

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, 4, and 5 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 bidder be a responsible bidder.

7 (a-1) The public body or other entity awarding the contract
8 shall cause to be inserted in the project specifications and
9 the contract a stipulation to the effect that not less than the
10 prevailing rate of wages as found by the public body or
11 Department of Labor or determined by the court on review shall
12 be paid to all laborers, workers and mechanics performing work
13 under the contract.

14 (a-2) When a public body or other entity covered by this
15 Act has awarded work to a contractor without a public bid,
16 contract or project specification, such public body or other
17 entity shall comply with subsection (a-1) by providing the
18 contractor with written notice on the purchase order related to
19 the work to be done or on a separate document indicating that
20 not less than the prevailing rate of wages as found by the
21 public body or Department of Labor or determined by the court
22 on review shall be paid to all laborers, workers, and mechanics
23 performing work on the project.

24 (a-3) Where a complaint is made and the Department of Labor
25 determines that a violation occurred, the Department of Labor
26 shall determine if proper written notice under this Section 4

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

17 (b) It shall also be mandatory upon the contractor to whom
18 the contract is awarded to insert into each subcontract and
19 into the project specifications for each subcontract a written
20 stipulation to the effect that not less than the prevailing
21 rate of wages shall be paid to all laborers, workers, and
22 mechanics performing work under the contract. It shall also be
23 mandatory upon each subcontractor to cause to be inserted into
24 each lower tiered subcontract and into the project
25 specifications for each lower tiered subcontract a stipulation
26 to the effect that not less than the prevailing rate of wages

1 shall be paid to all laborers, workers, and mechanics
2 performing work under the contract. A contractor or
3 subcontractor who fails to comply with this subsection (b) is
4 in violation of this Act.

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

13 (b-2) Where a complaint is made and the Department of Labor
14 determines that a violation has occurred, the Department of
15 Labor shall determine if proper written notice under this
16 Section 4 was given. If proper written notice was not provided
17 to the subcontractor by the contractor, the Department of Labor
18 shall order the contractor to pay any interest, penalties, or
19 fines that would have been owed by the subcontractor if proper
20 written notice were provided. The failure by a contractor to
21 provide written notice to a subcontractor does not relieve the
22 subcontractor of the duty to comply with the prevailing wage
23 rate, nor of the obligation to pay any back wages, as
24 determined under this Act. For the purposes of this subsection,
25 back wages shall be limited to the difference between the
26 actual amount paid and the prevailing rate of wages required

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

17 (c) A public body or other entity shall also require in all
18 contractor's and subcontractor's bonds that the contractor or
19 subcontractor include such provision as will guarantee the
20 faithful performance of such prevailing wage clause as provided
21 by contract or other written instrument. All bid specifications
22 shall list the specified rates to all laborers, workers and
23 mechanics in the locality for each craft or type of worker or
24 mechanic needed to execute the contract.

25 (d) If the Department of Labor revises the prevailing rate
26 of hourly wages to be paid by the public body or other entity,

1 the revised rate shall apply to such contract, and the public
2 body or other entity shall be responsible to notify the
3 contractor and each subcontractor, of the revised rate.

4 The public body or other entity shall discharge its duty to
5 notify of the revised rates by inserting a written stipulation
6 in all contracts or other written instruments that states the
7 prevailing rate of wages are revised by the Department of Labor
8 and are available on the Department's official website. This
9 shall be deemed to be proper notification of any rate changes
10 under this subsection.

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. 96-437, eff. 1-1-10; 97-964, eff. 1-1-13.)

13 (820 ILCS 130/5) (from Ch. 48, par. 39s-5)

14 Sec. 5. Certified payroll.

15 (a) Any contractor and each subcontractor who participates
16 in public works shall:

17 (1) make and keep, for a period of not less than 3
18 years from the date of the last payment on a contract or
19 subcontract for public works, records of all laborers,
20 mechanics, and other workers employed by them on the
21 project; the records shall include each worker's name,
22 address, telephone number when available, social security
23 number, classification or classifications, the hourly
24 wages paid in each pay period, the number of hours worked
25 each day, and the starting and ending times of work each

1 day; ~~and~~

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

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

20 (3) identify and report to the public body in charge of
21 the project the number of hours worked by minorities and
22 females, as defined in the Illinois Human Rights Act, for
23 each craft or type of worker or mechanic needed to execute
24 the contract. Each contractor and subcontractor shall
25 provide this information on a certified payroll report, or
26 on a monthly manpower utilization report.

1 (b) Upon 7 business days' notice, the contractor and each
2 subcontractor shall make available for inspection and copying
3 at a location within this State during reasonable hours, the
4 records identified in paragraph (1) of subsection (a) of this
5 Section to the public body in charge of the project, its
6 officers and agents, the Director of Labor and his deputies and
7 agents, and to federal, State, or local law enforcement
8 agencies and prosecutors.

9 (c) No later than October 1 of each year, the following
10 State agencies shall submit a report to the General Assembly
11 compiling the total number of hours worked during the
12 immediately preceding fiscal year by minorities and females as
13 reported in accordance with subsection (a): the Illinois
14 Capital Development Board, Illinois Department of
15 Transportation, and Illinois State Toll Highway Authority.
16 This report shall be filed as provided in Section 3.1 of the
17 General Assembly Organization Act.

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