



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB3223

by Rep. Daniel V. Beiser

SYNOPSIS AS INTRODUCED:

820 ILCS 130/2	from Ch. 48, par. 39s-2
820 ILCS 130/5	from Ch. 48, par. 39s-5
820 ILCS 130/5.1 new	

Amends the Prevailing Wage Act. Requires contractors to include in record keeping the gross and net wage, hourly overtime rate, fringe benefit rates, and the sponsor and administrator of fringe benefit plans. Provides for filing of the records with the Department of Labor. Authorizes that Department to require electronic filing. Requires that Department to create and provide a form for the filing of certified payrolls. Defines terms.

LRB098 07788 JLS 37868 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning wages.

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 5 and by adding Section 5.1 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 annualized fringe benefits for training and apprenticeship
9 programs 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 (Source: P.A. 96-28, eff. 7-1-09; 96-58, eff. 1-1-10; 96-186,
15 eff. 1-1-10; 96-913, eff. 6-9-10; 96-1000, eff. 7-2-10; 97-502,
16 eff. 8-23-11.)

17 (820 ILCS 130/5) (from Ch. 48, par. 39s-5)

18 Sec. 5. Certified payroll.

19 (a) Any contractor and each subcontractor who participates
20 in public works shall:

21 (1) make and keep, for a period of not less than 3
22 years from the date of the last payment on a contract or
23 subcontract for public works, records of all laborers,
24 mechanics, and other workers employed by them on the
25 project; the records shall include (i) the ~~each~~ worker's

1 name, (ii) the worker's address, (iii) the worker's
2 telephone number when available, (iv) the worker's social
3 security number, (v) the worker's classification or
4 classifications, (vi) the worker's gross and net ~~the hourly~~
5 wages paid in each pay period, (vii) the worker's number of
6 hours worked each day, (viii) the worker's starting and
7 ending times of work each day, (ix) the worker's hourly
8 wage rate, (x) the worker's hourly overtime wage rate, (xi)
9 the worker's hourly fringe benefit rates, (xii) the name
10 and address of each fringe benefit fund, (xiii) the plan
11 sponsor of each fringe benefit, if applicable, and (xiv)
12 the plan administrator of each fringe benefit, if
13 applicable ~~and the starting and ending times of work each~~
14 ~~day;~~ and

15 (2) no later than the 15th ~~tenth~~ day of each calendar
16 month file a certified payroll for the immediately
17 preceding month with the public body in charge of the
18 project. A certified payroll must be filed for only those
19 calendar months during which construction on a public works
20 project has occurred. The certified payroll shall consist
21 of a complete copy of the records identified in paragraph
22 (1) of this subsection (a), but may exclude the starting
23 and ending times of work each day. The certified payroll
24 shall be accompanied by a statement signed by the
25 contractor or subcontractor or an officer, employee, or
26 agent of the contractor or subcontractor which avers that:

1 (i) he or she has examined the certified payroll records
2 required to be submitted by the Act and such records are
3 true and accurate; (ii) the hourly rate paid to each worker
4 is not less than the general prevailing rate of hourly
5 wages required by this Act; and (iii) the contractor or
6 subcontractor is aware that filing a certified payroll that
7 he or she knows to be false is a Class A misdemeanor. A
8 general contractor is not prohibited from relying on the
9 certification of a lower tier subcontractor, provided the
10 general contractor does not knowingly rely upon a
11 subcontractor's false certification. Any contractor or
12 subcontractor subject to this Act and any officer,
13 employee, or agent of such contractor or subcontractor
14 whose duty as such officer, employee, or agent it is to
15 file such certified payroll who willfully fails to file
16 such a certified payroll on or before the date such
17 certified payroll is required by this paragraph to be filed
18 and any person who willfully files a false certified
19 payroll that is false as to any material fact is in
20 violation of this Act and guilty of a Class A misdemeanor.
21 The public body in charge of the project shall keep the
22 records submitted in accordance with this paragraph (2) of
23 subsection (a) for a period of not less than 3 years from
24 the date of the last payment for work on a contract or
25 subcontract for public works. The records submitted in
26 accordance with this paragraph (2) of subsection (a) shall

1 be considered public records, except an employee's
2 address, telephone number, and social security number, and
3 made available in accordance with the Freedom of
4 Information Act. The public body shall accept any
5 reasonable submissions by the contractor that meet the
6 requirements of this Section.

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

15 (c) A contractor or subcontractor who remits contributions
16 to fringe benefit funds that are jointly maintained and jointly
17 governed by one or more employers and one or more labor
18 organizations in accordance with the federal Labor Management
19 Relations Act shall make and keep certified payroll records
20 that include the information required under items (i) through
21 (viii) of paragraph (1) of subsection (a) only. However, the
22 information required under items (ix) through (xiv) of
23 paragraph (1) of subsection (a) shall be required for any
24 contractor or subcontractor who remits contributions to a
25 fringe benefit fund that is not jointly maintained and jointly
26 governed by one or more employers and one or more labor

1 organizations in accordance with the federal Labor Management
2 Relations Act.

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

4 (820 ILCS 130/5.1 new)

5 Sec. 5.1. Electronic database. Subject to appropriation,
6 the Department shall develop and maintain an electronic
7 database capable of accepting and retaining certified payrolls
8 submitted under this Act. The database shall accept certified
9 payroll forms provided by the Department that are fillable and
10 designed to accept electronic signatures.