

1 AN ACT concerning finance.

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

4 Section 5. The Employment of Illinois Workers on Public
5 Works Act is amended by changing Sections 0.01, 1, 1.1, 2, 3,
6 4, 5, 6, and 7 and by adding Sections 7.05, 7.10, 7.15, and
7 7.20 as follows:

8 (30 ILCS 570/0.01) (from Ch. 48, par. 2200)

9 Sec. 0.01. Short title. This Article 2 Act may be cited as
10 the Employment of Illinois Workers on Public Works Act. In this
11 Article 2, references to this Act mean this Article 2.

12 (Source: P.A. 86-1324.)

13 (30 ILCS 570/1) (from Ch. 48, par. 2201)

14 Sec. 1. Definitions. For the purposes of ~~Article 2~~ of this
15 Act, the following words have the meanings ascribed to them in
16 this Section.

17 (1) "Illinois laborer" refers to any person who has resided
18 in Illinois for at least 30 days and intends to become or
19 remain an Illinois resident.

20 (2) "A period of excessive unemployment" means any month
21 immediately following 2 consecutive calendar months during
22 which the level of unemployment in the State of Illinois has

1 exceeded 5% as measured by the United States Bureau of Labor
2 Statistics in its monthly publication of employment and
3 unemployment figures.

4 (3) "Hazardous waste" has the definition ascribed to it in
5 Section 3.220 of the Illinois Environmental Protection Act,
6 approved June 29, 1970, as amended.

7 (4) "Interested party" means a person or entity with an
8 interest in compliance with this Act.

9 (5) "Entity" means any sole proprietor, partnership, firm,
10 corporation, limited liability company, association, or other
11 business enterprise; however, the term "entity" does not
12 include (i) the State of Illinois or its officers, agencies, or
13 political subdivisions or (ii) the federal government.

14 (6) "Public works" means any fixed work construction or
15 improvement for the State of Illinois or any political
16 subdivision of the State if that fixed work construction or
17 improvement is funded or financed in whole or in part with
18 State funds or funds administered by the State of Illinois.

19 (Source: P.A. 92-574, eff. 6-26-02.)

20 (30 ILCS 570/1.1) (from Ch. 48, par. 2201.1)

21 Sec. 1.1. Findings. The General Assembly finds and declares
22 that unemployment in the Illinois construction industry has
23 traditionally tended to be higher in those counties which
24 border upon other states. Further, the General Assembly finds
25 and declares that the over-utilization of out-of-state

1 laborers on public works projects or improvements for the State
2 of Illinois or any political subdivision, municipal
3 corporation or other governmental units thereof is a
4 contributing factor to higher levels of unemployment both in
5 the border counties and throughout Illinois. It is the public
6 policy of this State and the objective of this Act to promote
7 the general welfare of the people of this State by ensuring
8 that Illinois laborers are utilized to the greatest extent
9 possible on public works projects or improvements for the State
10 of Illinois or any political subdivision, municipal
11 corporation or other governmental units thereof. To this end,
12 this Act shall be liberally construed to effectuate its
13 purpose.

14 (Source: P.A. 87-377.)

15 (30 ILCS 570/2) (from Ch. 48, par. 2202)

16 Sec. 2. Applicability. ~~This Article 2 of this~~ Act applies
17 to all labor on public works projects or improvements,
18 including projects involving the clean-up and on-site disposal
19 of hazardous waste, but excluding emergency response or
20 immediate removal activities, whether skilled, semi-skilled or
21 unskilled, whether manual or non-manual.

22 (Source: P.A. 86-1015.)

23 (30 ILCS 570/3) (from Ch. 48, par. 2203)

24 Sec. 3. Employment of Illinois laborers. Whenever there is

1 a period of excessive unemployment in Illinois, every person or
2 entity that ~~who~~ is charged with the duty, either by law or
3 contract, of:

4 (1) constructing or building any public works, as defined
5 in this Act; ~~project or improvement~~ or

6 (2) ~~for~~ the clean-up and on-site disposal of hazardous
7 waste for the State of Illinois or any political subdivision of
8 the State, if that clean-up or on-site disposal is funded or
9 financed in whole or in part with State funds or funds
10 administered by the State of Illinois, ~~municipal corporation or~~
11 ~~other governmental unit thereof~~ shall employ at least 90% only
12 Illinois laborers on such project. Any public works project
13 financed in whole or in part by federal funds administered by
14 the State of Illinois is covered under the provisions of this
15 Act, to the extent permitted by any applicable federal law or
16 regulation. Every public works ~~or improvement, and every~~
17 contract let by any such person shall contain a provision
18 requiring that such labor be used: Provided, that other
19 laborers may be used when Illinois laborers as defined in this
20 Act are not available, or are incapable of performing the
21 particular type of work involved, if so certified by the
22 contractor and approved by the contracting officer.

23 (Source: P.A. 86-1015.)

24 (30 ILCS 570/4) (from Ch. 48, par. 2204)

25 Sec. 4. Non-resident executive and technical experts.

1 Every contractor on a public works project or improvement or
2 hazardous waste clean-up and on-site disposal project in this
3 State may place on such work no more than 3, or 6 in the case of
4 a hazardous waste clean-up and on-site disposal project, of his
5 regularly employed non-resident executive and technical
6 experts, even though they do not qualify as Illinois laborers
7 as defined in Section 1 ~~of Article 2~~ of this Act.

8 (Source: P.A. 86-1015.)

9 (30 ILCS 570/5) (from Ch. 48, par. 2205)

10 Sec. 5. Expenditure of federal funds.

11 (a) In all contracts involving the expenditure of federal
12 aid funds in relation to a public works project or improvement,
13 ~~Article 2~~ of this Act shall not be enforced in such manner as
14 to conflict with any federal statutes or rules and regulations.

15 (b) When federal expenditures are used in combination with
16 State expenditures for clean-up and on-site disposal of
17 hazardous waste, it shall be the responsibility of the Illinois
18 Environmental Protection Agency to notify, with respect to such
19 project, any Illinois hazardous waste cleanup contractor who
20 has requested such notification of the date when bids will be
21 accepted for such projects and the requirements necessary to
22 successfully compete for such projects.

23 (Source: P.A. 86-1015.)

24 (30 ILCS 570/6) (from Ch. 48, par. 2206)

1 Sec. 6. Penalties. Any person or entity that violates the
2 provisions of this Act is subject to a civil penalty in an
3 amount not to exceed \$1,000 for each violation found in the
4 first investigation by the Department, not to exceed \$5,000 for
5 each violation found in the second investigation by the
6 Department, and not to exceed \$15,000 for a third or subsequent
7 violation found in any subsequent investigation by the
8 Department. ~~Any person who knowingly fails to use Illinois~~
9 ~~laborers as required in Article 2 of this Act, shall be guilty~~
10 ~~of a Class C misdemeanor.~~ Each violation of this Act for each
11 worker and for each day the violation continues constitutes
12 ~~separate case of failure to use Illinois laborers on such~~
13 ~~public works projects or improvements or for the clean-up and~~
14 ~~on-site disposal of hazardous waste shall constitute a separate~~
15 ~~and distinct violation offense.~~ In determining the amount of
16 the penalty, the Department shall consider the appropriateness
17 of the penalty to the person or entity charged, upon
18 determination of the gravity of the violations. The collection
19 of these penalties shall be enforced in a civil action brought
20 by the Attorney General on behalf of the Department.

21 (Source: P.A. 86-1015.)

22 (30 ILCS 570/7) (from Ch. 48, par. 2207)

23 Sec. 7. Enforcement. It is the duty of the Department to
24 enforce the provisions of this Act. The Department has the
25 power to conduct investigations in connection with the

1 administration and enforcement of this Act, and any
2 investigator with the Department is authorized to visit and
3 inspect, at all reasonable times, any places covered by this
4 Act and is authorized to inspect, at all reasonable times,
5 documents related to the determination of whether a violation
6 of the Act exists. The Department may compel, by subpoena, the
7 attendance and testimony of witnesses and the production of
8 books, payrolls, records, papers, and other evidence in any
9 investigation and may administer oaths to witnesses. The
10 ~~Article 2 of this Act shall be enforced by the~~ Department of
11 Labor, ~~which,~~ as represented by the Attorney General, is
12 empowered to: (i) issue and cause to be served on any person or
13 entity an order to cease and desist from further violation of
14 this Act, (ii) take affirmative or other action as deemed
15 reasonable to eliminate the effect of the violation, (iii)
16 collect any civil penalties assessed by the Department pursuant
17 to Section 6 of this Act, and (iv) sue for injunctive relief
18 against the awarding of any contract or the continuation of any
19 work under any contract for public works or improvements or for
20 the clean-up and on-site disposal of hazardous waste at a time
21 when the provisions of ~~Article 2 of~~ this Act are not being met.

22 (Source: P.A. 86-1015.)

23 (30 ILCS 570/7.05 new)

24 Sec. 7.05. Review. Any party seeking review of the
25 Department's determination may file a written request for an

1 informal conference. The request must be received by the
2 Department within 15 calendar days after the date of issuance
3 of the Department's determination. During the conference, the
4 party seeking review may present written or oral information
5 and arguments as to why the Department's determination should
6 be amended or vacated. The Department shall consider the
7 information and arguments presented and issue a written
8 decision advising all parties of the outcome of the conference.

9 (30 ILCS 570/7.10 new)

10 Sec. 7.10. Employment of Illinois Workers on Public Works
11 Projects Fund. All moneys received by the Department as civil
12 penalties under this Act shall be deposited into the Employment
13 of Illinois Workers on Public Works Projects Fund and shall be
14 used, subject to appropriation by the General Assembly, by the
15 Department for administration, investigation, and other
16 expenses incurred in carrying out its powers and duties under
17 this Act. The Department shall hire as many investigators and
18 other personnel as may be necessary to carry out the purposes
19 of this Act. Any moneys in the Fund at the end of a fiscal year
20 in excess of those moneys necessary for the Department to carry
21 out its powers and duties under this Act shall be available for
22 appropriation to the Department for the next fiscal year for
23 any of the Department's duties.

24 (30 ILCS 570/7.15 new)

1 Sec. 7.15. Private right of action.

2 (a) Any interested party or person aggrieved by a violation
3 of this Act or any rule adopted under this Act may file suit in
4 circuit court, in the county where the alleged offense occurred
5 or where any party to the action resides, without regard to
6 exhaustion of any alternative administrative remedies provided
7 in this Act. Actions may be brought by one or more persons or
8 entities for and on behalf of themselves and other persons or
9 entities similarly situated. A person or entity whose rights
10 have been violated under this Act is entitled to collect:

11 (1) attorney's fees and costs; and

12 (2) compensatory damages in an amount not to exceed
13 \$1,000 for each violation of this Act or any rule adopted
14 under this Act. Each violation of this Act for each worker
15 and for each day the violation continues constitutes a
16 separate and distinct violation.

17 (b) The right of an interested party or aggrieved person to
18 bring an action under this Section terminates upon the passing
19 of 3 years from the date of completion and acceptance of the
20 public works project in question.

21 (30 ILCS 570/7.20 new)

22 Sec. 7.20. Rulemaking. The Department may adopt reasonable
23 rules to implement and administer this Act. For purposes of
24 this Act, the General Assembly finds that the adoption of rules
25 to implement this Act is deemed an emergency and necessary for

1 the public interest and welfare.

2 (30 ILCS 560/Act rep.)

3 Section 10. The Public Works Preference Act is repealed.

4 Section 15. The State Finance Act is amended by adding
5 Section 5.755 as follows:

6 (30 ILCS 105/5.755 new)

7 Sec. 5.755. The Employment of Illinois Workers on Public
8 Works Projects Fund.

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.