



Rep. Daniel V. Beiser

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1 AMENDMENT TO HOUSE BILL 6349

2 AMENDMENT NO. _____. Amend House Bill 6349 by replacing
3 everything after the enacting clause with the following:

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

1 this Section.

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

5 (2) "A period of excessive unemployment" means any month
6 immediately following 2 consecutive calendar months during
7 which the level of unemployment in the State of Illinois has
8 exceeded 5% as measured by the United States Bureau of Labor
9 Statistics in its monthly publication of employment and
10 unemployment figures.

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

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

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

21 (6) "Public works" means any fixed work construction or
22 improvement for the State of Illinois or any political
23 subdivision of the State if that fixed work construction or
24 improvement is funded or financed in whole or in part with
25 State funds or funds administered by the State of Illinois.

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

1 (30 ILCS 570/1.1) (from Ch. 48, par. 2201.1)

2 Sec. 1.1. Findings. The General Assembly finds and declares
3 that unemployment in the Illinois construction industry has
4 traditionally tended to be higher in those counties which
5 border upon other states. Further, the General Assembly finds
6 and declares that the over-utilization of out-of-state
7 laborers on public works projects or improvements for the State
8 of Illinois or any political subdivision, municipal
9 corporation or other governmental units thereof is a
10 contributing factor to higher levels of unemployment both in
11 the border counties and throughout Illinois. It is the public
12 policy of this State and the objective of this Act to promote
13 the general welfare of the people of this State by ensuring
14 that Illinois laborers are utilized to the greatest extent
15 possible on public works projects or improvements for the State
16 of Illinois or any political subdivision, municipal
17 corporation or other governmental units thereof. To this end,
18 this Act shall be liberally construed to effectuate its
19 purpose.

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

21 (30 ILCS 570/2) (from Ch. 48, par. 2202)

22 Sec. 2. Applicability. This ~~Article 2 of this~~ Act applies
23 to all labor on public works projects or improvements,
24 including projects involving the clean-up and on-site disposal

1 of hazardous waste, but excluding emergency response or
2 immediate removal activities, whether skilled, semi-skilled or
3 unskilled, whether manual or non-manual.

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

5 (30 ILCS 570/3) (from Ch. 48, par. 2203)

6 Sec. 3. Employment of Illinois laborers. Whenever there is
7 a period of excessive unemployment in Illinois, every person or
8 entity that ~~who~~ is charged with the duty, either by law or
9 contract, of:

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

12 (2) ~~for~~ the clean-up and on-site disposal of hazardous
13 waste for the State of Illinois or any political subdivision of
14 the State, if that clean-up or on-site disposal is funded or
15 financed in whole or in part with State funds or funds
16 administered by the State of Illinois, ~~municipal corporation or~~
17 ~~other governmental unit thereof~~ shall employ at least 90% only
18 Illinois laborers on such project. Any public works project
19 financed in whole or in part by federal funds administered by
20 the State of Illinois is covered under the provisions of this
21 Act, to the extent permitted by any applicable federal law or
22 regulation. Every public works ~~or improvement, and every~~
23 contract let by any such person shall contain a provision
24 requiring that such labor be used: Provided, that other
25 laborers may be used when Illinois laborers as defined in this

1 Act are not available, or are incapable of performing the
2 particular type of work involved, if so certified by the
3 contractor and approved by the contracting officer.

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

5 (30 ILCS 570/4) (from Ch. 48, par. 2204)

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

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

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

15 (30 ILCS 570/5) (from Ch. 48, par. 2205)

16 Sec. 5. Expenditure of federal funds.

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

21 (b) When federal expenditures are used in combination with
22 State expenditures for clean-up and on-site disposal of
23 hazardous waste, it shall be the responsibility of the Illinois
24 Environmental Protection Agency to notify, with respect to such

1 project, any Illinois hazardous waste cleanup contractor who
2 has requested such notification of the date when bids will be
3 accepted for such projects and the requirements necessary to
4 successfully compete for such projects.

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

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

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

1 by the Attorney General on behalf of the Department.

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

3 (30 ILCS 570/7) (from Ch. 48, par. 2207)

4 Sec. 7. Enforcement. It is the duty of the Department to
5 enforce the provisions of this Act. The Department has the
6 power to conduct investigations in connection with the
7 administration and enforcement of this Act, and any
8 investigator with the Department is authorized to visit and
9 inspect, at all reasonable times, any places covered by this
10 Act and is authorized to inspect, at all reasonable times,
11 documents related to the determination of whether a violation
12 of the Act exists. The Department may compel, by subpoena, the
13 attendance and testimony of witnesses and the production of
14 books, payrolls, records, papers, and other evidence in any
15 investigation and may administer oaths to witnesses. The
16 ~~Article 2 of this Act shall be enforced by the~~ Department of
17 Labor, ~~which,~~ as represented by the Attorney General, is
18 empowered to: (i) issue and cause to be served on any person or
19 entity an order to cease and desist from further violation of
20 this Act, (ii) take affirmative or other action as deemed
21 reasonable to eliminate the effect of the violation, (iii)
22 collect any civil penalties assessed by the Department pursuant
23 to Section 6 of this Act, and (iv) sue for injunctive relief
24 against the awarding of any contract or the continuation of any
25 work under any contract for public works or improvements or for

1 the clean-up and on-site disposal of hazardous waste at a time
2 when the provisions of ~~Article 2 of~~ this Act are not being met.

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

4 (30 ILCS 570/7.05 new)

5 Sec. 7.05. Review. Any party seeking review of the
6 Department's determination may file a written request for an
7 informal conference. The request must be received by the
8 Department within 15 calendar days after the date of issuance
9 of the Department's determination. During the conference, the
10 party seeking review may present written or oral information
11 and arguments as to why the Department's determination should
12 be amended or vacated. The Department shall consider the
13 information and arguments presented and issue a written
14 decision advising all parties of the outcome of the conference.

15 (30 ILCS 570/7.10 new)

16 Sec. 7.10. Employment of Illinois Workers on Public Works
17 Projects Fund. All moneys received by the Department as civil
18 penalties under this Act shall be deposited into the Employment
19 of Illinois Workers on Public Works Projects Fund and shall be
20 used, subject to appropriation by the General Assembly, by the
21 Department for administration, investigation, and other
22 expenses incurred in carrying out its powers and duties under
23 this Act. The Department shall hire as many investigators and
24 other personnel as may be necessary to carry out the purposes

1 of this Act. Any moneys in the Fund at the end of a fiscal year
2 in excess of those moneys necessary for the Department to carry
3 out its powers and duties under this Act shall be available for
4 appropriation to the Department for the next fiscal year for
5 any of the Department's duties.

6 (30 ILCS 570/7.15 new)

7 Sec. 7.15. Private right of action.

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

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

18 (2) compensatory damages in an amount not to exceed
19 \$1,000 for each violation of this Act or any rule adopted
20 under this Act. Each violation of this Act for each worker
21 and for each day the violation continues constitutes a
22 separate and distinct violation.

23 (b) The right of an interested party or aggrieved person to
24 bring an action under this Section terminates upon the passing
25 of 3 years from the date of completion and acceptance of the

1 public works project in question.

2 (30 ILCS 570/7.20 new)

3 Sec. 7.20. Rulemaking. The Department may adopt reasonable
4 rules to implement and administer this Act. For purposes of
5 this Act, the General Assembly finds that the adoption of rules
6 to implement this Act is deemed an emergency and necessary for
7 the public interest and welfare.

8 (30 ILCS 560/Act rep.)

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

10 Section 15. The State Finance Act is amended by adding
11 Section 5.755 as follows:

12 (30 ILCS 105/5.755 new)

13 Sec. 5.755. The Employment of Illinois Workers on Public
14 Works Projects Fund.

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.".