

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 and 11 as follows:

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

7 Sec. 5. Certified payroll.

8 (a) Any contractor and each subcontractor who participates
9 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 made before the
12 effective date of this amendatory Act of the 98th General
13 Assembly and for a period of 5 years from the date of the
14 last payment made on or after the effective date of this
15 amendatory Act of the 98th General Assembly on a contract
16 or subcontract for public works, records of all laborers,
17 mechanics, and other workers employed by them on the
18 project; the records shall include each worker's name,
19 address, telephone number when available, social security
20 number, classification or classifications, the hourly
21 wages paid in each pay period, the number of hours worked
22 each day, and the starting and ending times of work each
23 day; and

1 (2) no later than the tenth day of each calendar month
2 file a certified payroll for the immediately preceding
3 month with the public body in charge of the project. A
4 certified payroll must be filed for only those calendar
5 months during which construction on a public works project
6 has occurred. The certified payroll shall consist of a
7 complete copy of the records identified in paragraph (1) of
8 this subsection (a), but may exclude the starting and
9 ending times of work each day. The certified payroll shall
10 be accompanied by a statement signed by the contractor or
11 subcontractor or an officer, employee, or agent of the
12 contractor or subcontractor which avers that: (i) he or she
13 has examined the certified payroll records required to be
14 submitted by the Act and such records are true and
15 accurate; (ii) the hourly rate paid to each worker is not
16 less than the general prevailing rate of hourly wages
17 required by this Act; and (iii) the contractor or
18 subcontractor is aware that filing a certified payroll that
19 he or she knows to be false is a Class A misdemeanor. A
20 general contractor is not prohibited from relying on the
21 certification of a lower tier subcontractor, provided the
22 general contractor does not knowingly rely upon a
23 subcontractor's false certification. Any contractor or
24 subcontractor subject to this Act and any officer,
25 employee, or agent of such contractor or subcontractor
26 whose duty as such officer, employee, or agent it is to

1 file such certified payroll who willfully fails to file
2 such a certified payroll on or before the date such
3 certified payroll is required by this paragraph to be filed
4 and any person who willfully files a false certified
5 payroll that is false as to any material fact is in
6 violation of this Act and guilty of a Class A misdemeanor.
7 The public body in charge of the project shall keep the
8 records submitted in accordance with this paragraph (2) of
9 subsection (a) before the effective date of this amendatory
10 Act of the 98th General Assembly for a period of not less
11 than 3 years, and the records submitted in accordance with
12 this paragraph (2) of subsection (a) on or after the
13 effective date of this amendatory Act of the 98th General
14 Assembly for a period of 5 years, from the date of the last
15 payment for work on a contract or subcontract for public
16 works. The records submitted in accordance with this
17 paragraph (2) of subsection (a) shall be considered public
18 records, except an employee's address, telephone number,
19 and social security number, and made available in
20 accordance with the Freedom of Information Act. The public
21 body shall accept any reasonable submissions by the
22 contractor that meet the requirements of this Section.

23 A contractor, subcontractor, or public body may retain
24 records required under this Section in paper or electronic
25 format.

26 (b) Upon 7 business days' notice, the contractor and each

1 subcontractor shall make available for inspection and copying
2 at a location within this State during reasonable hours, the
3 records identified in paragraph (1) of subsection (a) of this
4 Section to the public body in charge of the project, its
5 officers and agents, the Director of Labor and his deputies and
6 agents, and to federal, State, or local law enforcement
7 agencies and prosecutors.

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

9 (820 ILCS 130/11) (from Ch. 48, par. 39s-11)

10 Sec. 11. No public works project shall be instituted unless
11 the provisions of this Act have been complied with. The
12 provisions of this Act shall not be applicable to Federal
13 construction projects which require a prevailing wage
14 determination by the United States Secretary of Labor. The
15 Illinois Department of Labor represented by the Attorney
16 General is empowered to sue for injunctive relief against the
17 awarding of any contract or the continuation of work under any
18 contract for public works at a time when the prevailing wage
19 prerequisites have not been met. Any contract for public works
20 awarded at a time when the prevailing wage prerequisites had
21 not been met shall be void as against public policy and the
22 contractor is prohibited from recovering any damages for the
23 voiding of the contract or pursuant to the terms of the
24 contract. The contractor is limited to a claim for amounts
25 actually paid for labor and materials supplied to the public

1 body. Where objections to a determination of the prevailing
2 rate of wages or a court action relative thereto is pending,
3 the public body shall not continue work on the project unless
4 sufficient funds are available to pay increased wages if such
5 are finally determined or unless the Department of Labor
6 certifies such determination of the prevailing rate of wages as
7 correct.

8 Any laborer, worker or mechanic employed by the contractor
9 or by any sub-contractor under him who is paid for his services
10 in a sum less than the stipulated rates for work done under
11 such contract, shall have a right of action for whatever
12 difference there may be between the amount so paid, and the
13 rates provided by the contract together with costs and such
14 reasonable attorney's fees as shall be allowed by the court.
15 Such contractor or subcontractor shall also be liable to the
16 Department of Labor for 20% of such underpayments and shall be
17 additionally liable to the laborer, worker or mechanic for
18 punitive damages in the amount of 2% of the amount of any such
19 penalty to the State for underpayments for each month following
20 the date of payment during which such underpayments remain
21 unpaid. Where a second or subsequent action to recover
22 underpayments is brought against a contractor or subcontractor
23 and the contractor or subcontractor is found liable for
24 underpayments to any laborer, worker, or mechanic, the
25 contractor or subcontractor shall also be liable to the
26 Department of Labor for 50% of the underpayments payable as a

1 result of the second or subsequent action, and shall be
2 additionally liable for 5% of the amount of any such penalty to
3 the State for underpayments for each month following the date
4 of payment during which the underpayments remain unpaid. The
5 Department shall also have a right of action on behalf of any
6 individual who has a right of action under this Section. An
7 action brought to recover same shall be deemed to be a suit for
8 wages, and any and all judgments entered therein shall have the
9 same force and effect as other judgments for wages. The action
10 shall be brought within 5 years from the date of the failure to
11 pay the wages or compensation. At the request of any laborer,
12 workman or mechanic employed by the contractor or by any
13 subcontractor under him who is paid less than the prevailing
14 wage rate required by this Act, the Department of Labor may
15 take an assignment of such wage claim in trust for the
16 assigning laborer, workman or mechanic and may bring any legal
17 action necessary to collect such claim, and the contractor or
18 subcontractor shall be required to pay the costs incurred in
19 collecting such claim.

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