



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

SB2215

Introduced 1/13/2016, by Sen. Pamela J. Althoff

#### SYNOPSIS AS INTRODUCED:

820 ILCS 130/6

from Ch. 48, par. 39s-6

820 ILCS 130/10.5 new

Amends the Prevailing Wage Act. Provides a process for investigation of violations of the Prevailing Wage Act. Provides that the process starts with a complaint to be filed within 30 days of the alleged violation. Provides a \$5,000 fine for knowingly filing a false complaint or a record or statement material to a false or fraudulent complaint. Provides a procedure for a response from a contractor or subcontractor. Provides a procedure for the Director of Labor in issuing a decision. Allows a party to request a hearing within 15 days of receiving notice of the Director's decision. Provides that a final order issued by the Director of Labor in relation to this investigation process is subject to judicial review under the Administrative Review Law. Effective immediately.

LRB099 15838 KTG 40148 b

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 Section 6 and by adding Section 10.5 as follows:

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

7 Sec. 6. Any officer, agent or representative of any public  
8 body who wilfully violates, or willfully fails to comply with,  
9 any of the provisions of this Act, and any contractor or  
10 subcontractor, and any officer, employee, or agent thereof, who  
11 as such officer, employee, or agent, has a duty to create,  
12 keep, maintain, or produce any record or document required by  
13 this Act to be created, kept, maintained, or produced who  
14 willfully fails to create, keep, maintain, or produce such  
15 record or document as or when required by this Act, is guilty  
16 of a Class A misdemeanor.

17 The Department of Labor shall inquire diligently as to any  
18 violation, as provided in Section 10.5 of this Act ~~of this Act,~~  
19 shall institute actions for penalties herein prescribed, and  
20 shall enforce generally the provisions of this Act. The  
21 Attorney General shall prosecute such cases upon complaint by  
22 the Department or any interested person.

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

1 (820 ILCS 130/10.5 new)

2 Sec. 10.5. Investigation and hearings.

3 (a) Complaints.

4 (1) Within 30 days after the date that an alleged  
5 violation of this Act has occurred, a complaint in writing  
6 under oath or affirmation may be filed with the Department  
7 of Labor by an aggrieved party for the purposes of  
8 investigating the alleged violation.

9 (2) The complaint shall include, in sufficient detail,  
10 all relevant information concerning the time, place, and  
11 facts surrounding the alleged violation. The name of any  
12 party filing the complaint shall be disclosed to the  
13 contractor or subcontractor alleged to have violated the  
14 Act.

15 (3) Any person who:

16 (A) knowingly presents, or causes to be presented,  
17 a false complaint; or

18 (B) knowingly makes, uses, or causes to be made or  
19 used, a false record or statement material to a false  
20 or fraudulent complaint,

21 is liable to the Department of Labor for \$5,000 for  
22 each false complaint filed. Any person found to knowingly  
23 file a false complaint shall also be liable to the  
24 contractor or subcontractor who was falsely accused for any  
25 incurred legal fees, administrative fees, and penalties

1 assessed by the Department of Labor pursuant to the  
2 complaint.

3 (b) Notice and response to complaint. The Department of  
4 Labor shall, within 10 days after the date the complaint was  
5 filed, serve a copy of the complaint on the contractor or  
6 subcontractor. The contractor or subcontractor alleged to have  
7 violated this Act may file a position statement and other  
8 materials with the Department of Labor regarding the complaint  
9 within 30 days after receipt of the notice of the complaint.  
10 The position statement and other materials filed shall remain  
11 confidential unless otherwise agreed to by the contractor or  
12 subcontractor providing the information and shall not be served  
13 on or made available to the other party during the  
14 investigation of the complaint by the Department of Labor.

15 The Department of Labor may require the contractor or  
16 subcontractor to file a verified response to the allegations  
17 contained in the complaint within 30 days after receipt of the  
18 notice of the complaint. The Department of Labor may issue a  
19 notice of default directed to any contractor or subcontractor  
20 who fails to file a verified response to a complaint within 30  
21 days after receipt of the notice of the complaint, unless the  
22 contractor or subcontractor can demonstrate good cause as to  
23 why such notice should not be issued. All allegations contained  
24 in the charge not timely denied by the contractor or  
25 subcontractor in a verified response shall be deemed admitted,  
26 unless the contractor or subcontractor states that it is

1 without sufficient information to form a belief with respect to  
2 such allegation. A contractor or subcontractor shall have the  
3 right to supplement their position statement or verified  
4 response at any time that the investigation of the complaint is  
5 pending.

6 (c) Report.

7 (1) Each complaint shall be the subject of a report to  
8 the Director of Labor. The report shall be a confidential  
9 document subject to review by the Director of Labor,  
10 authorized Department of Labor employees, and the parties.

11 (2) Upon review of the report, the Director of Labor  
12 shall determine whether there is substantial evidence that  
13 the alleged violation of the Act has been committed.

14 (3) If the Director of Labor determines that there is  
15 no violation of this Act, he or she shall issue a decision  
16 denying the alleged violation. The Director of Labor shall  
17 provide notice of the decision to both parties and state  
18 that the decision shall become the final order of the  
19 Director of Labor on the matter unless, within 15 days  
20 after its receipt, the Complainant files a request for a  
21 hearing with the Director of Labor.

22 (4) If the Director of Labor determines that there is a  
23 violation of this Act, he or she shall issue a decision  
24 incorporating his or her findings and requiring the  
25 contractor or subcontractor to take such affirmative  
26 action to remedy the conduct as the Director of Labor deems

1 appropriate. The Director of Labor shall provide notice of  
2 the decision to both parties and state that the decision  
3 shall become the final order of the Director of Labor on  
4 the matter unless, within 15 days after its receipt, the  
5 contractor or subcontractor files a request for a hearing  
6 with the Director of Labor.

7 (5) The Director of Labor may, in his or her  
8 discretion, find no violation of this Act if:

9 (A) the parties and the Director of Labor agree  
10 that such finding is appropriate to the investigation;  
11 and

12 (B) if the finding is made to promote the effective  
13 resolution of the complaint.

14 (d) Hearings. Upon the receipt of a properly filed request  
15 for a hearing, the Director of Labor shall convene an  
16 administrative hearing pursuant to the provisions of the  
17 Illinois Administrative Procedure Act.

18 (e) Judicial review. A final order issued by the Director  
19 under this Section is subject to judicial review under the  
20 Administrative Review Law.

21 (f) Applicability. This Section applies to complaints  
22 filed on or after the effective date of this amendatory Act of  
23 the 99th General Assembly.

24 Section 99. Effective date. This Act takes effect upon  
25 becoming law.