

HB3316



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB3316

by Rep. John Connor

SYNOPSIS AS INTRODUCED:

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

Amends the Prevailing Wage Act. Provides that the transportation of ready-mixed concrete and aggregate materials shall be deemed to be employment upon public works. Includes additional trucking related activities within the scope of the Act. Includes in the calculation of the prevailing wage rate, rental costs for trucks and equipment provided by owner-operators. Defines terms. Effective immediately.

LRB101 10806 JLS 55936 b

FISCAL NOTE ACT
MAY APPLY

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 Prevailing Wage Act is amended by changing
5 Sections 2 and 3 as follows:

6 (820 ILCS 130/2) (from Ch. 48, par. 39s-2)

7 (Text of Section before amendment by P.A. 100-1177)

8 Sec. 2. This Act applies to the wages of laborers,
9 mechanics and other workers employed in any public works, as
10 hereinafter defined, by any public body and to anyone under
11 contracts for public works. This includes any maintenance,
12 repair, assembly, or disassembly work performed on equipment
13 whether owned, leased, or rented.

14 As used in this Act, unless the context indicates
15 otherwise:

16 "Public works" means all fixed works constructed or
17 demolished by any public body, or paid for wholly or in part
18 out of public funds. "Public works" as defined herein includes
19 all projects financed in whole or in part with bonds, grants,
20 loans, or other funds made available by or through the State or
21 any of its political subdivisions, including but not limited
22 to: bonds issued under the Industrial Project Revenue Bond Act
23 (Article 11, Division 74 of the Illinois Municipal Code), the

1 Industrial Building Revenue Bond Act, the Illinois Finance
2 Authority Act, the Illinois Sports Facilities Authority Act, or
3 the Build Illinois Bond Act; loans or other funds made
4 available pursuant to the Build Illinois Act; loans or other
5 funds made available pursuant to the Riverfront Development
6 Fund under Section 10-15 of the River Edge Redevelopment Zone
7 Act; or funds from the Fund for Illinois' Future under Section
8 6z-47 of the State Finance Act, funds for school construction
9 under Section 5 of the General Obligation Bond Act, funds
10 authorized under Section 3 of the School Construction Bond Act,
11 funds for school infrastructure under Section 6z-45 of the
12 State Finance Act, and funds for transportation purposes under
13 Section 4 of the General Obligation Bond Act. "Public works"
14 also includes (i) all projects financed in whole or in part
15 with funds from the Department of Commerce and Economic
16 Opportunity under the Illinois Renewable Fuels Development
17 Program Act for which there is no project labor agreement; (ii)
18 all work performed pursuant to a public private agreement under
19 the Public Private Agreements for the Illiana Expressway Act or
20 the Public-Private Agreements for the South Suburban Airport
21 Act; and (iii) all projects undertaken under a public-private
22 agreement under the Public-Private Partnerships for
23 Transportation Act. "Public works" also includes all projects
24 at leased facility property used for airport purposes under
25 Section 35 of the Local Government Facility Lease Act. "Public
26 works" also includes the construction of a new wind power

1 facility by a business designated as a High Impact Business
2 under Section 5.5(a) (3) (E) of the Illinois Enterprise Zone Act.

3 "Public works" does not include work done directly by any
4 public utility company, whether or not done under public
5 supervision or direction, or paid for wholly or in part out of
6 public funds. "Public works" also includes any corrective
7 action performed pursuant to Title XVI of the Environmental
8 Protection Act for which payment from the Underground Storage
9 Tank Fund is requested. "Public works" does not include
10 projects undertaken by the owner at an owner-occupied
11 single-family residence or at an owner-occupied unit of a
12 multi-family residence. "Public works" does not include work
13 performed for soil and water conservation purposes on
14 agricultural lands, whether or not done under public
15 supervision or paid for wholly or in part out of public funds,
16 done directly by an owner or person who has legal control of
17 those lands.

18 "Construction" means all work on public works involving
19 laborers, workers or mechanics. This includes any maintenance,
20 repair, assembly, or disassembly work performed on equipment
21 whether owned, leased, or rented.

22 "Trucking broker" means an individual or business entity,
23 the activities of which include, but are not limited to:

24 (1) contracting to provide trucking services in the
25 construction industry to users of those services;

26 (2) contracting to obtain such service from providers

1 of trucking services;

2 (3) dispatching the providers of the services to do
3 work as required by the users of such services;

4 (4) receiving payment from the users in consideration
5 of the trucking services provided; and

6 (5) making payment to the providers for the services.

7 "Trucking firm" means any legal business entity that owns
8 one or more vehicles and hires the vehicles out for services to
9 trucking brokers or contractors on public works projects.

10 "Independent truck owner-operator" means an individual,
11 partnership, or principal stockholder of a corporation that
12 owns or holds a vehicle under lease and that contracts that
13 vehicle and the owner's services to an entity which provides
14 construction services to a public works project.

15 "Ready-mixed concrete" means concrete that is manufactured
16 according to a set recipe for incorporation into a public works
17 project.

18 "Aggregate" or "excavated materials" includes, but is not
19 limited to, rock, gravel, sand, pebbles, dirt, soil, clay,
20 bitumen, cultured and polymer materials, cement, concrete,
21 asphalt, slag, grindings, and recycled materials.

22 "Stockpile" means aggregate or excavated materials that
23 are placed in a location for temporary storage when all or
24 substantially all of the aggregate or excavated material is
25 relocated by loading and hauling it to another location for
26 final placement.

1 "Transportation" means any required hauling activities on
2 the site of, or to or from, a public works project or stockpile
3 regardless of whether the activity is performed by the prime
4 contractor, subcontractor, trucking broker, trucking firm,
5 independent truck owner-operator, or employee or agent of any
6 of the foregoing entities and regardless of which entity or
7 person hires or contracts with another.

8 "Transportation of ready-mixed concrete" means receiving
9 the concrete at the factory or batching plant, hauling and
10 delivery to a public works project, and the return trip to the
11 factory or batching plant, whether or not the factory or
12 batching plant is mobile or in a fixed location.

13 "Transportation of aggregate or excavated materials"
14 includes, but is not limited to, work, as required by the users
15 of the services, for:

16 (1) the hauling of any or all stockpiled materials on
17 the project work site to other locations on the same
18 project even if the trucks leave the work site at some
19 point;

20 (2) the delivery of materials from any facility or any
21 stockpile to the project and the return haul to the
22 starting location either empty or loaded;

23 (3) the delivery of materials from another
24 construction project site to the public works project and
25 the return haul empty or loaded;

26 (4) the hauling required to remove any materials from

1 the public works project to a location off the project site
2 and the return haul either empty or loaded; and

3 (5) the delivery of materials by an employee of a
4 seller or supplier and the return haul to the off-site
5 facility or any stockpile empty or loaded by an employee of
6 the seller or supplier.

7 The hauling of aggregate or excavated materials by
8 employees of a contractor or subcontractor that operates an
9 asphalt or concrete plant, that was moved into a gravel pit,
10 borrow pit, or other location not on the project, primarily to
11 serve public works projects is considered work under the
12 contract.

13 "Locality" means the county where the physical work upon
14 public works is performed, except (1) that if there is not
15 available in the county a sufficient number of competent
16 skilled laborers, workers and mechanics to construct the public
17 works efficiently and properly, "locality" includes any other
18 county nearest the one in which the work or construction is to
19 be performed and from which such persons may be obtained in
20 sufficient numbers to perform the work and (2) that, with
21 respect to contracts for highway work with the Department of
22 Transportation of this State, "locality" may at the discretion
23 of the Secretary of the Department of Transportation be
24 construed to include two or more adjacent counties from which
25 workers may be accessible for work on such construction.

26 "Public body" means the State or any officer, board or

1 commission of the State or any political subdivision or
2 department thereof, or any institution supported in whole or in
3 part by public funds, and includes every county, city, town,
4 village, township, school district, irrigation, utility,
5 reclamation improvement or other district and every other
6 political subdivision, district or municipality of the state
7 whether such political subdivision, municipality or district
8 operates under a special charter or not.

9 The terms "general prevailing rate of hourly wages",
10 "general prevailing rate of wages" or "prevailing rate of
11 wages" when used in this Act mean the hourly cash wages plus
12 annualized fringe benefits for training and apprenticeship
13 programs approved by the U.S. Department of Labor, Bureau of
14 Apprenticeship and Training, health and welfare, insurance,
15 vacations and pensions paid generally, in the locality in which
16 the work is being performed, to employees engaged in work of a
17 similar character on public works, and for those who own, such
18 as an owner-operator, operate a truck, and are engaged in the
19 transportation of ready mix-mixed concrete or transportation
20 of aggregate or excavated materials the prevailing rate, shall
21 include the equipment rate established by the Department of
22 Labor associated with the nature of the equipment operated and
23 the rental rate paid for truck hire to those who own or operate
24 a truck.

25 (Source: P.A. 97-502, eff. 8-23-11; 98-109, eff. 7-25-13;
26 98-482, eff. 1-1-14; 98-740, eff. 7-16-14; 98-756, eff.

1 7-16-14.)

2 (Text of Section after amendment by P.A. 100-1177)

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5 contract.

6 "Locality" means the county where the physical work upon
7 public works is performed, except (1) that if there is not
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9 skilled laborers, workers and mechanics to construct the public
10 works efficiently and properly, "locality" includes any other
11 county nearest the one in which the work or construction is to
12 be performed and from which such persons may be obtained in
13 sufficient numbers to perform the work and (2) that, with
14 respect to contracts for highway work with the Department of
15 Transportation of this State, "locality" may at the discretion
16 of the Secretary of the Department of Transportation be
17 construed to include two or more adjacent counties from which
18 workers may be accessible for work on such construction.

19 "Public body" means the State or any officer, board or
20 commission of the State or any political subdivision or
21 department thereof, or any institution supported in whole or in
22 part by public funds, and includes every county, city, town,
23 village, township, school district, irrigation, utility,
24 reclamation improvement or other district and every other
25 political subdivision, district or municipality of the state
26 whether such political subdivision, municipality or district

1 operates under a special charter or not.

2 "Labor organization" means an organization that is the
3 exclusive representative of an employer's employees recognized
4 or certified pursuant to the National Labor Relations Act.

5 The terms "general prevailing rate of hourly wages",
6 "general prevailing rate of wages" or "prevailing rate of
7 wages" when used in this Act mean the hourly cash wages plus
8 annualized fringe benefits for training and apprenticeship
9 programs approved by the U.S. Department of Labor, Bureau of
10 Apprenticeship and Training, health and welfare, insurance,
11 vacations and pensions paid generally, in the locality in which
12 the work is being performed, to employees engaged in work of a
13 similar character on public works, and for those who own, such
14 as an independent owner-operator, and operate a truck and are
15 engaged in the transportation of ready mix-mixed concrete or
16 transportation of aggregate or excavated materials, the
17 prevailing rate, shall, in addition, include the equipment rate
18 established by the Illinois Department of Transportation
19 associated with the nature of the equipment operated and the
20 rental rate paid for truck hire by those who own or operate a
21 truck, whichever is applicable.

22 (Source: P.A. 100-1177, eff. 6-1-19.)

23 (820 ILCS 130/3) (from Ch. 48, par. 39s-3)

24 Sec. 3. Not less than the general prevailing rate of hourly
25 wages for work of a similar character on public works in the

1 locality in which the work is performed, and not less than the
2 general prevailing rate of hourly wages for legal holiday and
3 overtime work, shall be paid to all laborers, workers and
4 mechanics employed by or on behalf of any public body engaged
5 in the construction or demolition of public works. This
6 includes any maintenance, repair, assembly, or disassembly
7 work performed on equipment whether owned, leased, or rented.
8 ~~All~~ ~~Only such~~ laborers, workers, and mechanics ~~as are~~ directly
9 employed by contractors or subcontractors in actual
10 construction work on the site of the building or construction
11 job shall be deemed to be employed upon public works. The
12 transportation of ready-mixed concrete and transportation of
13 aggregate or excavated materials to the job site or stockpile
14 shall be deemed to be employed in construction upon public
15 works. Laborers, and laborers, workers, and mechanics
16 otherwise engaged in the transportation of materials and
17 equipment to or from the site, ~~but not including the~~
18 ~~transportation~~ by the sellers and suppliers or the manufacture
19 or processing of materials or equipment, ~~in the execution of~~
20 ~~any contract or contracts for public works with any public body~~
21 shall not be deemed to be employed upon public works. The wage
22 for a tradesman performing maintenance is equivalent to that of
23 a tradesman engaged in construction or demolition.

24 (Source: P.A. 95-341, eff. 8-21-07; 96-186, eff. 1-1-10.)

25 Section 95. No acceleration or delay. Where this Act makes

1 changes in a statute that is represented in this Act by text
2 that is not yet or no longer in effect (for example, a Section
3 represented by multiple versions), the use of that text does
4 not accelerate or delay the taking effect of (i) the changes
5 made by this Act or (ii) provisions derived from any other
6 Public Act.

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