

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 5, 11, and 11a as follows:

6 (820 ILCS 130/5) (from Ch. 48, par. 39s-5)

7 Sec. 5. Certified payroll.

8 (a) Any contractor and each subcontractor who participates
9 in public works shall:

10 (1) make and keep, for a period of not less than 3
11 years from the date of the last payment made before the
12 effective date of this amendatory Act of the 98th General
13 Assembly and for a period of 10 years from the date of the
14 last payment made on or after the effective date of this
15 amendatory Act of the 98th General Assembly on a contract
16 or subcontract for public works, records of all laborers,
17 mechanics, and other workers employed by them on the
18 project; the records shall include each worker's name,
19 address, telephone number when available, social security
20 number, classification or classifications, the hourly
21 wages paid in each pay period, the number of hours worked
22 each day, and the starting and ending times of work each
23 day; and

1 (2) no later than the tenth day of each calendar month
2 file a certified payroll for the immediately preceding
3 month with the public body in charge of the project. A
4 certified payroll must be filed for only those calendar
5 months during which construction on a public works project
6 has occurred. The certified payroll shall consist of a
7 complete copy of the records identified in paragraph (1) of
8 this subsection (a), but may exclude the starting and
9 ending times of work each day. The certified payroll shall
10 be accompanied by a statement signed by the contractor or
11 subcontractor or an officer, employee, or agent of the
12 contractor or subcontractor which avers that: (i) he or she
13 has examined the certified payroll records required to be
14 submitted by the Act and such records are true and
15 accurate; (ii) the hourly rate paid to each worker is not
16 less than the general prevailing rate of hourly wages
17 required by this Act; and (iii) the contractor or
18 subcontractor is aware that filing a certified payroll that
19 he or she knows to be false is a Class A misdemeanor. A
20 general contractor is not prohibited from relying on the
21 certification of a lower tier subcontractor, provided the
22 general contractor does not knowingly rely upon a
23 subcontractor's false certification. Any contractor or
24 subcontractor subject to this Act and any officer,
25 employee, or agent of such contractor or subcontractor
26 whose duty as such officer, employee, or agent it is to

1 file such certified payroll who willfully fails to file
2 such a certified payroll on or before the date such
3 certified payroll is required by this paragraph to be filed
4 and any person who willfully files a false certified
5 payroll that is false as to any material fact is in
6 violation of this Act and guilty of a Class A misdemeanor.
7 The public body in charge of the project shall keep the
8 records submitted in accordance with this paragraph (2) of
9 subsection (a) before the effective date of this amendatory
10 Act of the 98th General Assembly for a period of not less
11 than 3 years, and the records submitted in accordance with
12 this paragraph (2) of subsection (a) on or after the
13 effective date of this amendatory Act of the 98th General
14 Assembly for a period of 10 years, from the date of the
15 last payment for work on a contract or subcontract for
16 public works. The records submitted in accordance with this
17 paragraph (2) of subsection (a) shall be considered public
18 records, except an employee's address, telephone number,
19 and social security number, and made available in
20 accordance with the Freedom of Information Act. The public
21 body shall accept any reasonable submissions by the
22 contractor that meet the requirements of this Section.

23 (b) Upon 7 business days' notice, the contractor and each
24 subcontractor shall make available for inspection and copying
25 at a location within this State during reasonable hours, the
26 records identified in paragraph (1) of subsection (a) of this

1 Section to the public body in charge of the project, its
2 officers and agents, the Director of Labor and his deputies and
3 agents, and to federal, State, or local law enforcement
4 agencies and prosecutors.

5 (Source: P.A. 97-571, eff. 1-1-12.)

6 (820 ILCS 130/11) (from Ch. 48, par. 39s-11)

7 Sec. 11. No public works project shall be instituted unless
8 the provisions of this Act have been complied with. The
9 provisions of this Act shall not be applicable to Federal
10 construction projects which require a prevailing wage
11 determination by the United States Secretary of Labor. The
12 Illinois Department of Labor represented by the Attorney
13 General is empowered to sue for injunctive relief against the
14 awarding of any contract or the continuation of work under any
15 contract for public works at a time when the prevailing wage
16 prerequisites have not been met. Any contract for public works
17 awarded at a time when the prevailing wage prerequisites had
18 not been met shall be void as against public policy and the
19 contractor is prohibited from recovering any damages for the
20 voiding of the contract or pursuant to the terms of the
21 contract. The contractor is limited to a claim for amounts
22 actually paid for labor and materials supplied to the public
23 body. Where objections to a determination of the prevailing
24 rate of wages or a court action relative thereto is pending,
25 the public body shall not continue work on the project unless

1 sufficient funds are available to pay increased wages if such
2 are finally determined or unless the Department of Labor
3 certifies such determination of the prevailing rate of wages as
4 correct.

5 Any laborer, worker or mechanic employed by the contractor
6 or by any sub-contractor under him who is paid for his services
7 in a sum less than the stipulated rates for work done under
8 such contract, shall have a right of action for whatever
9 difference there may be between the amount so paid, and the
10 rates provided by the contract together with costs and such
11 reasonable attorney's fees as shall be allowed by the court.
12 Such contractor or subcontractor shall also be liable to the
13 Department of Labor for 20% of such underpayments and shall be
14 additionally liable to the laborer, worker or mechanic for
15 punitive damages in the amount of 2% of the amount of any such
16 penalty to the State for underpayments for each month following
17 the date of payment during which such underpayments remain
18 unpaid. Where a second or subsequent action to recover
19 underpayments is brought against a contractor or subcontractor
20 and the contractor or subcontractor is found liable for
21 underpayments to any laborer, worker, or mechanic, the
22 contractor or subcontractor shall also be liable to the
23 Department of Labor for 50% of the underpayments payable as a
24 result of the second or subsequent action, and shall be
25 additionally liable for 5% of the amount of any such penalty to
26 the State for underpayments for each month following the date

1 of payment during which the underpayments remain unpaid. The
2 Department shall also have a right of action on behalf of any
3 individual who has a right of action under this Section. An
4 action brought to recover same shall be deemed to be a suit for
5 wages, and any and all judgments entered therein shall have the
6 same force and effect as other judgments for wages. The action
7 shall be brought within 10 years from the date of the failure
8 to pay the wages or compensation. At the request of any
9 laborer, workman or mechanic employed by the contractor or by
10 any subcontractor under him who is paid less than the
11 prevailing wage rate required by this Act, the Department of
12 Labor may take an assignment of such wage claim in trust for
13 the assigning laborer, workman or mechanic and may bring any
14 legal action necessary to collect such claim, and the
15 contractor or subcontractor shall be required to pay the costs
16 incurred in collecting such claim.

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

18 (820 ILCS 130/11a) (from Ch. 48, par. 39s-11a)

19 Sec. 11a. The Director of the Department of Labor shall
20 publish in the Illinois Register no less often than once each
21 calendar quarter a list of contractors or subcontractors found
22 to have disregarded their obligations to employees under this
23 Act. The Department of Labor shall determine the contractors or
24 subcontractors who, before the effective date of this
25 amendatory Act of the 98th General Assembly ~~on 2 separate~~

1 ~~occasions within 5 years,~~ have been determined to have violated
2 the provisions of this Act on 2 separate occasions within 5
3 years and who, on or after the effective date of this
4 amendatory Act of the 98th General Assembly, have been
5 determined to have violated the provisions of this Act of 2
6 separate occasions within 10 years. Upon such determination the
7 Department shall notify the violating contractor or
8 subcontractor. Such contractor or subcontractor shall then
9 have 10 working days to request a hearing by the Department on
10 the alleged violations. Failure to respond within the 10
11 working day period shall result in automatic and immediate
12 placement and publication on the list. If the contractor or
13 subcontractor requests a hearing within the 10 working day
14 period, the Director shall set a hearing on the alleged
15 violations. Such hearing shall take place no later than 45
16 calendar days after the receipt by the Department of Labor of
17 the request for a hearing. The Department of Labor is empowered
18 to promulgate, adopt, amend and rescind rules and regulations
19 to govern the hearing procedure. No contract shall be awarded
20 to a contractor or subcontractor appearing on the list, or to
21 any firm, corporation, partnership or association in which such
22 contractor or subcontractor has an interest until 4 years have
23 elapsed from the date of publication of the list containing the
24 name of such contractor or subcontractor.

25 A contractor or subcontractor convicted or found guilty
26 under Section 5 or 6 of this Act shall be subject to an

1 automatic and immediate debarment, thereafter prohibited from
2 participating in any public works project for 4 years, with no
3 right to a hearing.

4 (Source: P.A. 97-571, eff. 1-1-12.)