



Sen. Daniel Biss

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1 AMENDMENT TO SENATE BILL 1347

2 AMENDMENT NO. _____. Amend Senate Bill 1347 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Living Wage Act.

6 Section 5. Policy. It is the policy of the State of
7 Illinois that in order to increase efficiency and cost savings
8 in the work performed by parties who contract with the State of
9 Illinois the hourly minimum wage to be paid by those
10 contractors shall be \$16.36, and shall be increased annually
11 thereafter by an amount specified herein. It is further the
12 policy of the State of Illinois that raising the pay of
13 low-wage workers increases the productivity and quality of
14 their work, lowers turnover, and reduces supervisory costs.
15 These savings and quality improvements will lead to an improved
16 economy in Illinois and more efficient State procurement.

1 Section 10. Definitions. As used in this Act:

2 "Concessions contract" means a contract under which the
3 State grants a right to use State property, including land or
4 facilities, for furnishing services. "Concessions contract"
5 includes, but is not limited to, a contract the principal
6 purpose of which is to furnish food, lodging, automobile fuel,
7 souvenirs, newspaper stands, or recreational equipment, or any
8 combination thereof, regardless of whether the services are of
9 direct benefit to the State, its personnel, or the general
10 public.

11 "Contractor" means any individual or other legal entity
12 that is awarded a contract or subcontract by the State.
13 "Contractor" refers to both a prime contractor and all of its
14 subcontractors of any tier on a contract with the State.

15 "Contract" means all types of State agreements, regardless
16 of what they may be called, for the procurement, use, or
17 disposal of supplies, services, professional or artistic
18 services; construction or for leases of real property where the
19 State is the lessee; and capital improvements, including
20 renewals, and includes master contracts; contracts for
21 financing through use of installment or lease-purchase
22 arrangements; renegotiated contracts; amendments to contracts;
23 and change orders, as defined in Section 1-15.30 of the
24 Illinois Procurement Code. "Contract" includes all contracts
25 and any subcontracts of any tier thereunder, whether negotiated

1 or advertised, including any procurement actions, lease
2 agreements, cooperative agreements, provider agreements,
3 intergovernmental service agreements, service agreements,
4 licenses, permits, or any other type of agreement, regardless
5 of nomenclature, type, or particular form, and whether entered
6 into verbally or in writing. The term "contract" shall be
7 interpreted broadly as to include, but not be limited to, any
8 contract that may be consistent with the definition provided in
9 the Illinois Procurement Code or any other applicable Illinois
10 law. Contracts may be the result of competitive bidding or
11 awarded to a single source under applicable authority to do so.
12 In addition to bilateral instruments, "contract" includes, but
13 is not limited to, awards and notices of awards; job orders or
14 task letters issued under basic ordering agreements; letter
15 contracts; orders, such as purchase orders, under which the
16 contract becomes effective by written acceptance or
17 performance; bilateral contract modifications; and concessions
18 contracts.

19 "Minimum wage" means, for purposes of this Act, a wage that
20 is at least:

21 (1) \$16.36 per hour beginning January 1, 2018; and

22 (2) Beginning January 1, 2019, and annually
23 thereafter, an amount determined by the Department of Labor
24 pursuant to Section 15 of this Act.

25 "New contract" means a contract that results from a
26 solicitation issued on or after January 1, 2018, or a contract

1 that is awarded outside the solicitation process on or after
2 January 1, 2018. "New contract" includes both new contracts and
3 replacements for expiring contracts. For purposes of this Act,
4 a contract that is entered into prior to January 1, 2018 will
5 constitute a new contract if, through bilateral negotiation, on
6 or after January 1, 2018:

7 (1) the contract is renewed;

8 (2) the contract is extended, unless the extension is
9 made pursuant to a term in the contract as of December 31,
10 2016 providing for a short-term limited extension; or

11 (3) the contract is amended pursuant to a modification
12 that is outside the scope of the contract.

13 "State" means the State of Illinois, including executive
14 departments and State agencies.

15 "Worker" means any person engaged in performing work on or
16 in connection with a contract covered by this Act, other than
17 individuals employed in a bona fide executive, administrative,
18 or professional capacity, regardless of the contractual
19 relationship alleged to exist between the individual and the
20 employer.

21 Section 15. Establishing a minimum wage for State
22 contractors and subcontractors.

23 (a) The State shall ensure that new contracts include a
24 provision, which the contractor and any subcontractors shall
25 incorporate directly into lower-tier subcontracts, specifying

1 that, as a condition of payment of the contract, the minimum
2 wage to be paid to workers in the performance of the contract
3 or subcontract shall be at least:

4 (1) \$16.36 per hour; and

5 (2) beginning January 1, 2019, and annually
6 thereafter, the amount of the hourly minimum wage required
7 by new contracts shall be published by the Department of
8 Labor.

9 The minimum wage after adjustment under this
10 subsection (a) shall be:

11 (A) no less than the amount published as the
12 minimum wage effective at the date of determination;

13 (B) increased from the existing amount by the
14 annual percentage increase in the Consumer Price Index
15 for Urban Wage Earners and Clerical Workers (Midwest
16 Region, all items);

17 (C) and rounded to the nearest multiple of 10
18 cents.

19 (3) The minimum wage rates shall be calculated on an
20 annual basis, as described herein, and take effect January
21 1 of each year. The Department of Labor shall publish the
22 minimum wage rates for the upcoming year at least 90 days
23 before the new rates take effect.

24 (b) When calculating the annual percentage increase in the
25 Consumer Price Index for purposes of item (B) of paragraph (2)
26 of subsection (a) of this Section, the Director of Labor shall

1 compare the Consumer Price Index for the most recent month
2 available with the Consumer Price Index for the same month in
3 the preceding year.

4 (c) Each worker engaged in the performance of a covered
5 contract by the prime contractor or any subcontractor,
6 regardless of any contractual relationship which may be alleged
7 to exist between the contractor and worker, shall be paid not
8 less than the applicable minimum wage under this Act.

9 (d) The contractor may not discharge any part of its
10 minimum wage obligation under this Act by furnishing fringe
11 benefits or the cash equivalent thereof.

12 (e) The contractor shall pay unconditionally to each worker
13 all wages due free and clear and without subsequent deduction
14 rebate, or kickback on any account, except that the provisions
15 of this Act shall not apply as to any deduction made by
16 employers under any title of the federal Social Security Act or
17 the federal Unemployment Insurance Tax Act, or as to any
18 deductions made for union dues pursuant to any bona fide
19 collective bargaining agreement. The payments shall be made no
20 later than one pay period following the end of the regular pay
21 period in which such wages were earned or accrued. A pay period
22 under this Act may not be of any duration longer than
23 semi-monthly.

24 (f) Nothing in this Act shall be construed as relieving a
25 contractor of any other obligation under federal, State or
26 local law, or under contract or collective bargaining

1 agreement, for the payment of a higher wage to any worker, nor
2 shall a lower prevailing wage under any federal, State, or
3 local law, or under contract, entitle a contractor to pay any
4 worker less than the minimum wage established annually under
5 this Act.

6 Section 20. Application of wage standards to collective
7 bargaining agreements. Nothing in this Act shall be construed
8 as to interfere with, impede, or in any way diminish the right
9 of employees to bargain collectively with their employers
10 through representatives of their own choosing in order to
11 establish wages or other conditions of employment in excess of
12 the applicable minimum wage standards in this Act.

13 Section 25. Enforcement, penalties, and private right of
14 action.

15 (a) Any officer, agent, or representative of any public
16 body who willfully violates, or willfully fails to comply with,
17 any of the provisions of this Act, and any contractor or
18 subcontractor, and any officer, employee, or agent thereof, who
19 as such officer, employee, who willfully violates, or willfully
20 fails to comply with, any of the provisions of this Act, is
21 guilty of a Class A misdemeanor.

22 (b) The Department of Labor shall inquire diligently as to
23 any violation of this Act, shall institute actions for
24 penalties herein prescribed, and shall enforce generally the

1 provisions of this Act. The Attorney General shall prosecute
2 such violations upon complaint by the Department or any
3 interested person.

4 (c) Failure to comply with the minimum wage requirement as
5 stated in this Act shall be considered evidence bearing on a
6 contractor's qualification for award of future contracts.

7 (d) The prime contractor and any upper-tier subcontractor
8 shall be responsible for the compliance by any subcontractor or
9 lower-tier subcontractor with the minimum wage requirements
10 set forth in this Act. In the event of any violation of the
11 minimum wage obligation of this subsection (d), the contractor
12 and subcontractor, if any, responsible for the violation shall
13 be liable for the unpaid wages.

14 (e) Under this Act, any worker engaged in the performance
15 of a covered contract by the prime contractor or any
16 subcontractor under it who is paid for his services in a sum
17 less than the stipulated rates for work done under the contract
18 shall have a right of action for whatever difference there may
19 be between the amount so paid and the rates provided by the
20 contract, together with costs and any reasonable attorney's
21 fees as shall be allowed by the court. The contractor or
22 subcontractor shall also be liable to the Department of Labor
23 for 20% of the underpayments and shall be additionally liable
24 to the individual employed by the contractor or subcontractor
25 for punitive damages in the amount of 2% of the amount of any
26 penalty to the State for underpayments for each month following

1 the date of payment during which the underpayments remain
2 unpaid.

3 Where a second or subsequent action to recover
4 underpayments is brought against a contractor or subcontractor
5 and the contractor or subcontractor is found liable for
6 underpayments to any individual working for the contractor or
7 subcontractor, the contractor or subcontractor shall also be
8 liable to the Department of Labor for 50% of the underpayments
9 payable as a result of the second or subsequent action and
10 shall be additionally liable for 5% of the amount of any
11 penalty to the State for underpayments for each month following
12 the date of payment during which the underpayments remain
13 unpaid.

14 The Department shall also have a right of action on behalf
15 of any worker who has a right of action under this Section. An
16 action brought to recover under this Act shall be deemed to be
17 a suit for wages, and any and all judgments entered therein
18 shall have the same force and effect as other judgments for
19 wages. At the request of any worker engaged in the performance
20 of a covered contract by the prime contractor or by any
21 subcontractor under it who is paid less than the minimum wage
22 rate required by this Act, the Department of Labor may take an
23 assignment of the wage claim in trust for the assigning worker
24 and may bring any legal action necessary to collect the claim,
25 and the contractor or subcontractor shall be required to pay
26 the costs incurred in collecting such claim.

1 (f) In the event of a failure to pay any worker all or part
2 of the wages due under this Act, the contracting agency may on
3 its own action or after authorization or by direction of the
4 Department of Labor or the Attorney General acting on behalf
5 the Department of Labor and written notification to the
6 contractor, take action to cause suspension of any further
7 payment, advance, or guarantee of funds until the violations
8 have ceased. Additionally, any failure to comply with the
9 requirements of this Act may be grounds for termination of the
10 right to proceed with the contract work. In that event, the
11 State may enter into other contracts or arrangements for
12 completion of the work, charging the contractor in default with
13 any additional cost. A breach of the contract clause may be
14 grounds for debarment as a contractor and subcontractor as
15 provided in Section 30 of this Act.

16 Section 30. Debarment. The Director of the Department of
17 Labor shall publish in the Illinois Register no less often than
18 once each calendar quarter a list of contractors or
19 subcontractors found to have disregarded their obligations to
20 workers under this Act. The Department of Labor shall determine
21 the contractors or subcontractors who, on 2 separate occasions
22 within 5 years, have been determined to have violated the
23 provisions of this Act. Upon that determination, the Department
24 shall notify the violating contractor or subcontractor. The
25 contractor or subcontractor shall then have 10 working days to

1 request a hearing by the Department on the alleged violations.
2 Failure to respond within the 10 working day period shall
3 result in automatic and immediate placement and publication on
4 the list. If the contractor or subcontractor requests a hearing
5 within the 10 working day period, the Director shall set a
6 hearing on the alleged violations. The hearing shall take place
7 no later than 45 calendar days after the receipt by the
8 Department of Labor of the request for a hearing. The
9 Department of Labor is empowered to adopt rules to govern the
10 hearing procedure. No contract shall be awarded to a contractor
11 or subcontractor appearing on the list, or to any firm,
12 corporation, partnership or association in which such
13 contractor or subcontractor has an interest until 4 years have
14 elapsed from the date of publication of the list containing the
15 name of such contractor or subcontractor.

16 A contractor or subcontractor convicted or found guilty
17 under Section 25 of this Act shall be subject to an automatic
18 and immediate debarment, thereafter prohibited from
19 participating in any public works project for 4 years, with no
20 right to a hearing.

21 Section 35. Notice requirement. The contractor or
22 subcontractor must notify all workers performing work on or in
23 connection with a covered contract of the applicable minimum
24 wage rate under this Act. With respect workers performing work
25 under contracts subject to prevailing wage requirements where

1 the prevailing wage rate is in excess of the minimum wage rate
2 established under this Act, the contractor may meet this
3 requirement by posting, in a prominent and accessible place at
4 the worksite, the applicable wage determination under those
5 laws. With respect to workers performing work under contracts
6 whose wages are not subject to prevailing wage requirements, or
7 workers performing work under contracts whose wages are subject
8 to prevailing wage requirements where the prevailing rate is
9 less than the minimum wage established under this Act, the
10 contractor must post a notice provided by the Department of
11 Labor in a prominent and accessible place at the worksite so it
12 may be readily seen by workers.

13 Section 97. Severability. The provisions of this Act are
14 severable under Section 1.31 of the Statute on Statutes.

15 Section 99. Effective date. This Act takes effect January
16 1, 2018."