

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, if a every
2 person or entity ~~who~~ is charged with the duty, either by law or
3 contract, of (1) constructing or building any public works, as
4 defined in this Act, project or improvement or (2) for the
5 clean-up and on-site disposal of hazardous waste for the State
6 of Illinois or any political subdivision of the State, and that
7 clean-up or on-site disposal is funded or financed in whole or
8 in part with State funds or funds administered by the State of
9 Illinois, then that person or entity ~~municipal corporation or~~
10 ~~other governmental unit thereof~~ shall employ at least 90% only
11 Illinois laborers on such project. Any public works project
12 financed in whole or in part by federal funds administered by
13 the State of Illinois is covered under the provisions of this
14 Act, to the extent permitted by any applicable federal law or
15 regulation. Every public works or improvement, and every
16 contract let by any such person shall contain a provision
17 requiring that such labor be used: Provided, that other
18 laborers may be used when Illinois laborers as defined in this
19 Act are not available, or are incapable of performing the
20 particular type of work involved, if so certified by the
21 contractor and approved by the contracting officer.

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

23 (30 ILCS 570/4) (from Ch. 48, par. 2204)

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

25 Every contractor on a public works project or improvement or

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

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

8 (30 ILCS 570/5) (from Ch. 48, par. 2205)

9 Sec. 5. Expenditure of federal funds.

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

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

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

23 (30 ILCS 570/6) (from Ch. 48, par. 2206)

24 Sec. 6. Penalties. Any person or entity that violates the

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

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

21 (30 ILCS 570/7) (from Ch. 48, par. 2207)

22 Sec. 7. Enforcement. It is the duty of the Department of
23 Labor to enforce the provisions of this Act. The Department has
24 the power to conduct investigations in connection with the
25 administration and enforcement of this Act, and any

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

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

22 (30 ILCS 570/7.05 new)

23 Sec. 7.05. Review. Any party seeking review of the
24 Department's determination may file a written request for an
25 informal conference. The request must be received by the

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

8 (30 ILCS 570/7.10 new)

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

23 (30 ILCS 570/7.15 new)

24 Sec. 7.15. Private right of action.

1 (a) Any interested party or person aggrieved by a violation
2 of this Act or any rule adopted under this Act may file suit in
3 circuit court, in the county where the alleged offense occurred
4 or where any party to the action resides, without regard to
5 exhaustion of any alternative administrative remedies provided
6 in this Act. Actions may only be brought (i) 30 days or more
7 after a complaint has been filed with the Department of Labor
8 by any interested party or person aggrieved by a violation of
9 this Act or (ii) any time after the filing of a complaint if
10 the Department of Labor notifies any interested party or person
11 aggrieved by a violation of this Act that the Department will
12 not proceed with the complaint. Actions may be brought by one
13 or more persons or entities for and on behalf of themselves and
14 other persons or entities similarly situated. A person or
15 entity whose rights have been violated under this Act is
16 entitled to collect:

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

18 (2) compensatory damages in an amount not to exceed
19 \$500 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
26 public works project in question.

1 (30 ILCS 570/7.20 new)

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

7 (30 ILCS 560/Act rep.)

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

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

11 (30 ILCS 105/5.755 new)

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

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