



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB1389

Introduced 2/9/2011, by Sen. Dale A. Righter

SYNOPSIS AS INTRODUCED:

820 ILCS 130/6

from Ch. 48, par. 39s-6

820 ILCS 130/10b new

Amends the Prevailing Wage Act. Provides a process for investigation into violations of the Prevailing Wage Act. Provides that the process starts with a complaint to be filed within 30 days of the alleged violation. Provides a \$5,000 fine for knowingly filing a false complaint, or record or statement material to a false or fraudulent complaint. Provides a procedure for a response from a contractor or subcontractor. Provides a procedure for the Director of Labor in issuing a decision. Allows a party to request a hearing within 15 days of receiving notice of the Director's decision. Provides that a final order issued by the Director of Labor in relation to this investigation process is subject to judicial review under the Administrative Review Law. Effective immediately.

LRB097 07483 AEK 47593 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 6 and by adding Section 10b as follows:

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

7 Sec. 6. Any officer, agent or representative of any public
8 body who wilfully violates, or omits to comply with, any of the
9 provisions of this Act, and any contractor or subcontractor, or
10 agent or representative thereof, doing public work as
11 aforesaid, who neglects to keep, or cause to be kept, an
12 accurate record of the names, occupation and actual wages paid
13 to each laborer, worker and mechanic employed by him, in
14 connection with the public work or who refuses to allow access
15 to same at any reasonable hour to any person authorized to
16 inspect same under this Act, is guilty of a Class A
17 misdemeanor.

18 The Department of Labor shall inquire diligently as to any
19 violation as provided in Section 10b of this Act ~~of this Act~~,
20 shall institute actions for penalties herein prescribed, and
21 shall enforce generally the provisions of this Act. The
22 Attorney General shall prosecute such cases upon complaint by
23 the Department or any interested person.

1 (Source: P.A. 94-488, eff. 1-1-06.)

2 (820 ILCS 130/10b new)

3 Sec. 10b. Investigation and hearings.

4 (a) Complaints.

5 (1) Within 30 days after the date that an alleged
6 violation of this Act has occurred, a complaint in writing
7 under oath or affirmation may be filed with the Department
8 of Labor by an aggrieved party for the purposes of
9 investigating the alleged violation.

10 (2) The complaint shall include, in sufficient detail,
11 all relevant information concerning the time, place, and
12 facts surrounding the alleged violation. The name of any
13 party filing the complaint shall be disclosed to the
14 contractor or subcontractor alleged to have violated the
15 Act.

16 (3) Any person who:

17 (A) knowingly presents, or causes to be presented,
18 a false complaint; or

19 (B) knowingly makes, uses, or causes to be made or
20 used, a false record or statement material to a false
21 or fraudulent complaint,

22 is liable to the Department of Labor for \$5,000 for
23 each false complaint filed. Any person found to knowingly
24 file a false complaint shall also be liable to the
25 contractor or subcontractor who was falsely accused for any

1 incurred legal fees, administrative fees, and penalties
2 assessed by the Department of Labor pursuant to the
3 complaint.

4 (b) Notice and response to complaint. The Department of
5 Labor shall, within 10 days of the date the complaint was
6 filed, serve a copy of the complaint on the contractor or
7 subcontractor. The contractor or subcontractor alleged to have
8 violated this Act may file a position statement and other
9 materials with the Department of Labor regarding the complaint
10 within 30 days of receipt of the notice of the complaint. The
11 position statement and other materials filed shall remain
12 confidential unless otherwise agreed to by the contractor or
13 subcontractor providing the information and shall not be served
14 on or made available to the other party during the
15 investigation of the complaint by the Department of Labor.

16 The Department of Labor may require the contractor or
17 subcontractor to file a verified response to the allegations
18 contained in the complaint within 30 days of receipt of the
19 notice of the complaint. The Department of Labor may issue a
20 notice of default directed to any contractor or subcontractor
21 who fails to file a verified response to a complaint within 30
22 days of receipt of the notice of the complaint, unless the
23 contractor or subcontractor can demonstrate good cause as to
24 why such notice should not be issued. All allegations contained
25 in the charge not timely denied by the contractor or
26 subcontractor in a verified response shall be deemed admitted,

1 unless the contractor or subcontractor states that it is
2 without sufficient information to form a belief with respect to
3 such allegation. A contractor or subcontractor shall have the
4 right to supplement their position statement or verified
5 response at any time that the investigation of the complaint is
6 pending.

7 (c) Report.

8 (1) Each complaint shall be the subject of a report to
9 the Director of Labor. The report shall be a confidential
10 document subject to review by the Director of Labor,
11 authorized Department of Labor employees, and the parties.

12 (2) Upon review of the report, the Director of Labor
13 shall determine whether there is substantial evidence that
14 the alleged violation of the Act has been committed.

15 (3) If the Director of Labor determines that there is
16 no violation of this Act, he or she shall issue a decision
17 denying the alleged violation. The Director of Labor shall
18 provide notice of the decision to both parties and state
19 that the decision shall become the final order of the
20 Director of Labor on the matter unless, within 15 days of
21 its receipt, the Complainant files a request for a hearing
22 with the Director of Labor.

23 (4) If the Director of Labor determines that there is a
24 violation of this Act, he or she shall issue a decision
25 incorporating his or her findings and requiring the
26 contractor or subcontractor to take such affirmative

1 action to remedy the conduct as the Director of Labor deems
2 appropriate. The Director of Labor shall provide notice of
3 the decision to both parties and state that the decision
4 shall become the final order of the Director of Labor on
5 the matter unless, within 15 days of its receipt, the
6 contractor or subcontractor files a request for a hearing
7 with the Director of Labor.

8 (5) The Director of Labor may, in his or her
9 discretion, find no violation of this Act if:

10 (A) the parties and the Director of Labor agree
11 that such finding is appropriate to the investigation;
12 and

13 (B) if the finding is made to promote the effective
14 resolution of the complaint.

15 (d) Hearings. Upon the receipt of a properly filed request
16 for a hearing, the Director of Labor shall convene an
17 administrative hearing pursuant to the provisions of the
18 Illinois Administrative Procedure Act.

19 (e) Judicial Review. A final order issued by the Director
20 under this Section is subject to judicial review under the
21 Administrative Review Law.

22 (f) Applicability. This Section applies to complaints
23 filed on or after the effective date of this amendatory Act of
24 the 97th General Assembly.

25 Section 99. Effective date. This Act takes effect upon
26 becoming law.