

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 4, 5, and 9 as follows:

6 (820 ILCS 130/4) (from Ch. 48, par. 39s-4)

7 Sec. 4. (a) The public body awarding any contract for  
8 public work or otherwise undertaking any public works, shall  
9 ascertain the general prevailing rate of hourly wages in the  
10 locality in which the work is to be performed, for each craft  
11 or type of worker or mechanic needed to execute the contract,  
12 and where the public body performs the work without letting a  
13 contract therefor, shall ascertain the prevailing rate of wages  
14 on a per hour basis in the locality, and such public body shall  
15 specify in the resolution or ordinance and in the call for bids  
16 for the contract, that the general prevailing rate of wages in  
17 the locality for each craft or type of worker or mechanic  
18 needed to execute the contract or perform such work, also the  
19 general prevailing rate for legal holiday and overtime work, as  
20 ascertained by the public body or by the Department of Labor  
21 shall be paid for each craft or type of worker needed to  
22 execute the contract or to perform such work, and it shall be  
23 mandatory upon the contractor to whom the contract is awarded

1 and upon any subcontractor under him, and where the public body  
2 performs the work, upon the public body, to pay not less than  
3 the specified rates to all laborers, workers and mechanics  
4 employed by them in the execution of the contract or such work;  
5 provided, however, that if the public body desires that the  
6 Department of Labor ascertain the prevailing rate of wages, it  
7 shall notify the Department of Labor to ascertain the general  
8 prevailing rate of hourly wages for work under contract, or for  
9 work performed by a public body without letting a contract as  
10 required in the locality in which the work is to be performed,  
11 for each craft or type of worker or mechanic needed to execute  
12 the contract or project or work to be performed. Upon such  
13 notification the Department of Labor shall ascertain such  
14 general prevailing rate of wages, and certify the prevailing  
15 wage to such public body. The public body awarding the contract  
16 shall cause to be inserted in the project specifications and  
17 the contract a stipulation to the effect that not less than the  
18 prevailing rate of wages as found by the public body or  
19 Department of Labor or determined by the court on review shall  
20 be paid to all laborers, workers and mechanics performing work  
21 under the contract.

22 (b) It shall also be mandatory upon the contractor to whom  
23 the contract is awarded to insert into each subcontract and  
24 into the project specifications for each subcontract a written  
25 stipulation to the effect that not less than the prevailing  
26 rate of wages shall be paid to all laborers, workers, and

1 mechanics performing work under the contract. It shall also be  
2 mandatory upon each subcontractor to cause to be inserted into  
3 each lower tiered subcontract and into the project  
4 specifications for each lower tiered subcontract a stipulation  
5 to the effect that not less than the prevailing rate of wages  
6 shall be paid to all laborers, workers, and mechanics  
7 performing work under the contract. A contractor or  
8 subcontractor who fails to comply with this subsection (b) is  
9 in violation of this Act.

10 (c) It shall also require in all such contractor's bonds  
11 that the contractor include such provision as will guarantee  
12 the faithful performance of such prevailing wage clause as  
13 provided by contract. All bid specifications shall list the  
14 specified rates to all laborers, workers and mechanics in the  
15 locality for each craft or type of worker or mechanic needed to  
16 execute the contract.

17 (d) If the Department of Labor revises the prevailing rate  
18 of hourly wages to be paid by the public body, the revised rate  
19 shall apply to such contract, and the public body shall be  
20 responsible to notify the contractor and each subcontractor, of  
21 the revised rate.

22 ~~(e) Two or more investigatory hearings under this Section~~  
23 ~~on the issue of establishing a new prevailing wage~~  
24 ~~classification for a particular craft or type of worker shall~~  
25 ~~be consolidated in a single hearing before the Department. Such~~  
26 ~~consolidation shall occur whether each separate investigatory~~

1 ~~hearing is conducted by a public body or the Department. The~~  
2 ~~party requesting a consolidated investigatory hearing shall~~  
3 ~~have the burden of establishing that there is no existing~~  
4 ~~prevailing wage classification for the particular craft or type~~  
5 ~~of worker in any of the localities under consideration.~~

6 It shall be mandatory upon the contractor or construction  
7 manager to whom a contract for public works is awarded to post,  
8 at a location on the project site of the public works that is  
9 easily accessible to the workers engaged on the project, the  
10 prevailing wage rates for each craft or type of worker or  
11 mechanic needed to execute the contract or project or work to  
12 be performed. A failure to post a prevailing wage rate as  
13 required by this Section is a violation of this Act.

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

16 (820 ILCS 130/5) (from Ch. 48, par. 39s-5)

17 Sec. 5. Certified payroll.

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

20 (1) make and keep, for a period of not less than 5 ~~3~~  
21 years, records of all laborers, mechanics, and other  
22 workers employed by them on the project; the records shall  
23 include each worker's name, address, telephone number when  
24 available, social security number, classification or  
25 classifications, the hourly wages paid in each pay period,

1 the number of hours worked each day, and the starting and  
2 ending times of work each day; and

3 (2) submit monthly, in person, by mail, or  
4 electronically a certified payroll to the public body in  
5 charge of the project. The certified payroll shall consist  
6 of a complete copy of the records identified in paragraph  
7 (1) of this subsection (a), but may exclude the starting  
8 and ending times of work each day. The certified payroll  
9 shall be accompanied by a statement signed by the  
10 contractor or subcontractor which avers that: (i) such  
11 records are true and accurate; (ii) the hourly rate paid to  
12 each worker is not less than the general prevailing rate of  
13 hourly wages required by this Act; and (iii) the contractor  
14 or subcontractor is aware that filing a certified payroll  
15 that he or she knows to be false is a Class B misdemeanor.  
16 A general contractor is not prohibited from relying on the  
17 certification of a lower tier subcontractor, provided the  
18 general contractor does not knowingly rely upon a  
19 subcontractor's false certification. Any contractor or  
20 subcontractor subject to this Act who fails to submit a  
21 certified payroll or knowingly files a false certified  
22 payroll is in violation of this Act and guilty of a Class B  
23 misdemeanor. The public body in charge of the project shall  
24 keep the records submitted in accordance with this  
25 paragraph (2) of subsection (a) for a period of not less  
26 than 3 years. The records submitted in accordance with this

1 paragraph (2) of subsection (a) shall be considered public  
2 records, except an employee's address, telephone number,  
3 and social security number, and made available in  
4 accordance with the Freedom of Information Act. The public  
5 body shall accept any reasonable submissions by the  
6 contractor that meet the requirements of this Section.

7 (b) Upon 7 business days' notice, the contractor and each  
8 subcontractor shall make available for inspection the records  
9 identified in paragraph (1) of subsection (a) of this Section  
10 to the public body in charge of the project, its officers and  
11 agents, and to the Director of Labor and his deputies and  
12 agents. Upon 7 business days' notice, the contractor and each  
13 subcontractor shall make such records available at all  
14 reasonable hours at a location within this State.

15 (Source: P.A. 93-38, eff. 6-1-04; 94-515, eff. 8-10-05;  
16 94-1023, eff. 7-12-06.)

17 (820 ILCS 130/9) (from Ch. 48, par. 39s-9)

18 Sec. 9. To effectuate the purpose and policy of this Act  
19 each public body shall, during the month of June of each  
20 calendar year, investigate and ascertain the prevailing rate of  
21 wages as defined in this Act and publicly post or keep  
22 available for inspection by any interested party in the main  
23 office of such public body its determination of such prevailing  
24 rate of wage and shall promptly file, no later than July 15 of  
25 each year, a certified copy thereof in the office of the

1 Secretary of State at Springfield and the office of the  
2 Illinois Department of Labor.

3 The Department of Labor shall during the month of June of  
4 each calendar year, investigate and ascertain the prevailing  
5 rate of wages for each county in the State. If a public body  
6 does not investigate and ascertain the prevailing rate of wages  
7 during the month of June as required by the previous paragraph,  
8 then the prevailing rate of wages for that public body shall be  
9 the rate as determined by the Department under this paragraph  
10 for the county in which such public body is located.

11 Where the Department of Labor ascertains the prevailing  
12 rate of wages, it is the duty of the Department of Labor within  
13 30 days after receiving a notice from the public body  
14 authorizing the proposed work, to conduct an investigation to  
15 ascertain the prevailing rate of wages as defined in this Act  
16 and such investigation shall be conducted in the locality in  
17 which the work is to be performed. The Department of Labor  
18 shall send a certified copy of its findings to the public body  
19 authorizing the work and keep a record of its findings  
20 available for inspection by any interested party in the office  
21 of the Department of Labor at Springfield.

22 The public body except for the Department of Transportation  
23 with respect to highway contracts shall within 30 days after  
24 filing with the Secretary of State, or the Department of Labor  
25 shall within 30 days after filing with such public body,  
26 publish in a newspaper of general circulation within the area

1 that the determination is effective, a notice of its  
2 determination and shall promptly mail a copy of its  
3 determination to any employer, and to any association of  
4 employers and to any person or association of employees who  
5 have filed their names and addresses, requesting copies of any  
6 determination stating the particular rates and the particular  
7 class of workers whose wages will be affected by such rates.

8 At any time within 30 days after the Department of Labor  
9 has published on its official web site a prevailing wage  
10 schedule, any person affected thereby may object in writing to  
11 the determination or such part thereof as they may deem  
12 objectionable by filing a written notice with the public body  
13 or Department of Labor, whichever has made such determination,  
14 stating the specified grounds of the objection. It shall  
15 thereafter be the duty of the public body or Department of  
16 Labor to set a date for a hearing on the objection after giving  
17 written notice to the objectors at least 10 days before the  
18 date of the hearing and said notice shall state the time and  
19 place of such hearing. Such hearing by a public body shall be  
20 held within 45 days after the objection is filed, and shall not  
21 be postponed or reset for a later date except upon the consent,  
22 in writing, of all the objectors and the public body. If such  
23 hearing is not held by the public body within the time herein  
24 specified, the Department of Labor may, upon request of the  
25 objectors, conduct the hearing on behalf of the public body.

26 The public body or Department of Labor, whichever has made



1 such determination, is authorized ~~in its discretion~~ to hear  
2 each timely filed written objection. Two or more hearings under  
3 this Section on the issue of establishing a new prevailing wage  
4 classification for a particular craft or type of worker shall  
5 be consolidated in a single hearing before the Department. Such  
6 consolidation shall occur whether each separate hearing is  
7 conducted by a public body or the Department. The party  
8 requesting a consolidated hearing shall have the burden of  
9 establishing that there is no existing prevailing wage  
10 classification for the particular craft or type of worker in  
11 any of the localities under consideration ~~filed separately or~~  
12 ~~consolidate for hearing any one or more written objections~~  
13 ~~filed with them.~~ At such hearing the public body or Department  
14 of Labor shall introduce in evidence the investigation it  
15 instituted which formed the basis of its determination, and the  
16 public body or Department of Labor, or any interested objectors  
17 may thereafter introduce such evidence as is material to the  
18 issue. Thereafter, the public body or Department of Labor, must  
19 rule upon the written objection and make such final  
20 determination as it believes the evidence warrants, and  
21 promptly file a certified copy of its final determination with  
22 such public body and the Secretary of State, and serve a copy  
23 by personal service or registered mail on all parties to the  
24 proceedings. The final determination by the Department of Labor  
25 or a public body shall be rendered within 30 days after the  
26 conclusion of the hearing.

1           If proceedings to review judicially the final  
2 determination of the public body or Department of Labor are not  
3 instituted as hereafter provided, such determination shall be  
4 final and binding.

5           The provisions of the Administrative Review Law, and all  
6 amendments and modifications thereof, and the rules adopted  
7 pursuant thereto, shall apply to and govern all proceedings for  
8 the judicial review of final administrative decisions of any  
9 public body or the Department of Labor hereunder. The term  
10 "administrative decision" is defined as in Section 3-101 of the  
11 Code of Civil Procedure.

12           Appeals from all final orders and judgments entered by the  
13 court in review of the final administrative decision of the  
14 public body or Department of Labor, may be taken by any party  
15 to the action.

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

20           In all reviews or appeals under this Act, it shall be the  
21 duty of the Attorney General to represent the Department of  
22 Labor, and defend its determination. The Attorney General shall  
23 not represent any public body, except the State, in any such  
24 review or appeal.

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

26           Section 99. Effective date. This Act takes effect upon

1 becoming law.