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 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
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.

Resident 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.

Lori Holly is a freelance writer in Milwaukee.