



Labor Committee

Adopted in House Comm. on May 29, 2007

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LRB095 09396 WGH 37020 a

1 AMENDMENT TO SENATE BILL 1529

2 AMENDMENT NO. _____. Amend Senate Bill 1529 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Prevailing Wage Act is amended by changing
5 Sections 2, 3, 4, 5, and 9 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

1 funds. "Public works" as defined herein includes all projects
2 financed in whole or in part with bonds issued under the
3 Industrial Project Revenue Bond Act (Article 11, Division 74 of
4 the Illinois Municipal Code), the Industrial Building Revenue
5 Bond Act, the Illinois Finance Authority Act, the Illinois
6 Sports Facilities Authority Act, or the Build Illinois Bond
7 Act, and all projects financed in whole or in part with loans
8 or other funds made available pursuant to the Build Illinois
9 Act. "Public works" also includes all projects financed in
10 whole or in part with funds from the Fund for Illinois' Future
11 under Section 6z-47 of the State Finance Act, funds for school
12 construction under Section 5 of the General Obligation Bond
13 Act, funds authorized under Section 3 of the School
14 Construction Bond Act, funds for school infrastructure under
15 Section 6z-45 of the State Finance Act, and funds for
16 transportation purposes under Section 4 of the General
17 Obligation Bond Act. "Public works" also includes all projects
18 financed in whole or in part with funds from the Department of
19 Commerce and Economic Opportunity under the Illinois Renewable
20 Fuels Development Program Act for which there is no project
21 labor agreement. "Public works" also includes all projects at
22 leased facility property used for airport purposes under
23 Section 35 of the Local Government Facility Lease Act.

24 "Construction" means all work on public works involving
25 laborers, workers or mechanics.

26 "Locality" means the county where the physical work upon

1 public works is performed, except (1) that if there is not
2 available in the county a sufficient number of competent
3 skilled laborers, workers and mechanics to construct the public
4 works efficiently and properly, "locality" includes any other
5 county nearest the one in which the work or construction is to
6 be performed and from which such persons may be obtained in
7 sufficient numbers to perform the work and (2) that, with
8 respect to contracts for highway work with the Department of
9 Transportation of this State, "locality" may at the discretion
10 of the Secretary of the Department of Transportation be
11 construed to include two or more adjacent counties from which
12 workers may be accessible for work on such construction.

13 "Public body" means the State or any officer, board or
14 commission of the State or any political subdivision or
15 department thereof, or any institution supported in whole or in
16 part by public funds, and includes every county, city, town,
17 village, township, school district, irrigation, utility,
18 reclamation improvement or other district and every other
19 political subdivision, district or municipality of the state
20 whether such political subdivision, municipality or district
21 operates under a special charter or not.

22 The terms "general prevailing rate of hourly wages",
23 "general prevailing rate of wages" or "prevailing rate of
24 wages" when used in this Act mean the hourly cash wages plus
25 fringe benefits for training and apprenticeship programs
26 approved by the U.S. Department of Labor, Bureau of

1 Apprenticeship and Training, health and welfare, insurance,
2 vacations and pensions paid generally, in the locality in which
3 the work is being performed, to employees engaged in work of a
4 similar character on public works.

5 "Aggregate materials" includes, but is not limited to,
6 rock, gravel, sand, pebbles, dirt, soil, clay, bitumen,
7 cultured/polymer, cement, concrete, asphalt, slag, grindings,
8 and recycled materials.

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

11 (820 ILCS 130/3) (from Ch. 48, par. 39s-3)

12 Sec. 3. Not less than the general prevailing rate of hourly
13 wages for work of a similar character on public works in the
14 locality in which the work is performed, and not less than the
15 general prevailing rate of hourly wages for legal holiday and
16 overtime work, shall be paid to all laborers, workers and
17 mechanics employed by or on behalf of any public body engaged
18 in the construction of public works. Laborers ~~Only such~~
19 ~~laborers~~, workers and mechanics ~~as are~~ directly employed by
20 contractors or subcontractors in actual construction work on
21 the site of the building or construction job shall be deemed to
22 be employed upon public works. The site of the building or
23 construction job shall also include a facility dedicated to the
24 performance of the contract or project and located in such
25 close proximity to the actual construction location that it

1 would be reasonable to include them. Laborers, and laborers,
2 workers and mechanics engaged in the transportation of
3 aggregate and excavated materials and equipment operated to
4 haul to or from the site, ~~but not including the transportation~~
5 ~~by the sellers and suppliers or the manufacture or processing~~
6 ~~of materials or equipment, in the execution of any contract or~~
7 ~~contracts for public works with any public body~~ shall also be
8 deemed to be employed upon public works.

9 To determine the prevailing wage rate for a laborer,
10 worker, or mechanic engaged in the transportation of aggregate
11 or excavated materials or the operation of equipment to haul
12 aggregate or excavated materials to or from the site of the
13 building or construction job, the Department of Labor shall
14 take into consideration the applicable prevailing wage rate and
15 the Illinois Department of Transportation's current method of
16 establishing equipment rates.

17 The transportation by the sellers and suppliers or the
18 manufacture or processing of non-aggregate materials or
19 equipment in the execution of any contract or contracts for
20 public works with any public body shall not be deemed to be
21 employment upon public works.

22 The wage for a tradesman performing maintenance is
23 equivalent to that of a tradesman engaged in construction.

24 (Source: P.A. 93-15, eff. 6-11-03; 93-16, eff. 1-1-04.)

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

1 required in the locality in which the work is to be performed,
2 for each craft or type of worker or mechanic needed to execute
3 the contract or project or work to be performed. Upon such
4 notification the Department of Labor shall ascertain such
5 general prevailing rate of wages, and certify the prevailing
6 wage to such public body. The public body awarding the contract
7 shall cause to be inserted in the project specifications and
8 the contract a stipulation to the effect that not less than the
9 prevailing rate of wages as found by the public body or
10 Department of Labor or determined by the court on review shall
11 be paid to all laborers, workers and mechanics performing work
12 under the contract.

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

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

1 prevailing wage rates for each craft or type of worker or
2 mechanic needed to execute the contract or project or work to
3 be performed. A failure to post a prevailing wage rate as
4 required by this Section is a violation of this Act.

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

7 (820 ILCS 130/5) (from Ch. 48, par. 39s-5)

8 Sec. 5. Certified payroll.

9 (a) While participating on public works, the contractor and
10 each subcontractor shall:

11 (1) make and keep, for a period of not less than 5 ~~3~~
12 years, records of all laborers, mechanics, and other
13 workers employed by them on the project; the records shall
14 include each worker's name, address, telephone number when
15 available, social security number, classification or
16 classifications, the hourly wages paid in each pay period,
17 the number of hours worked each day, and the starting and
18 ending times of work each day; and

19 (2) submit monthly, in person, by mail, or
20 electronically a certified payroll to the public body in
21 charge of the project. The certified payroll shall consist
22 of a complete copy of the records identified in paragraph
23 (1) of this subsection (a), but may exclude the starting
24 and ending times of work each day. The certified payroll
25 shall be accompanied by a statement signed by the

1 contractor or subcontractor which avers that: (i) such
2 records are true and accurate; (ii) the hourly rate paid to
3 each worker is not less than the general prevailing rate of
4 hourly wages required by this Act; and (iii) the contractor
5 or subcontractor is aware that filing a certified payroll
6 that he or she knows to be false is a Class B misdemeanor.
7 A general contractor is not prohibited from relying on the
8 certification of a lower tier subcontractor, provided the
9 general contractor does not knowingly rely upon a
10 subcontractor's false certification. Any contractor or
11 subcontractor subject to this Act who fails to submit a
12 certified payroll or knowingly files a false certified
13 payroll is in violation of this Act and guilty of a Class B
14 misdemeanor. The public body in charge of the project shall
15 keep the records submitted in accordance with this
16 paragraph (2) of subsection (a) for a period of not less
17 than 3 years. The records submitted in accordance with this
18 paragraph (2) of subsection (a) shall be considered public
19 records, except an employee's address, telephone number,
20 and social security number, and made available in
21 accordance with the Freedom of Information Act. The public
22 body shall accept any reasonable submissions by the
23 contractor that meet the requirements of this Section.

24 (b) Upon 7 business days' notice, the contractor and each
25 subcontractor shall make available for inspection the records
26 identified in paragraph (1) of subsection (a) of this Section

1 to the public body in charge of the project, its officers and
2 agents, and to the Director of Labor and his deputies and
3 agents. Upon 7 business days' notice, the contractor and each
4 subcontractor shall make such records available at all
5 reasonable hours at a location within this State.

6 (Source: P.A. 93-38, eff. 6-1-04; 94-515, eff. 8-10-05;
7 94-1023, eff. 7-12-06.)

8 (820 ILCS 130/9) (from Ch. 48, par. 39s-9)

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

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

1 for the county in which such public body is located.

2 Where the Department of Labor ascertains the prevailing
3 rate of wages, it is the duty of the Department of Labor within
4 30 days after receiving a notice from the public body
5 authorizing the proposed work, to conduct an investigation to
6 ascertain the prevailing rate of wages as defined in this Act
7 and such investigation shall be conducted in the locality in
8 which the work is to be performed. The Department of Labor
9 shall send a certified copy of its findings to the public body
10 authorizing the work and keep a record of its findings
11 available for inspection by any interested party in the office
12 of the Department of Labor at Springfield.

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

25 At any time within 30 days after the Department of Labor
26 has published on its official web site a prevailing wage

1 schedule, any person affected thereby may object in writing to
2 the determination or such part thereof as they may deem
3 objectionable by filing a written notice with the public body
4 or Department of Labor, whichever has made such determination,
5 stating the specified grounds of the objection. It shall
6 thereafter be the duty of the public body or Department of
7 Labor to set a date for a hearing on the objection after giving
8 written notice to the objectors at least 10 days before the
9 date of the hearing and said notice shall state the time and
10 place of such hearing. Such hearing by a public body shall be
11 held within 45 days after the objection is filed, and shall not
12 be postponed or reset for a later date except upon the consent,
13 in writing, of all the objectors and the public body. If such
14 hearing is not held by the public body within the time herein
15 specified, the Department of Labor may, upon request of the
16 objectors, conduct the hearing on behalf of the public body.

17 The public body or Department of Labor, whichever has made
18 such determination, is authorized ~~in its discretion~~ to hear
19 each timely filed written objection. Two or more hearings under
20 this Section on the issue of establishing a new prevailing wage
21 classification for a particular craft or type of worker shall
22 be consolidated in a single hearing before the Department. Such
23 consolidation shall occur whether each separate hearing is
24 conducted by a public body or the Department. The party
25 requesting a consolidated hearing shall have the burden of
26 establishing that there is no existing prevailing wage

1 classification for the particular craft or type of worker in
2 any of the localities under consideration ~~filed separately or~~
3 ~~consolidate for hearing any one or more written objections~~
4 ~~filed with them.~~ At such hearing the public body or Department
5 of Labor shall introduce in evidence the investigation it
6 instituted which formed the basis of its determination, and the
7 public body or Department of Labor, or any interested objectors
8 may thereafter introduce such evidence as is material to the
9 issue. Thereafter, the public body or Department of Labor, must
10 rule upon the written objection and make such final
11 determination as it believes the evidence warrants, and
12 promptly file a certified copy of its final determination with
13 such public body and the Secretary of State, and serve a copy
14 by personal service or registered mail on all parties to the
15 proceedings. The final determination by the Department of Labor
16 or a public body shall be rendered within 30 days after the
17 conclusion of the hearing.

18 If proceedings to review judicially the final
19 determination of the public body or Department of Labor are not
20 instituted as hereafter provided, such determination shall be
21 final and binding.

22 The provisions of the Administrative Review Law, and all
23 amendments and modifications thereof, and the rules adopted
24 pursuant thereto, shall apply to and govern all proceedings for
25 the judicial review of final administrative decisions of any
26 public body or the Department of Labor hereunder. The term

1 "administrative decision" is defined as in Section 3-101 of the
2 Code of Civil Procedure.

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

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

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

16 (Source: P.A. 93-38, eff. 6-1-04.)".