



## 97TH GENERAL ASSEMBLY

### State of Illinois

### 2011 and 2012

### HB3237

Introduced 2/24/2011, by Rep. Brandon W. Phelps

#### SYNOPSIS AS INTRODUCED:

820 ILCS 130/5	from Ch. 48, par. 39s-5
820 ILCS 130/6	from Ch. 48, par. 39s-6
820 ILCS 130/11a	from Ch. 48, par. 39s-11a

Amends the Prevailing Wage Act. Provides that contractors and subcontractors participating in public works shall keep records for at least three years from the date of the last payment on a contract or subcontract. Also provides that such contractors and subcontractors shall file a certified payroll for each month signed by the contractor or subcontractor or an officer, employee, or agent of the contractor or subcontractor and stating that he or she has examined the certified payroll records. Provides that when these specified individuals willfully fail to file or willfully file a false certified payroll, false as to a material fact, they are guilty of a Class 4 felony. Provides that a contractor or subcontractor shall make available for inspection and copying records, upon 3 business days' notice (instead of 7), to federal, State or local law enforcement agencies and prosecutors in addition to the public body in charge of the public works project and the Director of Labor and his deputies and agents. Provides that any contractor or subcontractor and any officer, employee or agent thereof who willfully fails to create, keep, maintain or produce a record or document required by the Prevailing Wage Act is guilty of a Class 4 felony. Provides that a contractor or subcontractor convicted under specific provisions of the Act shall be subject to an automatic and immediate debarment, thereafter prohibited from participating in any public works project for 4 years, with no right to a hearing. Effective January 1, 2012.

LRB097 10925 AEK 51483 b

CORRECTIONAL  
BUDGET AND  
IMPACT 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 5, 6, and 11a as follows:

6 (820 ILCS 130/5) (from Ch. 48, par. 39s-5)

7 Sec. 5. Certified payroll.

8 (a) ~~Any while participating on public works, the contractor~~  
9 and each subcontractor who participates in public works shall:

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

20 (2) no later than the tenth day after the end of each  
21 calendar month file ~~submit monthly, in person, by mail, or~~  
22 ~~electronically~~ a certified payroll for the immediately  
23 preceding month with ~~to~~ the public body in charge of the

1 project. The certified payroll shall consist of a complete  
2 copy of the records identified in paragraph (1) of this  
3 subsection (a), but may exclude the starting and ending  
4 times of work each day. The certified payroll shall be  
5 accompanied by a statement signed by the contractor or  
6 subcontractor or an officer, employee, or agent of the  
7 contractor or subcontractor which avers that: (i) he or she  
8 has examined the certified payroll records required to be  
9 submitted by the Act and such records are true and  
10 accurate; (ii) the hourly rate paid to each worker is not  
11 less than the general prevailing rate of hourly wages  
12 required by this Act; and (iii) the contractor or  
13 subcontractor is aware that filing a certified payroll that  
14 he or she knows to be false is a Class 4 felony ~~B~~  
15 ~~misdemeanor~~. A general contractor is not prohibited from  
16 relying on the certification of a lower tier subcontractor,  
17 provided the general contractor does not knowingly rely  
18 upon a subcontractor's false certification. Any contractor  
19 or subcontractor subject to this Act and any officer,  
20 employee, or agent of such contractor or subcontractor  
21 whose duty as such officer, employee, or agent it is to  
22 file such certified payroll who willfully fails to file  
23 such ~~submit~~ a certified payroll on or before the date such  
24 certified payroll is required by this paragraph to be filed  
25 and any person who willfully ~~or knowingly~~ files a false  
26 certified payroll that is false as to any material fact is

1 in violation of this Act and guilty of a Class 4 felony ~~B~~  
2 ~~misdemeanor~~. The public body in charge of the project shall  
3 keep the records submitted in accordance with this  
4 paragraph (2) of subsection (a) for a period of not less  
5 than 3 years from the date of the last payment for work on  
6 a contract or subcontract for public works. The records  
7 submitted in accordance with this paragraph (2) of  
8 subsection (a) shall be considered public records, except  
9 an employee's address, telephone number, and social  
10 security number, and made available in accordance with the  
11 Freedom of Information Act. The public body shall accept  
12 any reasonable submissions by the contractor that meet the  
13 requirements of this Section.

14 (b) Upon 3 ~~7~~ business days' notice, the contractor and each  
15 subcontractor shall make available for inspection and copying  
16 at a location within this State during reasonable hours, the  
17 records identified in paragraph (1) of subsection (a) of this  
18 Section to the public body in charge of the project, its  
19 officers and agents, ~~and to~~ the Director of Labor and his  
20 deputies and agents, and to federal, State, or local law  
21 enforcement agencies and prosecutors. ~~Upon 7 business days'~~  
22 ~~notice, the contractor and each subcontractor shall make such~~  
23 ~~records available at all reasonable hours at a location within~~  
24 ~~this State.~~

25 (Source: P.A. 93-38, eff. 6-1-04; 94-515, eff. 8-10-05;  
26 94-1023, eff. 7-12-06.)

1 (820 ILCS 130/6) (from Ch. 48, par. 39s-6)

2 Sec. 6. Any officer, agent or representative of any public  
3 body who wilfully violates, or willfully fails ~~omits~~ to comply  
4 with, any of the provisions of this Act, and any contractor or  
5 subcontractor, and any officer, employee, or agent ~~or~~  
6 ~~representative~~ thereof, who as such officer, employee, or  
7 agent, has a duty to create, keep, maintain, or produce any  
8 record or document required by this Act to be created, kept,  
9 maintained, or produced who willfully fails to create, keep,  
10 maintain, or produce such record or document as or when  
11 required by this Act, ~~doing public work as aforesaid, who~~  
12 ~~neglects to keep, or cause to be kept, an accurate record of~~  
13 ~~the names, occupation and actual wages paid to each laborer,~~  
14 ~~worker and mechanic employed by him, in connection with the~~  
15 ~~public work or who refuses to allow access to same at any~~  
16 ~~reasonable hour to any person authorized to inspect same under~~  
17 ~~this Act,~~ is guilty of a Class 4 felony ~~A misdemeanor.~~

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

23 (Source: P.A. 94-488, eff. 1-1-06.)

24 (820 ILCS 130/11a) (from Ch. 48, par. 39s-11a)

1           Sec. 11a. The Director of the Department of Labor shall  
2 publish in the Illinois Register no less often than once each  
3 calendar quarter a list of contractors or subcontractors found  
4 to have disregarded their obligations to employees under this  
5 Act. The Department of Labor shall determine the contractors or  
6 subcontractors who, on 2 separate occasions within 5 years,  
7 have been determined to have violated the provisions of this  
8 Act. Upon such determination the Department shall notify the  
9 violating contractor or subcontractor. Such contractor or  
10 subcontractor shall then have 10 working days to request a  
11 hearing by the Department on the alleged violations. Failure to  
12 respond within the 10 working day period shall result in  
13 automatic and immediate placement and publication on the list.  
14 If the contractor or subcontractor requests a hearing within  
15 the 10 working day period, the Director shall set a hearing on  
16 the alleged violations. Such hearing shall take place no later  
17 than 45 calendar days after the receipt by the Department of  
18 Labor of the request for a hearing. The Department of Labor is  
19 empowered to promulgate, adopt, amend and rescind rules and  
20 regulations to govern the hearing procedure. No contract shall  
21 be awarded to a contractor or subcontractor appearing on the  
22 list, or to any firm, corporation, partnership or association  
23 in which such contractor or subcontractor has an interest until  
24 4 years have elapsed from the date of publication of the list  
25 containing the name of such contractor or subcontractor.

26           A contractor or subcontractor convicted under Section 5 or

1 6 of this Act shall be subject to an automatic and immediate  
2 debarment, thereafter prohibited from participating in any  
3 public works project for 4 years, with no right to a hearing.

4 (Source: P.A. 93-38, eff. 6-1-04; 94-488, eff. 1-1-06.)

5 Section 99. Effective date. This Act takes effect January  
6 1, 2012.