

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
5 changing Sections 4, 5, 9, 10, and 11a as follows:

6 (820 ILCS 130/4) (from Ch. 48, par. 39s-4)

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

1 of hourly wages for work under contract, or for work
2 performed by a public body without letting a contract as
3 required in the locality in which the work is to be
4 performed, for each craft or type of worker or mechanic
5 needed to execute the contract or project or work to be
6 performed. Upon such notification the Department of Labor
7 shall ascertain such general prevailing rate of wages, and
8 certify the prevailing wage to such public body. The public
9 body awarding the contract shall cause to be inserted in the
10 project specifications and the contract a stipulation to the
11 effect that not less than the prevailing rate of wages as
12 found by the public body or Department of Labor or determined
13 by the court on review shall be paid to all laborers, workers
14 and mechanics performing work under the contract.

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

29 (c) It shall also require in all such contractor's bonds
30 that the contractor include such provision as will guarantee
31 the faithful performance of such prevailing wage clause as
32 provided by contract. All bid specifications shall list the
33 specified rates to all laborers, workers and mechanics in the
34 locality for each craft or type of worker or mechanic needed

1 to execute the contract.

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

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

18 (Source: P.A. 92-783, eff. 8-6-02.)

19 (820 ILCS 130/5) (from Ch. 48, par. 39s-5)

20 Sec. 5. The contractor and each subcontractor or the
21 officer of the public body in charge of the project shall
22 make and keep, for a period of not less than 3 years, true
23 and accurate records of the name, address, telephone number
24 when available, social security number, ~~keep-or-cause--to--be~~
25 kept,--an-accurate-record-showing-the-names and occupation of
26 all laborers, workers and mechanics employed by them, in
27 connection with said public work. The records shall also show
28 the actual hourly wages paid in each pay period to each
29 employee and the hours worked each day in each work week by
30 each employee. While participating on public works, each
31 contractor's payroll records shall include the starting and
32 ending times of work for each employee. The,--and-showing-also
33 the--actual--hourly-wages-paid-to-each-of-such-persons,--which

1 record shall be open at all reasonable hours to the
2 inspection of the public body awarding the contract, its
3 officers and agents, and to the Director of Labor and his
4 deputies and agents. Any contractor or subcontractor that
5 maintains its principal place of business outside of this
6 State shall make the required records or accurate copies of
7 those records available within this State at all reasonable
8 hours for inspection.

9 (Source: P.A. 92-783, eff. 8-6-02.)

10 (820 ILCS 130/9) (from Ch. 48, par. 39s-9)

11 Sec. 9. To effectuate the purpose and policy of this Act
12 each public body shall, during the month of June of each
13 calendar year, investigate and ascertain the prevailing rate
14 of wages as defined in this Act and publicly post or keep
15 available for inspection by any interested party in the main
16 office of such public body its determination of such
17 prevailing rate of wage and shall promptly file, no later
18 than July 15 of each year, a certified copy thereof in the
19 office of the Secretary of State at Springfield and the
20 office of the Illinois Department of Labor.

21 The Department of Labor shall during the month of June of
22 each calendar year, investigate and ascertain the prevailing
23 rate of wages for each county in the State. If a public body
24 does not investigate and ascertain the prevailing rate of
25 wages during the month of June as required by the previous
26 paragraph, then the prevailing rate of wages for that public
27 body shall be the rate as determined by the Department under
28 this paragraph for the county in which such public body is
29 located.

30 Where the Department of Labor ascertains the prevailing
31 rate of wages, it is the duty of the Department of Labor
32 within 30 days after receiving a notice from the public body
33 authorizing the proposed work, to conduct an investigation to

1 ascertain the prevailing rate of wages as defined in this Act
2 and such investigation shall be conducted in the locality in
3 which the work is to be performed. The Department of Labor
4 shall send a certified copy of its findings to the public
5 body authorizing the work and keep a record of its findings
6 available for inspection by any interested party in the
7 office of the Department of Labor at Springfield.

8 The public body except for the Department of
9 Transportation with respect to highway contracts shall within
10 30 days after filing with the Secretary of State, or the
11 Department of Labor shall within 30 days after filing with
12 such public body, publish in a newspaper of general
13 circulation within the area that the determination is
14 effective, a notice of its determination and shall promptly
15 mail a copy of its determination to any employer, and to any
16 association of employers and to any person or association of
17 employees who have filed their names and addresses,
18 requesting copies of any determination stating the particular
19 rates and the particular class of workers whose wages will be
20 affected by such rates.

21 At any time within 30 ~~15~~ days after the Department of
22 Labor has published on its official web site a prevailing
23 wage schedule ~~a-certified-copy-of-the-determination-has--been~~
24 ~~published-as-herein-provided~~, any person affected thereby may
25 object in writing to the determination or such part thereof
26 as they may deem objectionable by filing a written notice
27 with the public body or Department of Labor, whichever has
28 made such determination, stating the specified grounds of the
29 objection. It shall thereafter be the duty of the public body
30 or Department of Labor to set a date for a hearing on the
31 objection after giving written notice to the objectors at
32 least 10 days before the date of the hearing and said notice
33 shall state the time and place of such hearing. Such hearing
34 by a public body shall be held within 45 ~~20~~ days after the

1 objection is filed, and shall not be postponed or reset for a
2 later date except upon the consent, in writing, of all the
3 objectors and the public body. If such hearing is not held by
4 the public body within the time herein specified, the
5 Department of Labor may, upon request of the objectors,
6 conduct the hearing on behalf of the public body.

7 The public body or Department of Labor, whichever has
8 made such determination, is authorized in its discretion to
9 hear each written objection filed separately or consolidate
10 for hearing any one or more written objections filed with
11 them. At such hearing the public body or Department of Labor
12 shall introduce in evidence the investigation it instituted
13 which formed the basis of its determination, and the public
14 body or Department of Labor, or any interested objectors may
15 thereafter introduce such evidence as is material to the
16 issue. Thereafter, the public body or Department of Labor,
17 must rule upon the written objection and make such final
18 determination as it believes the evidence warrants, and
19 promptly file a certified copy of its final determination
20 with such public body and the Secretary of State, and serve a
21 copy by personal service or registered mail on all parties to
22 the proceedings. The final determination by the Department of
23 Labor or a public body shall be rendered within 30 ±0 days
24 after the conclusion of the hearing.

25 If proceedings to review judicially the final
26 determination of the public body or Department of Labor are
27 not instituted as hereafter provided, such determination
28 shall be final and binding.

29 The provisions of the Administrative Review Law, and all
30 amendments and modifications thereof, and the rules adopted
31 pursuant thereto, shall apply to and govern all proceedings
32 for the judicial review of final administrative decisions of
33 any public body or the Department of Labor hereunder. The
34 term "administrative decision" is defined as in Section 3-101

1 of the Code of Civil Procedure.

2 Appeals from all final orders and judgments entered by
3 the court in review of the final administrative decision of
4 the public body or Department of Labor, may be taken by any
5 party to the action.

6 Any proceeding in any court affecting a determination of
7 the Department of Labor or public body shall have priority in
8 hearing and determination over all other civil proceedings
9 pending in said court, except election contests.

10 In all reviews or appeals under this Act, it shall be the
11 duty of the Attorney General to represent the Department of
12 Labor, and defend its determination. The Attorney General
13 shall not represent any public body, except the State, in any
14 such review or appeal.

15 (Source: P.A. 83-201.)

16 (820 ILCS 130/10) (from Ch. 48, par. 39s-10)

17 Sec. 10. The presiding officer of the public body, or
18 his or her authorized representative and the Director of the
19 Department of Labor, or his or her authorized representative
20 may interview workers, administer oaths, take or cause to be
21 taken the depositions of witnesses, and require by subpoena
22 the attendance and testimony of witnesses, and the production
23 of all books, records, and other evidence relative to the
24 matter under investigation or hearing. Such subpoena shall be
25 signed and issued by such presiding officer or his or her
26 authorized representative, or the Director or his or her
27 authorized representative.

28 Upon request by the Director of Labor or his or her
29 deputies or agents, records shall be copied and submitted for
30 evidence at no cost to the Department of Labor. Every
31 employer upon request shall furnish to the Director or his or
32 her authorized representative, on demand, a sworn statement
33 of the accuracy of the records. Any employer who refuses to

1 furnish a sworn statement of the records is in violation of
2 this Act.

3 In case of failure of any person to comply with any
4 subpoena lawfully issued under this section or on the refusal
5 of any witness to produce evidence or to testify to any
6 matter regarding which he or she may be lawfully
7 interrogated, it is the duty of any circuit court, upon
8 application of such presiding officer or his or her
9 authorized representative, or the Director or his or her
10 authorized representative, to compel obedience by proceedings
11 for contempt, as in the case of disobedience of the
12 requirements of a subpoena issued by such court or a refusal
13 to testify therein. Such presiding officer and the Director
14 may certify to official acts.

15 (Source: P.A. 83-334.)

16 (820 ILCS 130/11a) (from Ch. 48, par. 39s-11a)

17 Sec. 11a. The Director of the Department of Labor shall
18 publish in the Illinois Register no less often than once each
19 calendar quarter a list of contractors or subcontractors
20 found to have disregarded their obligations to employees
21 under this Act. The Department of Labor shall determine the
22 contractors or subcontractors who, on 2 separate occasions,
23 have been determined to have violated the provisions of this
24 Act. Upon such determination the Department shall notify the
25 violating contractor or subcontractor. Such contractor or
26 subcontractor shall then have 10 working days to request a
27 hearing by the Department on the alleged violations. Failure
28 to respond within the 10 working day period shall result in
29 automatic and immediate placement and publication on the
30 list. If the contractor or subcontractor requests a hearing
31 within the 10 working day period, the Director shall set a
32 hearing on the alleged violations. Such hearing shall take
33 place no later than 45 30 calendar days after the receipt by

1 the Department of Labor of the request for a hearing. The
2 Department of Labor is empowered to promulgate, adopt, amend
3 and rescind rules and regulations to govern the hearing
4 procedure. No contract shall be awarded to a contractor or
5 subcontractor appearing on the list, or to any firm,
6 corporation, partnership or association in which such
7 contractor or subcontractor has an interest until 2 years
8 have elapsed from the date of publication of the list
9 containing the name of such contractor or subcontractor.
10 (Source: P.A. 86-693; 86-799; 86-1028.)