

**SB0958**



**100TH GENERAL ASSEMBLY**

**State of Illinois**

**2017 and 2018**

**SB0958**

Introduced 2/7/2017, by Sen. Jason A. Barickman

**SYNOPSIS AS INTRODUCED:**

820 ILCS 130/4

from Ch. 48, par. 39s-4

Amends the Prevailing Wage Act. Deletes provisions regarding investigatory hearings by the Department of Labor regarding new wage classifications. Requires the creation of any new prevailing wage classification to be promulgated by administrative rule by the Department of Labor in accordance with the Illinois Administrative Procedure Act.

LRB100 04285 HEP 14291 b

FISCAL NOTE ACT  
MAY APPLY

**A BILL FOR**

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Prevailing Wage Act is amended by changing  
5 Section 4 as follows:

6 (820 ILCS 130/4) (from Ch. 48, par. 39s-4)

7 Sec. 4. Ascertaining prevailing wage.

8 (a) The public body awarding any contract for public work  
9 or otherwise undertaking any public works, shall ascertain the  
10 general prevailing rate of hourly wages in the locality in  
11 which the work is to be performed, for each craft or type of  
12 worker or mechanic needed to execute the contract, and where  
13 the public body performs the work without letting a contract  
14 therefor, shall ascertain the prevailing rate of wages on a per  
15 hour basis in the locality, and such public body shall specify  
16 in the resolution or ordinance and in the call for bids for the  
17 contract, that the general prevailing rate of wages in the  
18 locality for each craft or type of worker or mechanic needed to  
19 execute the contract or perform such work, also the general  
20 prevailing rate for legal holiday and overtime work, as  
21 ascertained by the public body or by the Department of Labor  
22 shall be paid for each craft or type of worker needed to  
23 execute the contract or to perform such work, and it shall be

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

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

24 (a-2) When a public body or other entity covered by this  
25 Act has awarded work to a contractor without a public bid,  
26 contract or project specification, such public body or other

1 entity shall comply with subsection (a-1) by providing the  
2 contractor with written notice on the purchase order related to  
3 the work to be done or on a separate document indicating that  
4 not less than the prevailing rate of wages as found by the  
5 public body or Department of Labor or determined by the court  
6 on review shall be paid to all laborers, workers, and mechanics  
7 performing work on the project.

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

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

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

23 (b-2) Where a complaint is made and the Department of Labor  
24 determines that a violation has occurred, the Department of  
25 Labor shall determine if proper written notice under this  
26 Section 4 was given. If proper written notice was not provided

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

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

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

14 The public body or other entity shall discharge its duty to  
15 notify of the revised rates by inserting a written stipulation  
16 in all contracts or other written instruments that states the  
17 prevailing rate of wages are revised by the Department of Labor  
18 and are available on the Department's official website. This  
19 shall be deemed to be proper notification of any rate changes  
20 under this subsection.

21 (e) (Blank) ~~Two or more investigatory hearings under this~~  
22 ~~Section on the issue of establishing a new prevailing wage~~  
23 ~~classification for a particular craft or type of worker shall~~  
24 ~~be consolidated in a single hearing before the Department. Such~~  
25 ~~consolidation shall occur whether each separate investigatory~~  
26 ~~hearing is conducted by a public body or the Department. The~~

1 ~~party requesting a consolidated investigatory hearing shall~~  
2 ~~have the burden of establishing that there is no existing~~  
3 ~~prevailing wage classification for the particular craft or type~~  
4 ~~of worker in any of the localities under consideration.~~

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

22 (g) The creation of any new prevailing wage classification  
23 shall be promulgated by administrative rule by the Department  
24 of Labor in accordance with the Illinois Administrative  
25 Procedure Act.

26 (Source: P.A. 96-437, eff. 1-1-10; 97-964, eff. 1-1-13.)