



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**

Introduced 02/05/04, by Dan Reitz

**SYNOPSIS AS INTRODUCED:**

820 ILCS 130/11

from Ch. 48, par. 39s-11

Amends the Prevailing Wage Act. Provides that a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 may bring an action in any court of competent jurisdiction against an employer that fails to pay the prevailing wage to its employees. Provides that such an action must be commenced not later than 3 years after the date that the public works project was completed. Provides that the Department of Labor also has a right of action on behalf of a labor-management committee.

LRB093 20826 DRJ 46751 b

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 11 as follows:

6 (820 ILCS 130/11) (from Ch. 48, par. 39s-11)

7 Sec. 11. No public works project shall be instituted unless  
8 the provisions of this Act have been complied with. The  
9 provisions of this Act shall not be applicable to Federal  
10 construction projects which require a prevailing wage  
11 determination by the United States Secretary of Labor. The  
12 Illinois Department of Labor represented by the Attorney  
13 General is empowered to sue for injunctive relief against the  
14 awarding of any contract or the continuation of work under any  
15 contract for public works at a time when the prevailing wage  
16 prerequisites have not been met. Any contract for public works  
17 awarded at a time when the prevailing wage prerequisites had  
18 not been met shall be void as against public policy and the  
19 contractor is prohibited from recovering any damages for the  
20 voiding of the contract or pursuant to the terms of the  
21 contract. The contractor is limited to a claim for amounts  
22 actually paid for labor and materials supplied to the public  
23 body. Where objections to a determination of the prevailing  
24 rate of wages or a court action relative thereto is pending,  
25 the public body shall not continue work on the project unless  
26 sufficient funds are available to pay increased wages if such  
27 are finally determined or unless the Department of Labor  
28 certifies such determination of the prevailing rate of wages as  
29 correct.

30 Any laborer, worker or mechanic employed by the contractor  
31 or by any sub-contractor under him who is paid for his services  
32 in a sum less than the stipulated rates for work done under

1 such contract, shall have a right of action for whatever  
2 difference there may be between the amount so paid, and the  
3 rates provided by the contract together with costs and such  
4 reasonable attorney's fees as shall be allowed by the court.  
5 Such contractor or subcontractor shall also be liable to the  
6 Department of Labor for 20% of such underpayments and shall be  
7 additionally liable to the laborer, worker or mechanic for  
8 punitive damages in the amount of 2% of the amount of any such  
9 penalty to the State for underpayments for each month following  
10 the date of payment during which such underpayments remain  
11 unpaid. A joint labor-management committee established  
12 pursuant to the federal Labor Management Cooperation Act of  
13 1978 (Section 175a of Title 29 of the United States Code) may  
14 bring an action in any court of competent jurisdiction against  
15 an employer that fails to pay the prevailing wage to its  
16 employees, as required by this Act. This action must be  
17 commenced not later 3 years after the date that the public  
18 works project was completed. The Department shall also have a  
19 right of action on behalf of any individual or labor-management  
20 committee who has a right of action under this Section. An  
21 action brought to recover same shall be deemed to be a suit for  
22 wages, and any and all judgments entered therein shall have the  
23 same force and effect as other judgments for wages. At the  
24 request of any laborer, workman or mechanic employed by the  
25 contractor or by any subcontractor under him who is paid less  
26 than the prevailing wage rate required by this Act, the  
27 Department of Labor may take an assignment of such wage claim  
28 in trust for the assigning laborer, workman or mechanic and may  
29 bring any legal action necessary to collect such claim, and the  
30 contractor or subcontractor shall be required to pay the costs  
31 incurred in collecting such claim.

32 (Source: P.A. 86-799.)