



Sen. Michael Noland

Filed: 3/27/2012

09700SB2643sam001

LRB097 16236 JLS 68188 a

1 AMENDMENT TO SENATE BILL 2643

2 AMENDMENT NO. _____. Amend Senate Bill 2643 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Prevailing Wage Act is amended by changing
5 Sections 2 and 4 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. This includes any maintenance,
11 repair, assembly, or disassembly work performed on equipment
12 whether owned, leased, or rented.

13 As used in this Act, unless the context indicates
14 otherwise:

15 "Public works" means all fixed works constructed or
16 demolished by any public body, or paid for wholly or in part

1 out of public funds. "Public works" as defined herein includes
2 all projects financed in whole or in part with bonds, grants,
3 loans, or other funds made available by or through the State or
4 any of its political subdivisions, including but not limited
5 to: bonds issued under the Industrial Project Revenue Bond Act
6 (Article 11, Division 74 of the Illinois Municipal Code), the
7 Industrial Building Revenue Bond Act, the Illinois Finance
8 Authority Act, the Illinois Sports Facilities Authority Act, or
9 the Build Illinois Bond Act; loans or other funds made
10 available pursuant to the Build Illinois Act; or funds from the
11 Fund for Illinois' Future under Section 6z-47 of the State
12 Finance Act, funds for school construction under Section 5 of
13 the General Obligation Bond Act, funds authorized under Section
14 3 of the School Construction Bond Act, funds for school
15 infrastructure under Section 6z-45 of the State Finance Act,
16 and funds for transportation purposes under Section 4 of the
17 General Obligation Bond Act. "Public works" also includes (i)
18 all projects financed in whole or in part with funds from the
19 Department of Commerce and Economic Opportunity under the
20 Illinois Renewable Fuels Development Program Act for which
21 there is no project labor agreement; (ii) all work performed
22 pursuant to a public private agreement under the Public Private
23 Agreements for the Illiana Expressway Act; and (iii) all
24 projects undertaken under a public-private agreement under the
25 Public-Private Partnerships for Transportation Act. "Public
26 works" also includes all projects at leased facility property

1 used for airport purposes under Section 35 of the Local
2 Government Facility Lease Act. "Public works" also includes the
3 construction of a new wind power facility by a business
4 designated as a High Impact Business under Section 5.5(a)(3)(E)
5 of the Illinois Enterprise Zone Act. "Public works" does not
6 include work done directly by any public utility company,
7 whether or not done under public supervision or direction, or
8 paid for wholly or in part out of public funds. "Public works"
9 does not include projects undertaken by the owner at an
10 owner-occupied single-family residence or at an owner-occupied
11 unit of a multi-family residence.

12 "Construction" means all work on public works involving
13 laborers, workers or mechanics. This includes any maintenance,
14 repair, assembly, or disassembly work performed on equipment
15 whether owned, leased, or rented.

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

1 construed to include two or more adjacent counties from which
2 workers may be accessible for work on such construction.

3 "Public body" means the State or any officer, board or
4 commission of the State or any political subdivision or
5 department thereof, or any institution supported in whole or in
6 part by public funds, and includes every county, city, town,
7 village, township, school district, irrigation, utility,
8 reclamation improvement or other district and every other
9 political subdivision, district or municipality of the state
10 whether such political subdivision, municipality or district
11 operates under a special charter or not.

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

21 "Responsible bidder" means those individuals or firms
22 meeting the requirements of Section 30-22 of the Illinois
23 Procurement Code.

24 (Source: P.A. 96-28, eff. 7-1-09; 96-58, eff. 1-1-10; 96-186,
25 eff. 1-1-10; 96-913, eff. 6-9-10; 96-1000, eff. 7-2-10; 97-502,
26 eff. 8-23-11.)

1 (820 ILCS 130/4) (from Ch. 48, par. 39s-4)

2 Sec. 4. Ascertaining prevailing wage.

3 (a) The public body awarding any contract for public work
4 or otherwise undertaking any public works, shall ascertain the
5 general prevailing rate of hourly wages in the locality in
6 which the work is to be performed, for each craft or type of
7 worker or mechanic needed to execute the contract, and where
8 the public body performs the work without letting a contract
9 therefor, shall ascertain the prevailing rate of wages on a per
10 hour basis in the locality, and such public body shall specify
11 in the resolution or ordinance and in the call for bids for the
12 contract, that the general prevailing rate of wages in the
13 locality for each craft or type of worker or mechanic needed to
14 execute the contract or perform such work, also the general
15 prevailing rate for legal holiday and overtime work, as
16 ascertained by the public body or by the Department of Labor
17 shall be paid for each craft or type of worker needed to
18 execute the contract or to perform such work, and it shall be
19 mandatory upon the contractor to whom the contract is awarded
20 and upon any subcontractor under him, and where the public body
21 performs the work, upon the public body, to pay not less than
22 the specified rates to all laborers, workers and mechanics
23 employed by them in the execution of the contract or such work;
24 provided, however, that if the public body desires that the
25 Department of Labor ascertain the prevailing rate of wages, it

1 shall notify the Department of Labor to ascertain the general
2 prevailing rate of hourly wages for work under contract, or for
3 work performed by a public body without letting a contract as
4 required in the locality in which the work is to be performed,
5 for each craft or type of worker or mechanic needed to execute
6 the contract or project or work to be performed. Upon such
7 notification the Department of Labor shall ascertain such
8 general prevailing rate of wages, and certify the prevailing
9 wage to such public body.

10 (a-0.5) To effectuate the purpose and policy of this Act, a
11 public body awarding a contract for public work or otherwise
12 undertaking any public works shall specify in the call for bids
13 and shall require that each contractor and each subcontractor
14 be a responsible bidder.

15 (a-0.7) A public body awarding a contract for public work
16 or otherwise undertaking any public works shall require that
17 each contractor and each subcontractor include in each bid a
18 total number of straight-time work hours, identified as either
19 "journeyperson" or "apprentice", for each craft or type of
20 worker or mechanic needed to execute the contract.

21 (a-1) The public body or other entity awarding the contract
22 shall cause to be inserted in the project specifications and
23 the contract a stipulation to the effect that not less than the
24 prevailing rate of wages as found by the public body or
25 Department of Labor or determined by the court on review shall
26 be paid to all laborers, workers and mechanics performing work

1 under the contract.

2 (a-2) When a public body or other entity covered by this
3 Act has awarded work to a contractor without a public bid,
4 contract or project specification, such public body or other
5 entity shall comply with subsection (a-1) by providing the
6 contractor with written notice on the purchase order related to
7 the work to be done or on a separate document indicating that
8 not less than the prevailing rate of wages as found by the
9 public body or Department of Labor or determined by the court
10 on review shall be paid to all laborers, workers, and mechanics
11 performing work on the project.

12 (a-3) Where a complaint is made and the Department of Labor
13 determines that a violation occurred, the Department of Labor
14 shall determine if proper written notice under this Section 4
15 was given. If proper written notice was not provided to the
16 contractor by the public body or other entity, the Department
17 of Labor shall order the public body or other entity to pay any
18 interest, penalties or fines that would have been owed by the
19 contractor if proper written notice were provided. The failure
20 by a public body or other entity to provide written notice does
21 not relieve the contractor of the duty to comply with the
22 prevailing wage rate, nor of the obligation to pay any back
23 wages, as determined under this Act. For the purposes of this
24 subsection, back wages shall be limited to the difference
25 between the actual amount paid and the prevailing rate of wages
26 required to be paid for the project. The failure of a public

1 body or other entity to provide written notice under this
2 Section 4 does not diminish the right of a laborer, worker, or
3 mechanic to the prevailing rate of wages as determined under
4 this Act.

5 (b) It shall also be mandatory upon the contractor to whom
6 the contract is awarded to insert into each subcontract and
7 into the project specifications for each subcontract a written
8 stipulation to the effect that not less than the prevailing
9 rate of wages shall be paid to all laborers, workers, and
10 mechanics performing work under the contract. It shall also be
11 mandatory upon each subcontractor to cause to be inserted into
12 each lower tiered subcontract and into the project
13 specifications for each lower tiered subcontract a stipulation
14 to the effect that not less than the prevailing rate of wages
15 shall be paid to all laborers, workers, and mechanics
16 performing work under the contract. A contractor or
17 subcontractor who fails to comply with this subsection (b) is
18 in violation of this Act.

19 (b-1) When a contractor has awarded work to a subcontractor
20 without a contract or contract specification, the contractor
21 shall comply with subsection (b) by providing a subcontractor
22 with a written statement indicating that not less than the
23 prevailing rate of wages shall be paid to all laborers,
24 workers, and mechanics performing work on the project. A
25 contractor or subcontractor who fails to comply with this
26 subsection (b-1) is in violation of this Act.

1 (b-2) Where a complaint is made and the Department of Labor
2 determines that a violation has occurred, the Department of
3 Labor shall determine if proper written notice under this
4 Section 4 was given. If proper written notice was not provided
5 to the subcontractor by the contractor, the Department of Labor
6 shall order the contractor to pay any interest, penalties, or
7 fines that would have been owed by the subcontractor if proper
8 written notice were provided. The failure by a contractor to
9 provide written notice to a subcontractor does not relieve the
10 subcontractor of the duty to comply with the prevailing wage
11 rate, nor of the obligation to pay any back wages, as
12 determined under this Act. For the purposes of this subsection,
13 back wages shall be limited to the difference between the
14 actual amount paid and the prevailing rate of wages required
15 for the project. However, if proper written notice was not
16 provided to the contractor by the public body or other entity
17 under this Section 4, the Department of Labor shall order the
18 public body or other entity to pay any interest, penalties, or
19 fines that would have been owed by the subcontractor if proper
20 written notice were provided. The failure by a public body or
21 other entity to provide written notice does not relieve the
22 subcontractor of the duty to comply with the prevailing wage
23 rate, nor of the obligation to pay any back wages, as
24 determined under this Act. For the purposes of this subsection,
25 back wages shall be limited to the difference between the
26 actual amount paid and the prevailing rate of wages required

1 for the project. The failure to provide written notice by a
2 public body, other entity, or contractor does not diminish the
3 right of a laborer, worker, or mechanic to the prevailing rate
4 of wages as determined under this Act.

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

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

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

1 of worker in any of the localities under consideration.

2 (f) It shall be mandatory upon the contractor or
3 construction manager to whom a contract for public works is
4 awarded to post, at a location on the project site of the
5 public works that is easily accessible to the workers engaged
6 on the project, the prevailing wage rates for each craft or
7 type of worker or mechanic needed to execute the contract or
8 project or work to be performed. In lieu of posting on the
9 project site of the public works, a contractor which has a
10 business location where laborers, workers, and mechanics
11 regularly visit may: (1) post in a conspicuous location at that
12 business the current prevailing wage rates for each county in
13 which the contractor is performing work; or (2) provide such
14 laborer, worker, or mechanic engaged on the public works
15 project a written notice indicating the prevailing wage rates
16 for the public works project. A failure to post or provide a
17 prevailing wage rate as required by this Section is a violation
18 of this Act.

19 (Source: P.A. 95-331, eff. 8-21-07; 96-437, eff. 1-1-10.)".