

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 Sections 2 and 4 as follows:

6 (820 ILCS 130/2) (from Ch. 48, par. 39s-2)

7 Sec. 2. This Act applies to the wages of laborers,
8 mechanics and other workers employed in any public works, as
9 hereinafter defined, by any public body and to anyone under
10 contracts for public works. This includes any maintenance,
11 repair, assembly, or disassembly work performed on equipment
12 whether owned, leased, or rented.

13 As used in this Act, unless the context indicates
14 otherwise:

15 "Public works" means all fixed works constructed or
16 demolished by any public body, or paid for wholly or in part
17 out of public funds. "Public works" as defined herein includes
18 all projects financed in whole or in part with bonds, grants,
19 loans, or other funds made available by or through the State or
20 any of its political subdivisions, including but not limited
21 to: bonds issued under the Industrial Project Revenue Bond Act
22 (Article 11, Division 74 of the Illinois Municipal Code), the
23 Industrial Building Revenue Bond Act, the Illinois Finance

1 Authority Act, the Illinois Sports Facilities Authority Act, or
2 the Build Illinois Bond Act; loans or other funds made
3 available pursuant to the Build Illinois Act; or funds from the
4 Fund for Illinois' Future under Section 6z-47 of the State
5 Finance Act, funds for school construction under Section 5 of
6 the General Obligation Bond Act, funds authorized under Section
7 3 of the School Construction Bond Act, funds for school
8 infrastructure under Section 6z-45 of the State Finance Act,
9 and funds for transportation purposes under Section 4 of the
10 General Obligation Bond Act. "Public works" also includes (i)
11 all projects financed in whole or in part with funds from the
12 Department of Commerce and Economic Opportunity under the
13 Illinois Renewable Fuels Development Program Act for which
14 there is no project labor agreement; (ii) all work performed
15 pursuant to a public private agreement under the Public Private
16 Agreements for the Illiana Expressway Act; and (iii) all
17 projects undertaken under a public-private agreement under the
18 Public-Private Partnerships for Transportation Act. "Public
19 works" also includes all projects at leased facility property
20 used for airport purposes under Section 35 of the Local
21 Government Facility Lease Act. "Public works" also includes the
22 construction of a new wind power facility by a business
23 designated as a High Impact Business under Section 5.5(a)(3)(E)
24 of the Illinois Enterprise Zone Act. "Public works" does not
25 include work done directly by any public utility company,
26 whether or not done under public supervision or direction, or

1 paid for wholly or in part out of public funds. "Public works"
2 does not include projects undertaken by the owner at an
3 owner-occupied single-family residence or at an owner-occupied
4 unit of a multi-family residence.

5 "Construction" means all work on public works involving
6 laborers, workers or mechanics. This includes any maintenance,
7 repair, assembly, or disassembly work performed on equipment
8 whether owned, leased, or rented.

9 "Locality" means the county where the physical work upon
10 public works is performed, except (1) that if there is not
11 available in the county a sufficient number of competent
12 skilled laborers, workers and mechanics to construct the public
13 works efficiently and properly, "locality" includes any other
14 county nearest the one in which the work or construction is to
15 be performed and from which such persons may be obtained in
16 sufficient numbers to perform the work and (2) that, with
17 respect to contracts for highway work with the Department of
18 Transportation of this State, "locality" may at the discretion
19 of the Secretary of the Department of Transportation be
20 construed to include two or more adjacent counties from which
21 workers may be accessible for work on such construction.

22 "Public body" means the State or any officer, board or
23 commission of the State or any political subdivision or
24 department thereof, or any institution supported in whole or in
25 part by public funds, and includes every county, city, town,
26 village, township, school district, irrigation, utility,

1 reclamation improvement or other district and every other
2 political subdivision, district or municipality of the state
3 whether such political subdivision, municipality or district
4 operates under a special charter or not.

5 The terms "general prevailing rate of hourly wages",
6 "general prevailing rate of wages" or "prevailing rate of
7 wages" when used in this Act mean the hourly cash wages plus
8 fringe benefits for training and apprenticeship programs
9 approved by the U.S. Department of Labor, Bureau of
10 Apprenticeship and Training, health and welfare, insurance,
11 vacations and pensions paid generally, in the locality in which
12 the work is being performed, to employees engaged in work of a
13 similar character on public works.

14 "Responsible bidder" means those individuals or firms
15 meeting the requirements of Section 30-22 of the Illinois
16 Procurement Code.

17 (Source: P.A. 96-28, eff. 7-1-09; 96-58, eff. 1-1-10; 96-186,
18 eff. 1-1-10; 96-913, eff. 6-9-10; 96-1000, eff. 7-2-10; 97-502,
19 eff. 8-23-11.)

20 (820 ILCS 130/4) (from Ch. 48, par. 39s-4)

21 Sec. 4. Ascertaining prevailing wage.

22 (a) The public body awarding any contract for public work
23 or otherwise undertaking any public works, shall ascertain the
24 general prevailing rate of hourly wages in the locality in
25 which the work is to be performed, for each craft or type of

1 worker or mechanic needed to execute the contract, and where
2 the public body performs the work without letting a contract
3 therefor, shall ascertain the prevailing rate of wages on a per
4 hour basis in the locality, and such public body shall specify
5 in the resolution or ordinance and in the call for bids for the
6 contract, that the general prevailing rate of wages in the
7 locality for each craft or type of worker or mechanic needed to
8 execute the contract or perform such work, also the general
9 prevailing rate for legal holiday and overtime work, as
10 ascertained by the public body or by the Department of Labor
11 shall be paid for each craft or type of worker needed to
12 execute the contract or to perform such work, and it shall be
13 mandatory upon the contractor to whom the contract is awarded
14 and upon any subcontractor under him, and where the public body
15 performs the work, upon the public body, to pay not less than
16 the specified rates to all laborers, workers and mechanics
17 employed by them in the execution of the contract or such work;
18 provided, however, that if the public body desires that the
19 Department of Labor ascertain the prevailing rate of wages, it
20 shall notify the Department of Labor to ascertain the general
21 prevailing rate of hourly wages for work under contract, or for
22 work performed by a public body without letting a contract as
23 required in the locality in which the work is to be performed,
24 for each craft or type of worker or mechanic needed to execute
25 the contract or project or work to be performed. Upon such
26 notification the Department of Labor shall ascertain such

1 general prevailing rate of wages, and certify the prevailing
2 wage to such public body.

3 (a-0.5) To effectuate the purpose and policy of this Act, a
4 public body awarding a contract for public work or otherwise
5 undertaking any public works shall specify in the call for bids
6 and shall require that each contractor and each subcontractor
7 be a responsible bidder.

8 (a-0.7) A public body awarding a contract for public work
9 or otherwise undertaking any public works shall require that
10 each contractor and each subcontractor include in each bid a
11 total number of straight-time work hours, identified as either
12 "journeyperson" or "apprentice", for each craft or type of
13 worker or mechanic needed to execute the contract.

14 (a-1) The public body or other entity awarding the contract
15 shall cause to be inserted in the project specifications and
16 the contract a stipulation to the effect that not less than the
17 prevailing rate of wages as found by the public body or
18 Department of Labor or determined by the court on review shall
19 be paid to all laborers, workers and mechanics performing work
20 under the contract.

21 (a-2) When a public body or other entity covered by this
22 Act has awarded work to a contractor without a public bid,
23 contract or project specification, such public body or other
24 entity shall comply with subsection (a-1) by providing the
25 contractor with written notice on the purchase order related to
26 the work to be done or on a separate document indicating that

1 not less than the prevailing rate of wages as found by the
2 public body or Department of Labor or determined by the court
3 on review shall be paid to all laborers, workers, and mechanics
4 performing work on the project.

5 (a-3) Where a complaint is made and the Department of Labor
6 determines that a violation occurred, the Department of Labor
7 shall determine if proper written notice under this Section 4
8 was given. If proper written notice was not provided to the
9 contractor by the public body or other entity, the Department
10 of Labor shall order the public body or other entity to pay any
11 interest, penalties or fines that would have been owed by the
12 contractor if proper written notice were provided. The failure
13 by a public body or other entity to provide written notice does
14 not relieve the contractor of the duty to comply with the
15 prevailing wage rate, nor of the obligation to pay any back
16 wages, as determined under this Act. For the purposes of this
17 subsection, back wages shall be limited to the difference
18 between the actual amount paid and the prevailing rate of wages
19 required to be paid for the project. The failure of a public
20 body or other entity to provide written notice under this
21 Section 4 does not diminish the right of a laborer, worker, or
22 mechanic to the prevailing rate of wages as determined under
23 this Act.

24 (b) It shall also be mandatory upon the contractor to whom
25 the contract is awarded to insert into each subcontract and
26 into the project specifications for each subcontract a written

1 stipulation to the effect that not less than the prevailing
2 rate of wages shall be paid to all laborers, workers, and
3 mechanics performing work under the contract. It shall also be
4 mandatory upon each subcontractor to cause to be inserted into
5 each lower tiered subcontract and into the project
6 specifications for each lower tiered subcontract a stipulation
7 to the effect that not less than the prevailing rate of wages
8 shall be paid to all laborers, workers, and mechanics
9 performing work under the contract. A contractor or
10 subcontractor who fails to comply with this subsection (b) is
11 in violation of this Act.

12 (b-1) When a contractor has awarded work to a subcontractor
13 without a contract or contract specification, the contractor
14 shall comply with subsection (b) by providing a subcontractor
15 with a written statement indicating that not less than the
16 prevailing rate of wages shall be paid to all laborers,
17 workers, and mechanics performing work on the project. A
18 contractor or subcontractor who fails to comply with this
19 subsection (b-1) is in violation of this Act.

20 (b-2) Where a complaint is made and the Department of Labor
21 determines that a violation has occurred, the Department of
22 Labor shall determine if proper written notice under this
23 Section 4 was given. If proper written notice was not provided
24 to the subcontractor by the contractor, the Department of Labor
25 shall order the contractor to pay any interest, penalties, or
26 fines that would have been owed by the subcontractor if proper

1 written notice were provided. The failure by a contractor to
2 provide written notice to a subcontractor does not relieve the
3 subcontractor of the duty to comply with the prevailing wage
4 rate, nor of the obligation to pay any back wages, as
5 determined under this Act. For the purposes of this subsection,
6 back wages shall be limited to the difference between the
7 actual amount paid and the prevailing rate of wages required
8 for the project. However, if proper written notice was not
9 provided to the contractor by the public body or other entity
10 under this Section 4, the Department of Labor shall order the
11 public body or other entity to pay any interest, penalties, or
12 fines that would have been owed by the subcontractor if proper
13 written notice were provided. The failure by a public body or
14 other entity to provide written notice does not relieve the
15 subcontractor of the duty to comply with the prevailing wage
16 rate, nor of the obligation to pay any back wages, as
17 determined under this Act. For the purposes of this subsection,
18 back wages shall be limited to the difference between the
19 actual amount paid and the prevailing rate of wages required
20 for the project. The failure to provide written notice by a
21 public body, other entity, or contractor does not diminish the
22 right of a laborer, worker, or mechanic to the prevailing rate
23 of wages as determined under this Act.

24 (c) A public body or other entity shall also require in all
25 contractor's and subcontractor's bonds that the contractor or
26 subcontractor include such provision as will guarantee the

1 faithful performance of such prevailing wage clause as provided
2 by contract or other written instrument. All bid specifications
3 shall list the specified rates to all laborers, workers and
4 mechanics in the locality for each craft or type of worker or
5 mechanic needed to execute the contract.

6 (d) If the Department of Labor revises the prevailing rate
7 of hourly wages to be paid by the public body, the revised rate
8 shall apply to such contract, and the public body shall be
9 responsible to notify the contractor and each subcontractor, of
10 the revised rate.

11 (e) Two or more investigatory hearings under this Section
12 on the issue of establishing a new prevailing wage
13 classification for a particular craft or type of worker shall
14 be consolidated in a single hearing before the Department. Such
15 consolidation shall occur whether each separate investigatory
16 hearing is conducted by a public body or the Department. The
17 party requesting a consolidated investigatory hearing shall
18 have the burden of establishing that there is no existing
19 prevailing wage classification for the particular craft or type
20 of worker in any of the localities under consideration.

21 (f) It shall be mandatory upon the contractor or
22 construction manager to whom a contract for public works is
23 awarded to post, at a location on the project site of the
24 public works that is easily accessible to the workers engaged
25 on the project, the prevailing wage rates for each craft or
26 type of worker or mechanic needed to execute the contract or

1 project or work to be performed. In lieu of posting on the
2 project site of the public works, a contractor which has a
3 business location where laborers, workers, and mechanics
4 regularly visit may: (1) post in a conspicuous location at that
5 business the current prevailing wage rates for each county in
6 which the contractor is performing work; or (2) provide such
7 laborer, worker, or mechanic engaged on the public works
8 project a written notice indicating the prevailing wage rates
9 for the public works project. A failure to post or provide a
10 prevailing wage rate as required by this Section is a violation
11 of this Act.

12 (Source: P.A. 95-331, eff. 8-21-07; 96-437, eff. 1-1-10.)