



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB1854

Introduced 2/23/2007, by Rep. Dave Winters

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Prevailing Wage Act. Provides that a public body or entity covered by the Act that contracts for work with a contractor or subcontractor without a public bid or project specification shall provide the contractor or subcontractor with a prevailing wage notice on the project on the purchase order or on a separate document. Provides that, if the Department of Labor determines that a violation of the Act has occurred, the Department shall determine whether a proper notice was given to the contractor, and, if a notice was not given, shall order the public body to pay back wages, interest, penalties, or fines owed by the contractor to its employees. Provides that a contractor is not in violation if a notice is not given to the contractor. Provides that the failure to provide a notice does not diminish the obligation of a contractor to pay the prevailing wage. Provides that a contractor who has awarded work to a subcontractor without a contract or a contract specification may provide a lower tiered subcontractor with a written prevailing wage notice. Provides that a contractor with a business location where workers regularly visit may, instead of posting a prevailing wage notice on a job site, post at that business or give a written notice to those workers. Provides that information made available under a Freedom of Information Act request regarding certified payrolls shall be used only to enforce the Act prohibits misuse of the information. Sets forth criminal and civil penalties. Provides for handling of complaints. Makes other changes.

LRB095 10053 WGH 30267 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

FISCAL NOTE ACT  
MAY APPLY

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 6 and adding Sections 5a and 5b 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.

11 As used in this Act, unless the context indicates  
12 otherwise:

13 "Public works" means all fixed works constructed by any  
14 public body, other than work done directly by any public  
15 utility company, whether or not done under public supervision  
16 or direction, or paid for wholly or in part out of public  
17 funds. "Public works" as defined herein includes all projects  
18 financed in whole or in part with bonds issued under the  
19 Industrial Project Revenue Bond Act (Article 11, Division 74 of  
20 the Illinois Municipal Code), the Industrial Building Revenue  
21 Bond Act, the Illinois Finance Authority Act, the Illinois  
22 Sports Facilities Authority Act, or the Build Illinois Bond  
23 Act, and all projects financed in whole or in part with loans

1 or other funds made available pursuant to the Build Illinois  
2 Act. "Public works" also includes all projects financed in  
3 whole or in part with funds from the Fund for Illinois' Future  
4 under Section 6z-47 of the State Finance Act, funds for school  
5 construction under Section 5 of the General Obligation Bond  
6 Act, funds authorized under Section 3 of the School  
7 Construction Bond Act, funds for school infrastructure under  
8 Section 6z-45 of the State Finance Act, and funds for  
9 transportation purposes under Section 4 of the General  
10 Obligation Bond Act. "Public works" also includes all projects  
11 financed in whole or in part with funds from the Department of  
12 Commerce and Economic Opportunity under the Illinois Renewable  
13 Fuels Development Program Act for which there is no project  
14 labor agreement. "Public works" also includes all projects at  
15 leased facility property used for airport purposes under  
16 Section 35 of the Local Government Facility Lease Act.

17 "Construction" means all work on public works involving  
18 laborers, workers or mechanics.

19 "Locality" means the county where the physical work upon  
20 public works is performed, except (1) that if there is not  
21 available in the county a sufficient number of competent  
22 skilled laborers, workers and mechanics to construct the public  
23 works efficiently and properly, "locality" includes any other  
24 county nearest the one in which the work or construction is to  
25 be performed and from which such persons may be obtained in  
26 sufficient numbers to perform the work and (2) that, with

1 respect to contracts for highway work with the Department of  
2 Transportation of this State, "locality" may at the discretion  
3 of the Secretary of the Department of Transportation be  
4 construed to include two or more adjacent counties from which  
5 workers may be accessible for work on such construction.

6 "Public body" means the State or any officer, board or  
7 commission of the State or any political subdivision or  
8 department thereof, or any institution supported in whole or in  
9 part by public funds, and includes every county, city, town,  
10 village, township, school district, irrigation, utility,  
11 reclamation improvement or other district and every other  
12 political subdivision, district or municipality of the state  
13 whether such political subdivision, municipality or district  
14 operates under a special charter or not.

15 The terms "general prevailing rate of hourly wages",  
16 "general prevailing rate of wages" or "prevailing rate of  
17 wages" when used in this Act mean the hourly cash wages plus  
18 fringe benefits for training and apprenticeship programs  
19 approved by the U.S. Department of Labor, Bureau of  
20 Apprenticeship and Training, health and welfare, insurance,  
21 ~~vacations and~~ pensions paid generally, in the locality in which  
22 the work is being performed, as well as the hourly cost of  
23 vacation benefits, to employees engaged in work of a similar  
24 character on public works.

25 (Source: P.A. 93-15, eff. 6-11-03; 93-16, eff. 1-1-04; 93-205,  
26 eff. 1-1-04; 94-750, eff. 5-9-06.)

1 (820 ILCS 130/4) (from Ch. 48, par. 39s-4)

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

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

15 (a-5) When a public body or other entity covered by this  
16 Act contracts for work with a contractor or subcontractor  
17 without a public bid or project specification, such public body  
18 or other entity shall provide the contractor or subcontractor  
19 with a written notice that the prevailing wage is required to  
20 be paid on the project as a statement on the purchase order  
21 related to the work to be done or on a separate document.

22 Where a complaint has been made and the Department has  
23 determined a violation has occurred, the Department shall  
24 determine if proper notice was given. If proper notice was not  
25 provided to the contractor by the public body, the Department  
26 shall order the public body to pay any back wages, interest,

1 penalties or fines owed by the contractor to its employees who  
2 worked on the project. A contractor shall not be deemed in  
3 violation of this Act if such notice is not provided. The  
4 failure to provide notice by a public body does not diminish  
5 the obligation of a contractor to pay the prevailing wage rate  
6 as determined under this Act.

7 (b) It shall also be mandatory upon the contractor to whom  
8 the contract is awarded to insert into each subcontract and  
9 into the project specifications for each subcontract a written  
10 stipulation to the effect that not less than the prevailing  
11 rate of wages shall be paid to all laborers, workers, and  
12 mechanics performing work under the contract. It shall also be  
13 mandatory upon each subcontractor to cause to be inserted into  
14 each lower tiered subcontract and into the project  
15 specifications for each lower tiered subcontract a stipulation  
16 to the effect that not less than the prevailing rate of wages  
17 shall be paid to all laborers, workers, and mechanics  
18 performing work under the contract. A contractor or  
19 subcontractor who fails to comply with this subsection (b) is  
20 in violation of this Act. When a contractor has awarded work to  
21 a subcontractor without a contract or without a contract  
22 specification, the contractor may comply with this subsection  
23 (b) by providing a lower tiered subcontractor with a written  
24 statement indicating that not less than the prevailing wage  
25 rate shall be paid to all laborers, workers and mechanics  
26 performing work on the project.

1           (c) It shall also require in all such contractor's bonds  
2 that the contractor include such provision as will guarantee  
3 the faithful performance of such prevailing wage clause as  
4 provided by contract. All bid specifications shall list the  
5 specified rates to all laborers, workers and mechanics in the  
6 locality for each craft or type of worker or mechanic needed to  
7 execute the contract.

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

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

23           (f) It shall be mandatory upon the contractor or  
24 construction manager to whom a contract for public works is  
25 awarded to post, at a location on the project site of the  
26 public works that is easily accessible to the workers engaged



1 on the project, the prevailing wage rates for each craft or  
2 type of worker or mechanic needed to execute the contract or  
3 project or work to be performed.

4 In lieu of posting on a job site, a contractor which has a  
5 business location where laborers, workers, or mechanics  
6 regularly visit may:

7 (1) post in a conspicuous location at that business the  
8 current prevailing wage rate for all public bodies in which  
9 such laborers, workers, or mechanics could be on prevailing  
10 wage projects; or

11 (2) provide to such laborers, workers, or mechanics  
12 engaged on the project a written notice indicating the  
13 prevailing wage rate for the public works project.

14 A failure to post or provide a prevailing wage rate as  
15 required by this Section is a violation of this Act.

16 (Source: P.A. 92-783, eff. 8-6-02; 93-15, eff. 6-11-03; 93-16,  
17 eff. 1-1-04; 93-38, eff. 6-1-04; revised 10-29-04.)

18 (820 ILCS 130/5a new)

19 Sec. 5a. Misuse of information; harassment. Information  
20 made available pursuant to a request under the Freedom of  
21 Information Act in accordance with subparagraph (a) of Section  
22 5 shall be used only to enforce this Act. Any other use of the  
23 information, including but not limited to using the information  
24 to file complaints that are frivolous, vexatious, or brought  
25 primarily for purposes of harassment, constitutes misuse of

1 information and is prohibited.

2 (820 ILCS 130/5b new)

3 Sec. 5b. Penalties for misuse of information. Any person  
4 who misuses information obtained under this Act is in violation  
5 of this Act and shall be:

6 (1) guilty of a Class B misdemeanor;

7 (2) liable for reasonable attorney's fees and other  
8 litigation costs reasonably incurred by any other party who  
9 prevails in any action under this Section; and

10 (3) liable to the Department of Labor for a penalty of  
11 \$5,000 for each violation.

12 (820 ILCS 130/6) (from Ch. 48, par. 39s-6)

13 Sec. 6. Any officer, agent or representative of any public  
14 body who wilfully violates, or omits to comply with, any of the  
15 provisions of this Act, and any contractor or subcontractor, or  
16 agent or representative thereof, doing public work as  
17 aforesaid, who neglects to keep, or cause to be kept, an  
18 accurate record of the names, occupation and actual wages paid  
19 to each laborer, worker and mechanic employed by him, in  
20 connection with the public work or who refuses to allow access  
21 to same at any reasonable hour to any person authorized to  
22 inspect same under this Act, is guilty of a Class A  
23 misdemeanor.

24 The Department of Labor shall inquire diligently as to any

1 violation of this Act, shall institute actions for penalties  
2 herein prescribed, and shall enforce generally the provisions  
3 of this Act. The Attorney General shall prosecute such cases  
4 upon complaint by the Department or any interested person.

5 After an alleged violation occurs, a written complaint  
6 regarding an alleged violation of this Act shall be filed with  
7 the Director of Labor. Within 14 days of a complaint being  
8 field with the Director, a copy of the complaint shall be sent  
9 to the contractor who allegedly committed the violation, who  
10 shall be the respondent.

11 If the complaint has been filed by an employee of the  
12 respondent, the Department shall not send a copy of the  
13 complaint to the respondent until the complaint is investigated  
14 and closed.

15 Any information regarding an employee shall be redacted by  
16 the Department prior to being sent to the respondent.

17 Upon receipt of a complaint, the Director shall cause such  
18 investigation to be made as he or she deems appropriate.

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

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2 Statutes amended in order of appearance

3 820 ILCS 130/2 from Ch. 48, par. 39s-2

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

5 820 ILCS 130/5a new

6 820 ILCS 130/5b new

7 820 ILCS 130/6 from Ch. 48, par. 39s-6