an hour for benefits.

"Our benefits max out at \$5 an hour," he says of his non-prevailing wage workers. "We've got a decent health insurance, a 401(k) plan. It's not like we're a cheap employer, because we're not. We've been around 50 years. People want to come and work here."

Johnson also didn't like what it did to his workplace. It created tension among workers. Generally, 90% of his workers were on non-prevailing wage jobs. The

other 10% would get an extra \$10 to \$12 an hour on a prevailing wage job. "How do you decide who goes where? That sets up internal strife that I prefer to avoid," Johnson says.

And there's extra bookkeeping. If a worker spends half a day on a prevailing wage job and the other half on another job, it means more records. "I've got to have multiple wage rates in my system," Johnson says. "It's just a bunch of busy work."

In the end, the loser in the deal is the taxpayer. "As a taxpayer, I'm concerned ... this extra money is for what? And it's not representative of what the majority of the state makes. That means that state institutions are paying a lot more and getting a lot less for their construction dollar."

### **Repeal or change the law**

Johnson would like to see Wisconsin join other states that have abandoned such systems, but he doesn't see a political climate that would allow it.

"It's a tough one politically to sell," Johnson says. Abolishing it means "somebody's going to get paid less."

At the least, Johnson would like to see the calculation method changed. "There's got to be a better way to get a true average," says Johnson, who notes that he doesn't fill out the survey. "It takes a few hours to do it. Plus it's open records. Anybody can get at it," he says. As a business, "you don't want all your information out there. So why would I do that?"

He'd like to see the threshold raised from \$234,000 to \$1 million for public projects that must use prevailing wage. In the world of public works, \$234,000 is a small project. That way, small projects wouldn't have to deal with all the headaches that he sees with prevailing wage.

For his part, Ford isn't opposed to the notion of a prevailing wage. "We have to pay decent wages," he says. "Do we have to pay as much as a union?"

He adds, "Something needs to be done. Either fix it, or repeal it." He favors repealing it. "Because I'm afraid of what they'll do if they try to fix it."

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*Jan Uebelherr was a Milwaukee Journal Sentinel reporter for more than 30 years and is now a freelance editor and writer in Milwaukee.*

# Prevailing wage law extends beyond construction projects

By Lori Holly

In March 2011, the Grafton Water Utility entered into a 14-year maintenance contract for its North Street water tower with Utility Service Company of Perry, Ga. A similar contract for the village's Highway 60 tower was finalized in March 2012 with the same firm.

The work was to include sand blasting and painting, new logo application, annual inspections, washouts and future renovations as needed. When seeking bids, the village requested quotes that didn't include prevailing wages because – like many in the state – village officials believed the prevailing wage law applied only to construction projects, not maintenance work. “The village felt confident that the scope of the work was maintenance in nature and did not meet the definition of public construction,” Village Administrator Darrell Hofland says. “Therefore, we believed the project was not subject to the prevailing wage law.”

They were – at least according to the interpretation of state bureaucrats who ruled that the water tower work had to be done under prevailing wage rates – wrong. As a result, the price tag for the project ballooned by over \$300,000.

The now infamous water towers are symbols of the costs of the law. “We’ve become the example everyone is pointing to,” Utility Superintendent Tim Nennig says.

But they also point to another issue that has received far less attention: a common misunderstanding, even among those now debating the merits of the law, of the true breadth of projects that are impacted by it.

## The water towers

Grafton's saga began four years ago when the village awarded the water tower work to the Georgia company, USC, for a cost of \$712,183.

USC completed initial painting and maintenance work in 2011, and the village's water utility paid the contractor \$127,631. But after the initial work on the first tower was completed, another contractor complained to the state Department of Workforce Development, which investigated the contracts and in May 2012 determined that the projects should have been subject to the prevailing wage law.

The village challenged the state's ruling but lost, and the final

The Highway 60  
water tower

State ruled repair and paint work on Grafton water towers was not maintenance and fell under the law

Photography by Tom Lynn  
[www.tomlynnpotography.com](http://www.tomlynnpotography.com)





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**Darrell Hofland,**  
Grafton village  
administrator

ruling was issued in August 2014.

The DWD made the water utility promise to pay the contractor more for the work on the two towers – a difference of \$308,639. However, because the amended contract for the second tower allows for a maximum 5% increase in each of the last three years of the contract to reflect the current cost of service in those years, the bill for the two contracts could climb to \$1,032,653 – a difference of \$320,470, Hofland says.

“We cannot know what the final difference will be until we get into the final years of the contract,” he says.

The DWD ruling also allowed for a fine to be levied against the village for \$59,169. However, Hofland says, the contractor never billed the village for the fine. “The penalty is not automatically imposed,” Hofland explains. “If DWD receives a complaint from an employee of the contractor that the village (via its contractor) never paid the differential between their original pay and prevailing wages, then DWD can impose the penalty as liquidated damages.”

“The contracts have been amended to reflect the prevailing wage rates,” Hofland says. “We are now paying the higher rates required for Utility Service Company to compensate their workers and contractors with prevailing wages.” USC declined to comment.

### **Residents will pay down the line**

While the additional costs originally were absorbed by the utility’s fund balance, they will have to be passed on to residents eventually, Hofland says. “It will be a factor when the village considers its next rate increase.”

He says he does not know when the utility will seek its next rate increase. A 7% increase was implemented in March 2014, but the additional costs of the water tower projects were not factored into that increase because the matter was not yet settled.

Currently, 32 states have a prevailing wage law. While they vary by state, many of them require a minimum wage or wage and benefit package for workers employed on government

construction projects. Wisconsin’s prevailing wage law was enacted in 1931 but underwent significant change in 1996. Multi-trade projects subject to the law include buildings, roads and highways, sewers, sidewalks, curbs and gutters.

Proponents of repealing the law say it is antiquated legislation that puts an unfair burden on local governments, takes away money from other critical projects and puts small businesses at a disadvantage because they cannot afford to pay the higher wages. Opponents of repeal argue that requiring prevailing wages help to ensure quality work is done on public projects. If the law is repealed, they contend, Wisconsin will lose its well-trained and efficient construction labor force.

### **Analysis says taxpayers could’ve save millions**

The Wisconsin Taxpayers Alliance recently examined the state’s prevailing wage law at the request of the Associated Builders and Contractors of Wisconsin. The goal of the study was to look at the state’s method of calculating prevailing wage amounts. It was not intended to evaluate the strengths or weaknesses of prevailing wage laws in general.

The analysis found prevailing wages in Wisconsin tend to be 23% higher than local averages. That percentage jumps to 45% when wages and benefits are combined.

“If prevailing wages had reflected average wages and benefits, state and local governments – and taxpayers – could have saved as much as \$299 million on those projects,” Todd A. Berry, president of the Taxpayers Alliance, wrote in a letter attached to the report.

### **Maintenance vs. construction**

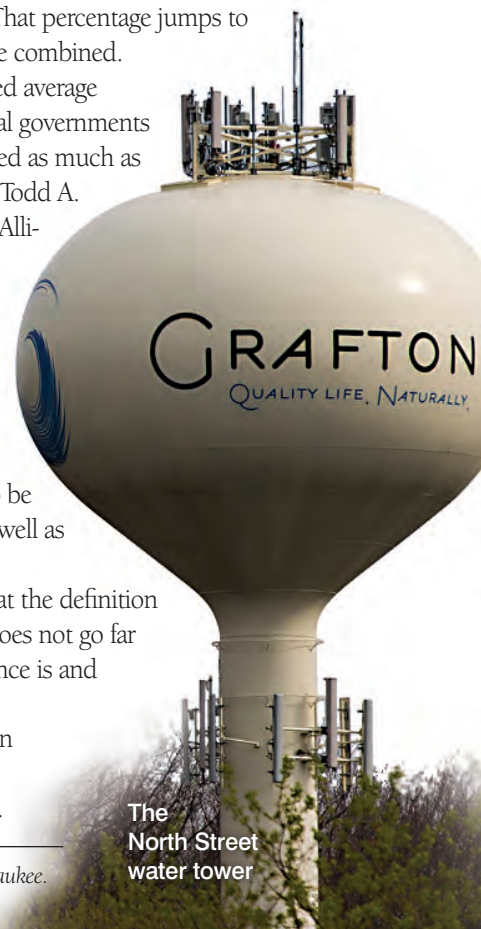
Grafton’s experience, Hofland says, sheds light on the issue of whether prevailing wages need to be paid on maintenance projects as well as construction projects.

“The main flaw in the law is that the definition is too broad,” Hofland says. “It does not go far enough to define what maintenance is and what construction is.”

Hofland declined to weigh in on whether the prevailing wage law should be repealed in Wisconsin.

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*Lori Holly is a freelance writer in Milwaukee.*



**The  
North Street  
water tower**

