

1 AMENDMENT TO HOUSE BILL 3398

2 AMENDMENT NO. _____. Amend House Bill 3398 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Prevailing Wage Act is amended by
5 changing Sections 2, 4, 5, 9, 10, and 11a as follows:

6 (820 ILCS 130/2) (from Ch. 48, par. 39s-2)

7 Sec. 2. This Act applies to the wages of laborers,
8 mechanics and other workers employed in any public works, as
9 hereinafter defined, by any public body and to anyone under
10 contracts for public works.

11 As used in this Act, unless the context indicates
12 otherwise:

13 "Public works" means all fixed works constructed for
14 public use by any public body, other than work done directly
15 by any public utility company, whether or not done under
16 public supervision or direction, or paid for wholly or in
17 part out of public funds. "Public works" as defined herein
18 includes all projects financed in whole or in part with bonds
19 issued under the Industrial Project Revenue Bond Act (Article
20 11, Division 74 of the Illinois Municipal Code), the
21 Industrial Building Revenue Bond Act, the Illinois
22 Development Finance Authority Act, the Illinois Sports

1 Facilities Authority Act, or the Build Illinois Bond Act, and
 2 all projects financed in whole or in part with loans or other
 3 funds made available pursuant to the Build Illinois Act.
 4 "Public works" also includes all projects financed in whole
 5 or in part with funds from the Fund for Illinois' Future
 6 under Section 6z-47 of the State Finance Act, funds for
 7 school construction under Section 5 of the General Obligation
 8 Bond Act, funds authorized under Section 3 of the School
 9 Construction Bond Act, funds for school infrastructure under
 10 Section 6z-45 of the State Finance Act, or funds for
 11 transportation purposes under Section 4 of the General
 12 Obligation Bond Act.

13 "Construction" means all work on public works involving
 14 laborers, workers or mechanics.

15 "Locality" means the county where the physical work upon
 16 public works is performed, except (1) that if there is not
 17 available in the county a sufficient number of competent
 18 skilled laborers, workers and mechanics to construct the
 19 public works efficiently and properly, "locality" includes
 20 any other county nearest the one in which the work or
 21 construction is to be performed and from which such persons
 22 may be obtained in sufficient numbers to perform the work and
 23 (2) that, with respect to contracts for highway work with the
 24 Department of Transportation of this State, "locality" may at
 25 the discretion of the Secretary of the Department of
 26 Transportation be construed to include two or more adjacent
 27 counties from which workers may be accessible for work on
 28 such construction.

29 "Public body" means the State or any officer, board or
 30 commission of the State or any political subdivision or
 31 department thereof, or any institution supported in whole or
 32 in part by public funds, ~~authorized--by--law--to--construct~~
 33 ~~public---works---or--to--enter--into--any--contract--for--the~~
 34 ~~construction-of-public--works,~~ and includes every county,

1 city, town, village, township, school district, irrigation,
2 utility, reclamation improvement or other district and every
3 other political subdivision, district or municipality of the
4 state whether such political subdivision, municipality or
5 district operates under a special charter or not.

6 The terms "general prevailing rate of hourly wages",
7 "general prevailing rate of wages" or "prevailing rate of
8 wages" when used in this Act mean the hourly cash wages plus
9 fringe benefits for training and apprenticeship programs
10 approved by the U.S. Department of Labor, Bureau of
11 Apprenticeship and Training, health and welfare, insurance,
12 vacations and pensions paid generally, in the locality in
13 which the work is being performed, to employees engaged in
14 work of a similar character on public works.

15 (Source: P.A. 91-105, eff. 1-1-00; 91-935, eff. 6-1-01;
16 92-16, eff. 6-28-01.)

17 (820 ILCS 130/4) (from Ch. 48, par. 39s-4)

18 Sec. 4. (a) The public body awarding any contract for
19 public work or otherwise undertaking any public works, shall
20 ascertain the general prevailing rate of hourly wages in the
21 locality in which the work is to be performed, for each craft
22 or type of worker or mechanic needed to execute the contract,
23 and where the public body performs the work without letting a
24 contract therefor, shall ascertain the prevailing rate of
25 wages on a per hour basis in the locality, and such public
26 body shall specify in the resolution or ordinance and in the
27 call for bids for the contract, that the general prevailing
28 rate of wages in the locality for each craft or type of
29 worker or mechanic needed to execute the contract or perform
30 such work, also the general prevailing rate for legal holiday
31 and overtime work, as ascertained by the public body or by
32 the Department of Labor shall be paid for each craft or type
33 of worker needed to execute the contract or to perform such

1 work, and it shall be mandatory upon the contractor to whom
2 the contract is awarded and upon any subcontractor under him,
3 and where the public body performs the work, upon the public
4 body, to pay not less than the specified rates to all
5 laborers, workers and mechanics employed by them in the
6 execution of the contract or such work; provided, however,
7 that if the public body desires that the Department of Labor
8 ascertain the prevailing rate of wages, it shall notify the
9 Department of Labor to ascertain the general prevailing rate
10 of hourly wages for work under contract, or for work
11 performed by a public body without letting a contract as
12 required in the locality in which the work is to be
13 performed, for each craft or type of worker or mechanic
14 needed to execute the contract or project or work to be
15 performed. Upon such notification the Department of Labor
16 shall ascertain such general prevailing rate of wages, and
17 certify the prevailing wage to such public body. The public
18 body awarding the contract shall cause to be inserted in the
19 project specifications and the contract a stipulation to the
20 effect that not less than the prevailing rate of wages as
21 found by the public body or Department of Labor or determined
22 by the court on review shall be paid to all laborers, workers
23 and mechanics performing work under the contract.

24 (b) It shall also be mandatory upon the contractor to
25 whom the contract is awarded to insert into each subcontract
26 and into the project specifications for each subcontract a
27 written stipulation to the effect that not less than the
28 prevailing rate of wages shall be paid to all laborers,
29 workers, and mechanics performing work under the contract. It
30 shall also be mandatory upon each subcontractor to cause to
31 be inserted into each lower tiered subcontract and into the
32 project specifications for each lower tiered subcontract a
33 stipulation to the effect that not less than the prevailing
34 rate of wages shall be paid to all laborers, workers, and

1 mechanics performing work under the contract. A contractor or
2 subcontractor who fails to comply with this subsection (b) is
3 in violation of this Act.

4 (c) It shall also require in all such contractor's bonds
5 that the contractor include such provision as will guarantee
6 the faithful performance of such prevailing wage clause as
7 provided by contract. All bid specifications shall list the
8 specified rates to all laborers, workers and mechanics in the
9 locality for each craft or type of worker or mechanic needed
10 to execute the contract.

11 (d) If the Department of Labor revises the prevailing
12 rate of hourly wages to be paid by the public body, the
13 revised rate shall apply to such contract, and the public
14 body shall be responsible to notify the contractor and each
15 subcontractor, of the revised rate.

16 (e) Two or more investigatory hearings under this
17 Section on the issue of establishing a new prevailing wage
18 classification for a particular craft or type of worker shall
19 be consolidated in a single hearing before the Department.
20 Such consolidation shall occur whether each separate
21 investigatory hearing is conducted by a public body or the
22 Department. The party requesting a consolidated investigatory
23 hearing shall have the burden of establishing that there is
24 no existing prevailing wage classification for the particular
25 craft or type of worker in any of the localities under
26 consideration.

27 (f) It shall be mandatory upon the contractor or
28 construction manager to whom a contract for public works is
29 awarded to post, at a location on the project site of the
30 public works that is easily accessible to the workers engaged
31 on the project, the prevailing wage rates for each craft or
32 type of worker or mechanic needed to execute the contract or
33 project or work to be performed. A failure to post a
34 prevailing wage rate as required by this subsection (f) is a

1 violation of this Act.

2 (Source: P.A. 92-783, eff. 8-6-02.)

3 (820 ILCS 130/5) (from Ch. 48, par. 39s-5)

4 Sec. 5. The contractor and each subcontractor or the
5 officer of the public body in charge of the project shall
6 make and keep, for a period of not less than 3 years, true
7 and accurate records of the name, address, telephone number
8 when available, social security number, ~~keep-or-cause--to--be~~
9 kept,--an-accurate-record-showing-the-names and occupation of
10 all laborers, workers and mechanics employed by them, in
11 connection with said public work. The records shall also show
12 the actual hourly wages paid in each pay period to each
13 employee and the hours worked each day in each work week by
14 each employee. While participating on public works, each
15 contractor's payroll records shall include the starting and
16 ending times of work for each employee. The,--and-showing-also
17 the--actual--hourly-wages-paid-to-each-of-such-persons,--which
18 record shall be open at all reasonable hours to the
19 inspection of the public body awarding the contract, its
20 officers and agents, and to the Director of Labor and his
21 deputies and agents. Any contractor or subcontractor that
22 maintains its principal place of business outside of this
23 State shall make the required records or accurate copies of
24 those records available within this State at all reasonable
25 hours for inspection.

26 (Source: P.A. 92-783, eff. 8-6-02.)

27 (820 ILCS 130/9) (from Ch. 48, par. 39s-9)

28 Sec. 9. To effectuate the purpose and policy of this Act
29 each public body shall, during the month of June of each
30 calendar year, investigate and ascertain the prevailing rate
31 of wages as defined in this Act and publicly post or keep
32 available for inspection by any interested party in the main

1 office of such public body its determination of such
2 prevailing rate of wage and shall promptly file, no later
3 than July 15 of each year, a certified copy thereof in the
4 office of the Secretary of State at Springfield and the
5 office of the Illinois Department of Labor.

6 The Department of Labor shall during the month of June of
7 each calendar year, investigate and ascertain the prevailing
8 rate of wages for each county in the State. If a public body
9 does not investigate and ascertain the prevailing rate of
10 wages during the month of June as required by the previous
11 paragraph, then the prevailing rate of wages for that public
12 body shall be the rate as determined by the Department under
13 this paragraph for the county in which such public body is
14 located.

15 Where the Department of Labor ascertains the prevailing
16 rate of wages, it is the duty of the Department of Labor
17 within 30 days after receiving a notice from the public body
18 authorizing the proposed work, to conduct an investigation to
19 ascertain the prevailing rate of wages as defined in this Act
20 and such investigation shall be conducted in the locality in
21 which the work is to be performed. The Department of Labor
22 shall send a certified copy of its findings to the public
23 body authorizing the work and keep a record of its findings
24 available for inspection by any interested party in the
25 office of the Department of Labor at Springfield.

26 The public body except for the Department of
27 Transportation with respect to highway contracts shall within
28 30 days after filing with the Secretary of State, or the
29 Department of Labor shall within 30 days after filing with
30 such public body, publish in a newspaper of general
31 circulation within the area that the determination is
32 effective, a notice of its determination and shall promptly
33 mail a copy of its determination to any employer, and to any
34 association of employers and to any person or association of

1 employees who have filed their names and addresses,
2 requesting copies of any determination stating the particular
3 rates and the particular class of workers whose wages will be
4 affected by such rates.

5 At any time within 30 ~~15~~ days after the Department of
6 Labor has published on its official web site a prevailing
7 wage schedule ~~a-certified-copy-of-the-determination-has--been~~
8 ~~published-as-herein-provided~~, any person affected thereby may
9 object in writing to the determination or such part thereof
10 as they may deem objectionable by filing a written notice
11 with the public body or Department of Labor, whichever has
12 made such determination, stating the specified grounds of the
13 objection. It shall thereafter be the duty of the public body
14 or Department of Labor to set a date for a hearing on the
15 objection after giving written notice to the objectors at
16 least 10 days before the date of the hearing and said notice
17 shall state the time and place of such hearing. Such hearing
18 by a public body shall be held within 45 ~~20~~ days after the
19 objection is filed, and shall not be postponed or reset for a
20 later date except upon the consent, in writing, of all the
21 objectors and the public body. If such hearing is not held by
22 the public body within the time herein specified, the
23 Department of Labor may, upon request of the objectors,
24 conduct the hearing on behalf of the public body.

25 The public body or Department of Labor, whichever has
26 made such determination, is authorized in its discretion to
27 hear each written objection filed separately or consolidate
28 for hearing any one or more written objections filed with
29 them. At such hearing the public body or Department of Labor
30 shall introduce in evidence the investigation it instituted
31 which formed the basis of its determination, and the public
32 body or Department of Labor, or any interested objectors may
33 thereafter introduce such evidence as is material to the
34 issue. Thereafter, the public body or Department of Labor,

1 must rule upon the written objection and make such final
2 determination as it believes the evidence warrants, and
3 promptly file a certified copy of its final determination
4 with such public body and the Secretary of State, and serve a
5 copy by personal service or registered mail on all parties to
6 the proceedings. The final determination by the Department of
7 Labor or a public body shall be rendered within 30 ±0 days
8 after the conclusion of the hearing.

9 If proceedings to review judicially the final
10 determination of the public body or Department of Labor are
11 not instituted as hereafter provided, such determination
12 shall be final and binding.

13 The provisions of the Administrative Review Law, and all
14 amendments and modifications thereof, and the rules adopted
15 pursuant thereto, shall apply to and govern all proceedings
16 for the judicial review of final administrative decisions of
17 any public body or the Department of Labor hereunder. The
18 term "administrative decision" is defined as in Section 3-101
19 of the Code of Civil Procedure.

20 Appeals from all final orders and judgments entered by
21 the court in review of the final administrative decision of
22 the public body or Department of Labor, may be taken by any
23 party to the action.

24 Any proceeding in any court affecting a determination of
25 the Department of Labor or public body shall have priority in
26 hearing and determination over all other civil proceedings
27 pending in said court, except election contests.

28 In all reviews or appeals under this Act, it shall be the
29 duty of the Attorney General to represent the Department of
30 Labor, and defend its determination. The Attorney General
31 shall not represent any public body, except the State, in any
32 such review or appeal.

33 (Source: P.A. 83-201.)

1 (820 ILCS 130/10) (from Ch. 48, par. 39s-10)

2 Sec. 10. The presiding officer of the public body, or
3 his or her authorized representative and the Director of the
4 Department of Labor, or his or her authorized representative
5 may interview workers, administer oaths, take or cause to be
6 taken the depositions of witnesses, and require by subpoena
7 the attendance and testimony of witnesses, and the production
8 of all books, records, and other evidence relative to the
9 matter under investigation or hearing. Such subpoena shall be
10 signed and issued by such presiding officer or his or her
11 authorized representative, or the Director or his or her
12 authorized representative.

13 Upon request by the Director of Labor or his or her
14 deputies or agents, records shall be copied and submitted for
15 evidence at no cost to the Department of Labor. Every
16 employer upon request shall furnish to the Director or his or
17 her authorized representative, on demand, a sworn statement
18 of the accuracy of the records. Any employer who refuses to
19 furnish a sworn statement of the records is in violation of
20 this Act.

21 In case of failure of any person to comply with any
22 subpoena lawfully issued under this section or on the refusal
23 of any witness to produce evidence or to testify to any
24 matter regarding which he or she may be lawfully
25 interrogated, it is the duty of any circuit court, upon
26 application of such presiding officer or his or her
27 authorized representative, or the Director or his or her
28 authorized representative, to compel obedience by proceedings
29 for contempt, as in the case of disobedience of the
30 requirements of a subpoena issued by such court or a refusal
31 to testify therein. Such presiding officer and the Director
32 may certify to official acts.

33 (Source: P.A. 83-334.)

1 (820 ILCS 130/11a) (from Ch. 48, par. 39s-11a)

2 Sec. 11a. The Director of the Department of Labor shall
3 publish in the Illinois Register no less often than once each
4 calendar quarter a list of contractors or subcontractors
5 found to have disregarded their obligations to employees
6 under this Act. The Department of Labor shall determine the
7 contractors or subcontractors who, on 2 separate occasions,
8 have been determined to have violated the provisions of this
9 Act. Upon such determination the Department shall notify the
10 violating contractor or subcontractor. Such contractor or
11 subcontractor shall then have 10 working days to request a
12 hearing by the Department on the alleged violations. Failure
13 to respond within the 10 working day period shall result in
14 automatic and immediate placement and publication on the
15 list. If the contractor or subcontractor requests a hearing
16 within the 10 working day period, the Director shall set a
17 hearing on the alleged violations. Such hearing shall take
18 place no later than 45 30 calendar days after the receipt by
19 the Department of Labor of the request for a hearing. The
20 Department of Labor is empowered to promulgate, adopt, amend
21 and rescind rules and regulations to govern the hearing
22 procedure. No contract shall be awarded to a contractor or
23 subcontractor appearing on the list, or to any firm,
24 corporation, partnership or association in which such
25 contractor or subcontractor has an interest until 2 years
26 have elapsed from the date of publication of the list
27 containing the name of such contractor or subcontractor.

28 (Source: P.A. 86-693; 86-799; 86-1028.)".