

SB2164



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB2164

Introduced 2/7/2025, by Sen. Michael W. Halpin

SYNOPSIS AS INTRODUCED:

820 ILCS 115/11	from Ch. 48, par. 39m-11
820 ILCS 115/14	from Ch. 48, par. 39m-14
820 ILCS 115/20 new	

Amends the Illinois Wage Payment and Collection Act. Makes changes to administrative fees paid to the Department of Labor. Makes changes in provisions concerning the collection of unpaid wages, penalties, damages, fines, and fees. Effective immediately.

LRB104 12094 SPS 22192 b

A BILL FOR

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 Illinois Wage Payment and Collection Act is
5 amended by changing Sections 11 and 14 and by adding Section 20
6 as follows:

7 (820 ILCS 115/11) (from Ch. 48, par. 39m-11)

8 Sec. 11. It shall be the duty of the Department of Labor to
9 inquire diligently for any violations of this Act, and to
10 institute the actions for violations and penalties herein
11 provided, at the request of the employee or on motion of the
12 Director of Labor, and to enforce generally the provisions of
13 this Act.

14 An employee may file a complaint with the Department
15 alleging violations of the Act by submitting a signed,
16 completed wage claim application on the form provided by the
17 Department and by submitting copies of all supporting
18 documentation. Complaints shall be filed within one year after
19 the wages, final compensation, or wage supplements were due.

20 Wage claim applications shall be reviewed by the
21 Department to determine whether there is cause and sufficient
22 resources for investigation.

23 The Department shall have the following powers:

1 (a) To investigate and attempt equitably to adjust
2 controversies between employees and employers in respect
3 of wage claims arising under this Act and to that end the
4 Department through the Director of Labor or any other
5 person in the Department of Labor designated by him or
6 her, shall have the power to administer oaths, subpoena
7 and examine witnesses, to issue subpoenas duces tecum
8 requiring the production of such books, papers, records
9 and documents as may be evidence of any matter under
10 inquiry and to examine and inspect the same as may relate
11 to the question in dispute. Service of such subpoenas
12 shall be made by any sheriff or any person. Any court in
13 this State, upon the application of the Department may
14 compel attendance of witnesses, the production of books
15 and papers, and the giving of testimony before the
16 Department by attachment for contempt or in any other way
17 as the production of evidence may be compelled before such
18 court.

19 (b) To take assignments of wage claims in the name of
20 the Director of Labor and his or her successors in office
21 and prosecute actions for the collection of wages for
22 persons financially unable to prosecute such claims when
23 in the judgment of the Department such claims are valid
24 and enforceable in the courts. No court costs or any fees
25 for necessary process and proceedings shall be payable in
26 advance by the Department for prosecuting such actions. In

1 the event there is a judgment rendered against the
2 defendant, the court shall assess as part of such judgment
3 the costs of such proceeding. Upon collection of such
4 judgments the Department shall pay from the proceeds of
5 such judgment such costs to such person who is by law
6 entitled to same. The Department may join in a single
7 proceeding any number of wage claims against the same
8 employer but the court shall have discretionary power to
9 order a severance or separate trial for hearings.

10 (c) To make complaint in any court of competent
11 jurisdiction of violations of this Act.

12 (d) In addition to the aforementioned powers, subject
13 to appropriation, the Department may establish an
14 administrative procedure to adjudicate claims and to issue
15 final and binding administrative decisions on such claims
16 subject to the Administrative Review Law. To establish
17 such a procedure, the Director of Labor or her or his
18 authorized representative may promulgate rules and
19 regulations. The adoption, amendment or rescission of
20 rules and regulations for such a procedure shall be in
21 conformity with the requirements of the Illinois
22 Administrative Procedure Act. If a final and binding
23 administrative decision issued by the Department requires
24 an employer or other party to pay wages, penalties, or
25 other amounts in connection with a wage claim, and the
26 employer or other party has neither: (i) made the required

1 payment within 35 days of the issuance of the final and
2 binding administrative decision; nor (ii) timely filed a
3 complaint seeking review of the final and binding
4 administrative decision pursuant to the Administrative
5 Review Law in a court of competent jurisdiction, the final
6 and binding administrative decision is a debt due and owed
7 to the State and may be collected using all remedies
8 available under the law, including, but not limited to,
9 those found in Article XII of the Code of Civil Procedure.
10 The findings, decision, and order of the Department may be
11 enforced in the same manner as any civil judgment entered
12 by a court of competent jurisdiction ~~Department may file a~~
13 ~~verified petition against the employer or other party to~~
14 ~~enforce the final administrative decision and to collect~~
15 ~~any amounts due in connection therewith in the circuit~~
16 ~~court of any county where an official office of the~~
17 ~~Department is located.~~

18 Nothing herein shall be construed to prevent any employee
19 from making complaint or prosecuting his or her own claim for
20 wages. Any employee aggrieved by a violation of this Act or any
21 rule adopted under this Act may file suit in circuit court of
22 Illinois, in the county where the alleged violation occurred
23 or where any employee who is party to the action resides,
24 without regard to exhaustion of any alternative administrative
25 remedies provided in this Act. Actions may be brought by one or
26 more employees for and on behalf of themselves and other

1 employees similarly situated.

2 Nothing herein shall be construed to limit the authority
3 of the State's Attorney of any county to prosecute actions for
4 violation of this Act or to enforce the provisions thereof
5 independently and without specific direction of the Department
6 of Labor.

7 (Source: P.A. 103-201, eff. 1-1-24.)

8 (820 ILCS 115/14) (from Ch. 48, par. 39m-14)

9 Sec. 14. Penalties.

10 (a) Any employee not timely paid wages, final
11 compensation, or wage supplements by his or her employer as
12 required by this Act shall be entitled to recover through a
13 claim filed with the Department of Labor or in a civil action,
14 but not both, the amount of any such underpayments and damages
15 of 5% of the amount of any such underpayments for each month
16 following the date of payment during which such underpayments
17 remain unpaid. In a claim filed with the Department and
18 adjudicated through an administrative hearing, the damages of
19 5% shall accrue for each month that the underpayments remain
20 unpaid until the date the final order and decision of the
21 Department becomes a debt due and owed to the State. In a civil
22 action, such employee shall also recover costs and all
23 reasonable attorney's fees.

24 (a-5) In addition to the remedies provided in subsections
25 (a), (b), and (c) of this Section, any employer or any agent of

1 an employer, who, being able to pay wages, final compensation,
2 or wage supplements and being under a duty to pay, willfully
3 refuses to pay as provided in this Act, or falsely denies the
4 amount or validity thereof or that the same is due, with intent
5 to secure for himself or other person any underpayment of such
6 indebtedness or with intent to annoy, harass, oppress, hinder,
7 delay or defraud the person to whom such indebtedness is due,
8 upon conviction, is guilty of:

9 (1) for unpaid wages, final compensation or wage
10 supplements in the amount of \$5,000 or less, a Class B
11 misdemeanor; or

12 (2) for unpaid wages, final compensation or wage
13 supplements in the amount of more than \$5,000, a Class A
14 misdemeanor.

15 Each day during which any violation of this Act continues
16 shall constitute a separate and distinct offense.

17 Any employer or any agent of an employer who violates this
18 Section of the Act a subsequent time within 2 years of a prior
19 criminal conviction under this Section is guilty, upon
20 conviction, of a Class 4 felony.

21 (b) Any employer who has been demanded or ordered by the
22 Department or ordered by the court to pay wages, final
23 compensation, or wage supplements due an employee shall be
24 required to pay a non-waivable administrative fee to the
25 Department of Labor in the amount of \$500 ~~\$250~~ if the amount
26 ordered by the Department as wages owed is \$3,000 or less; \$750

1 ~~\$500~~ if the amount ordered by the Department as wages owed is
2 more than \$3,000, but less than \$10,000; and \$1,250 ~~\$1,000~~ if
3 the amount ordered by the Department as wages owed is \$10,000
4 or more. Any employer who has been so demanded or ordered by
5 the Department or ordered by a court to pay such wages, final
6 compensation, or wage supplements and who fails to seek timely
7 review of such a demand or order as provided for under this Act
8 and who fails to comply within 15 calendar days after such
9 demand or within 35 days of an administrative or court order is
10 entered shall also be liable to pay a penalty to the Department
11 of Labor of 20% of the amount found owing and a penalty to the
12 employee of 1% per calendar day of the amount found owing for
13 each day of delay in paying such wages to the employee. In a
14 claim filed with the Department and adjudicated through an
15 administrative hearing, the penalty of 1% shall accrue for
16 each calendar day that the underpayments remain unpaid until
17 the date the final order and decision of the Department
18 becomes a debt due and owed to the State. All moneys recovered
19 as fees and civil penalties under this Act, except those owing
20 to the affected employee, shall be deposited into the Wage
21 Theft Enforcement Fund, a special fund which is hereby created
22 in the State treasury. Moneys in the Fund may be used for
23 enforcement of this Act and for outreach and educational
24 activities of the Department related to the recovery of unpaid
25 or underpaid compensation and the disbursement of moneys to
26 affected parties.

1 (b-5) Penalties and fees under this Section may be
2 assessed by the Department and recovered in a civil action
3 brought by the Department in any circuit court or in any
4 administrative adjudicative proceeding under this Act. In any
5 such civil action or administrative adjudicative proceeding
6 under this Act, the Department shall be represented by the
7 Attorney General.

8 (c) Any employer, or any agent of an employer, who
9 discharges or in any other manner discriminates against any
10 employee because that employee has made a complaint to his or
11 her employer, to the Director of Labor or his or her authorized
12 representative, in a public hearing, or to a community
13 organization that he or she has not been paid in accordance
14 with the provisions of this Act, or because that employee has
15 caused to be instituted any proceeding under or related to
16 this Act, or because that employee has testified or is about to
17 testify in an investigation or proceeding under this Act, is
18 guilty, upon conviction, of a Class C misdemeanor. An employee
19 who has been unlawfully retaliated against shall be entitled
20 to recover through a claim filed with the Department of Labor
21 or in a civil action, but not both, all legal and equitable
22 relief as may be appropriate. In a civil action, such employee
23 shall also recover costs and all reasonable attorney's fees.

24 (d) Except as provided under subsections (a), (b), and
25 (c), an employer who fails to furnish an employee or former
26 employee with a pay stub as required by this Act or commits any

1 other violation of this Act shall be subject to a civil penalty
2 of up to \$500 per violation payable to the Department. In
3 determining the amount of the penalty under this subsection,
4 the Department shall consider the appropriateness of the
5 penalty to the size of the business of the employer charged and
6 the gravity of the violation.

7 (e) Any unpaid wages, penalties, damages, fines, or fees
8 remaining unpaid after the judicial review of the Department's
9 final decision, or the failure to pursue judicial review
10 procedures under the Administrative Review Law, is a debt due
11 and owed to the State and may be collected using all remedies
12 available under the law.

13 (f) After the expiration of the period in which judicial
14 review under the Administrative Review Law may be sought for a
15 final administrative decision, unless stayed by a court of
16 competent jurisdiction, the findings, decision, and order of
17 the Department may be enforced in the same manner as a judgment
18 entered by a court of competent jurisdiction.

19 (Source: P.A. 102-50, eff. 7-9-21; 103-182, eff. 6-30-23;
20 103-953, eff. 1-1-25.)

21 (820 ILCS 115/20 new)

22 Sec. 20. Procedural changes from prior law. In accordance
23 with Section 4 of the Statute on Statutes, any procedural
24 change as compared to prior law affected by this amendatory
25 Act of the 104th General Assembly shall be applied

1 retroactively. Any substantive change as compared to prior law
2 affected by this amendatory Act of the 104th General Assembly
3 shall be applied prospectively only. Any changes to the
4 remedies available to redress a legal violation are procedural
5 in nature.

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.