

1 AN ACT concerning wages.

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
5 changing Sections 4, 5, 6, 7, 8, 9, and 10 as follows:

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

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

1 of--hourly--wages--for--work--under--contract,--or--for--work
2 performed-by-a-public-body--without--letting--a--contract--as
3 required--in--the--locality--in--which--the--work--is--to--be
4 performed,--for--each--craft--or--type--of-worker-or-mechanic
5 needed-to-execute-the-contract--or--project--or--work--to--be
6 performed.--Upon--such--notification--the-Department-of-Labor
7 shall-ascertain-such-general-prevailing-rate--of--wages,--and
8 certify--the--prevailing-wage-to-such-public-body. The public
9 body awarding the contract shall cause to be inserted in the
10 contract or bid proposal submitted by the bidding contractor
11 a written stipulation to the effect that not less than the
12 prevailing rate of wages as found by the public-body-or
13 Department of Labor or determined by the court on review
14 shall be paid to all laborers, workers and mechanics
15 performing work under the contract. It shall also be
16 mandatory upon the contractor to whom the contract is awarded
17 and upon any subcontractor under him to cause to be inserted
18 in each contract and subcontract a written stipulation to the
19 effect that not less than the prevailing rate of wages as
20 found by the Department of Labor or determined by the court
21 on review shall be paid to all laborers, workers, and
22 mechanics performing work under the contract. It shall also
23 require in all such contractor's bonds that the contractor
24 include such provision as will guarantee the faithful
25 performance of such prevailing wage clause as provided by
26 contract. All bid specifications shall list the specified
27 rates to all laborers, workers and mechanics in the locality
28 for each craft or type of worker or mechanic needed to
29 execute the contract.

30 (b) If the Department of Labor revises the prevailing
31 rate of hourly wages to be paid by the public body, the
32 revised rate shall apply to such contract, and the public
33 body shall be responsible to notify the contractor and each
34 subcontractor, of the revised rate. Two or more investigatory

1 hearings under this Section on the issue of establishing a
 2 new prevailing wage classification for a particular craft or
 3 type of worker shall be consolidated in a single hearing
 4 before the Department. Such consolidation shall occur
 5 whether each separate investigatory hearing is conducted by a
 6 public body or the Department. The party requesting a
 7 consolidated investigatory hearing shall have the burden of
 8 establishing that there is no existing prevailing wage
 9 classification for the particular craft or type of worker in
 10 any of the localities under consideration.

11 (c) Contractors and subcontractors covered by this Act
 12 shall post, at a location on the project site of the public
 13 works that is easily accessible to their employees engaged on
 14 the project, the prevailing wage rates for each craft or type
 15 of worker or mechanic needed to execute the contract or
 16 project or work to be performed. A failure to post a
 17 prevailing wage rate as required by this Section is a
 18 violation of this Act.

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

20 (820 ILCS 130/5) (from Ch. 48, par. 39s-5)

21 Sec. 5. The contractor and each subcontractor ~~or the~~
 22 ~~officer of the public body in charge of the project~~ shall
 23 make and keep, for a period of not less than 3 years, true
 24 and accurate records of the name, address, telephone number,
 25 social security number, ~~keep or cause to be kept,~~ an accurate
 26 ~~record showing the names~~ and occupation of all laborers,
 27 workers and mechanics employed by them, in connection with
 28 said public work. The records shall also show the actual
 29 hourly wages paid in each pay period to each employee and the
 30 hours worked each day in each work week by each employee,
 31 including the starting and ending times of work for each
 32 employee. ~~The, and showing also the actual hourly wages paid~~
 33 ~~to each of such persons,~~ which record shall be open at all

1 reasonable hours to the inspection of the public body
2 awarding the contract, its officers and agents, and to the
3 Director of Labor and his deputies and agents. Any contractor
4 or subcontractor that maintains its principal place of
5 business outside of this State shall make the required
6 records or accurate copies of those records available within
7 this State at all reasonable hours for inspection.

8 Upon request by the Director of Labor or his or her
9 deputies or agents, records shall be copied and submitted for
10 evidence at not cost to the aforementioned parties. Every
11 employer upon request shall furnish to the Director or his or
12 her authorized representative, on demand, a sworn statement
13 of the records and information upon forms prescribed or
14 approved by the Director.

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

16 (820 ILCS 130/6) (from Ch. 48, par. 39s-6)

17 Sec. 6. Any officer, agent or representative of any
18 public body who wilfully violates, or omits to comply with,
19 any of the provisions of this Act, and any contractor or
20 subcontractor, or agent or representative thereof, doing
21 public work as aforesaid, who neglects to keep, or cause to
22 be kept, an accurate record of the names, occupation and
23 actual wages paid to each laborer, worker and mechanic
24 employed by him, in connection with the public work or who
25 refuses to allow access to same at any reasonable hour to any
26 person authorized to inspect same under this Act, is guilty
27 of a Class B misdemeanor.

28 The Department of Labor shall inquire diligently as to
29 any violation of this Act, shall institute actions for
30 penalties herein prescribed, and shall enforce generally the
31 provisions of this Act. The Attorney General shall prosecute
32 such cases upon complaint by the Department or any interested
33 person.

1 If the Director of Labor or his or her deputies or agents
 2 find that a contractor or subcontractor has failed to comply
 3 with the provisions of this Act, a request may be made to the
 4 public body to withhold payment to the contractor or
 5 subcontractor in the amount of the alleged underpayment. The
 6 withholding shall remain in effect until it is determined
 7 that the violation no longer exists.

8 (Source: P.A. 81-992.)

9 (820 ILCS 130/7) (from Ch. 48, par. 39s-7)

10 Sec. 7. The finding of the ~~public body awarding the~~
 11 ~~contract or authorizing the work of the~~ Department of Labor
 12 ascertaining and declaring the general prevailing rate of
 13 hourly wages shall be final for all purposes of the contract
 14 for public work then being considered, unless reviewed under
 15 the provisions of this Act. Nothing in this Act, however,
 16 shall be construed to prohibit the payment to any laborer,
 17 worker or mechanic employed on any public work, as aforesaid,
 18 of more than the prevailing rate of wages; provided further
 19 that nothing in this Act shall be construed to limit the
 20 hours of work which may be performed by any person in any
 21 particular period of time.

22 (Source: P.A. 81-992.)

23 (820 ILCS 130/8) (from Ch. 48, par. 39s-8)

24 Sec. 8. In the event the ~~public body authorizing the work~~
 25 ~~of the~~ Department of Labor is unable to ascertain the
 26 prevailing rate of wage of any class of work required to be
 27 performed under the proposed contract, it is the duty of the
 28 Department of Labor ~~where the determination of said~~
 29 ~~prevailing rate has been referred to it to so notify the~~
 30 ~~public body authorizing the proposed work, and it is the duty~~
 31 ~~of the public body in either case~~ to state the fact of
 32 inability to ascertain said prevailing rate ~~in its~~

1 resolution, ordinance or notice for bids in which event the
 2 clause specifying the prevailing wage as to such class of
 3 work may be excluded from the contract unless such wage may
 4 be determined by the court on appeal as provided by this Act.
 5 (Source: Laws 1957, p. 2662.)

6 (820 ILCS 130/9) (from Ch. 48, par. 39s-9)

7 Sec. 9. To effectuate the purpose and policy of this Act
 8 each public body shall, during the month of June of each
 9 calendar year, investigate and ascertain the prevailing rate
 10 of wages as defined in this Act and publicly post or keep
 11 available for inspection by any interested party in the main
 12 office of such public body its determination of such
 13 prevailing rate of wage and shall promptly file a certified
 14 copy thereof in the office of the Secretary of State at
 15 Springfield.

16 The Department of Labor shall during the month of June of
 17 each calendar year, investigate and ascertain the prevailing
 18 rate of wages for each county in the State. If a public body
 19 does not investigate and ascertain the prevailing rate of
 20 wages during the month of June as required by the previous
 21 paragraph, then the prevailing rate of wages for that public
 22 body shall be the rate as determined by the Department under
 23 this paragraph for the county in which such public body is
 24 located.

25 Where the Department of Labor ascertains the prevailing
 26 rate of wages, It is the duty of the Department of Labor
 27 within 30 days after receiving a notice from the public body
 28 authorizing the proposed work, to conduct an investigation to
 29 ascertain the prevailing rate of wages as defined in this Act
 30 and such investigation shall be conducted in the locality in
 31 which the work is to be performed. The Department of Labor
 32 shall send a certified copy of its findings to the public
 33 body authorizing the work and keep a record of its findings

1 available for inspection by any interested party in the
2 office of the Department of Labor at Springfield.

3 The public body except for the Department of
4 Transportation with respect to highway contracts shall within
5 30 days after filing with the Secretary of State, or the
6 Department of Labor shall within 30 days after filing with
7 such public body, publish in a newspaper of general
8 circulation within the area that the determination is
9 effective, a notice of its determination and shall promptly
10 mail a copy of its determination to any employer, and to any
11 association of employers and to any person or association of
12 employees who have filed their names and addresses,
13 requesting copies of any determination stating the particular
14 rates and the particular class of workers whose wages will be
15 affected by such rates.

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

1 may, upon request of the objectors, conduct the hearing on
2 behalf of the public body.

3 The public body or Department of Labor, whichever has
4 made such determination, is authorized in its discretion to
5 hear each written objection filed separately or consolidate
6 for hearing any one or more written objections filed with it
7 them. At such hearing the public body or Department of Labor
8 shall introduce in evidence the investigation it instituted
9 which formed the basis of its determination, and the public
10 body or Department of Labor, or any interested objectors may
11 thereafter introduce such evidence as is material to the
12 issue. Thereafter, the public body or Department of Labor,
13 must rule upon the written objection and make such final
14 determination as it believes the evidence warrants, and
15 promptly file a certified copy of its final determination
16 with such public body and the Secretary of State, and serve a
17 copy by personal service or registered mail on all parties to
18 the proceedings. The final determination by the Department of
19 Labor a public body shall be rendered within 30 ±0 days after
20 the conclusion of the hearing.

21 If proceedings to review judicially the final
22 determination of the public body or Department of Labor are
23 not instituted as hereafter provided, such determination
24 shall be final and binding.

25 The provisions of the Administrative Review Law, and all
26 amendments and modifications thereof, and the rules adopted
27 pursuant thereto, shall apply to and govern all proceedings
28 for the judicial review of final administrative decisions of
29 any public body or the Department of Labor hereunder. The
30 term "administrative decision" is defined as in Section 3-101
31 of the Code of Civil Procedure.

32 Appeals from all final orders and judgments entered by
33 the court in review of the final administrative decision of
34 the public body or Department of Labor, may be taken by any

1 party to the action.

2 Any proceeding in any court affecting a determination of
3 the Department of Labor ~~or public body~~ shall have priority in
4 hearing and determination over all other civil proceedings
5 pending in said court, except election contests.

6 In all reviews or appeals under this Act, it shall be the
7 duty of the Attorney General to represent the Department of
8 Labor, and defend its determination. The Attorney General
9 shall not represent any public body, except the State, in any
10 such review or appeal.

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

12 (820 ILCS 130/10) (from Ch. 48, par. 39s-10)

13 Sec. 10. The ~~presiding officer of the public body, or~~
14 ~~his or her authorized representative and the~~ Director of the
15 Department of Labor, or his or her authorized representative
16 may interview workers, administer oaths, take or cause to be
17 taken the depositions of witnesses, and require by subpoena
18 the attendance and testimony of witnesses, and the production
19 of all books, records, and other evidence relative to the
20 matter under investigation or hearing. Such subpoena shall be
21 signed and issued by ~~such presiding officer or his or her~~
22 ~~authorized representative,~~ the Director or his or her
23 authorized representative.

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

1 to testify therein. ~~Such-presiding-officer-and~~ The Director
2 may certify to official acts.
3 (Source: P.A. 83-334.)