



Rep. Jay Hoffman

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LRB098 03769 JLS 44820 a

1 AMENDMENT TO HOUSE BILL 924

2 AMENDMENT NO. _____. Amend House Bill 924 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Prevailing Wage Act is amended by changing
5 Sections 2, 4, and 5 as follows:

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

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

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

15 "Public works" means all fixed works constructed or
16 demolished by any public body, or paid for wholly or in part

1 out of public funds. "Public works" as defined herein includes
2 all projects financed in whole or in part with bonds, grants,
3 loans, or other funds made available by or through the State or
4 any of its political subdivisions, including but not limited
5 to: bonds issued under the Industrial Project Revenue Bond Act
6 (Article 11, Division 74 of the Illinois Municipal Code), the
7 Industrial Building Revenue Bond Act, the Illinois Finance
8 Authority Act, the Illinois Sports Facilities Authority Act, or
9 the Build Illinois Bond Act; loans or other funds made
10 available pursuant to the Build Illinois Act; or funds from the
11 Fund for Illinois' Future under Section 6z-47 of the State
12 Finance Act, funds for school construction under Section 5 of
13 the General Obligation Bond Act, funds authorized under Section
14 3 of the School Construction Bond Act, funds for school
15 infrastructure under Section 6z-45 of the State Finance Act,
16 and funds for transportation purposes under Section 4 of the
17 General Obligation Bond Act. "Public works" also includes (i)
18 all projects financed in whole or in part with funds from the
19 Department of Commerce and Economic Opportunity under the
20 Illinois Renewable Fuels Development Program Act for which
21 there is no project labor agreement; (ii) all work performed
22 pursuant to a public private agreement under the Public Private
23 Agreements for the Illiana Expressway Act; and (iii) all
24 projects undertaken under a public-private agreement under the
25 Public-Private Partnerships for Transportation Act. "Public
26 works" also includes all projects at leased facility property

1 used for airport purposes under Section 35 of the Local
2 Government Facility Lease Act. "Public works" also includes the
3 construction of a new wind power facility by a business
4 designated as a High Impact Business under Section 5.5(a)(3)(E)
5 of the Illinois Enterprise Zone Act. "Public works" does not
6 include work done directly by any public utility company,
7 whether or not done under public supervision or direction, or
8 paid for wholly or in part out of public funds. "Public works"
9 does not include projects undertaken by the owner at an
10 owner-occupied single-family residence or at an owner-occupied
11 unit of a multi-family residence.

12 "Construction" means all work on public works involving
13 laborers, workers or mechanics. This includes any maintenance,
14 repair, assembly, or disassembly work performed on equipment
15 whether owned, leased, or rented.

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

1 construed to include two or more adjacent counties from which
2 workers may be accessible for work on such construction.

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

12 The terms "general prevailing rate of hourly wages",
13 "general prevailing rate of wages" or "prevailing rate of
14 wages" when used in this Act mean the hourly cash wages plus
15 fringe benefits for training and apprenticeship programs
16 approved by the U.S. Department of Labor, Bureau of
17 Apprenticeship and Training, health and welfare, insurance,
18 vacations and pensions paid generally, in the locality in which
19 the work is being performed, to employees engaged in work of a
20 similar character on public works.

21 "Responsible bidder" means those individuals or firms
22 meeting the requirements of Section 30-22 of the Illinois
23 Procurement Code.

24 (Source: P.A. 96-28, eff. 7-1-09; 96-58, eff. 1-1-10; 96-186,
25 eff. 1-1-10; 96-913, eff. 6-9-10; 96-1000, eff. 7-2-10; 97-502,
26 eff. 8-23-11.)

1 (820 ILCS 130/4) (from Ch. 48, par. 39s-4)

2 Sec. 4. Ascertaining prevailing wage.

3 (a) The public body awarding any contract for public work
4 or otherwise undertaking any public works, shall ascertain the
5 general prevailing rate of hourly wages in the locality in
6 which the work is to be performed, for each craft or type of
7 worker or mechanic needed to execute the contract, and where
8 the public body performs the work without letting a contract
9 therefor, shall ascertain the prevailing rate of wages on a per
10 hour basis in the locality, and such public body shall specify
11 in the resolution or ordinance and in the call for bids for the
12 contract, that the general prevailing rate of wages in the
13 locality for each craft or type of worker or mechanic needed to
14 execute the contract or perform such work, also the general
15 prevailing rate for legal holiday and overtime work, as
16 ascertained by the public body or by the Department of Labor
17 shall be paid for each craft or type of worker needed to
18 execute the contract or to perform such work, and it shall be
19 mandatory upon the contractor to whom the contract is awarded
20 and upon any subcontractor under him, and where the public body
21 performs the work, upon the public body, to pay not less than
22 the specified rates to all laborers, workers and mechanics
23 employed by them in the execution of the contract or such work;
24 provided, however, that if the public body desires that the
25 Department of Labor ascertain the prevailing rate of wages, it

1 shall notify the Department of Labor to ascertain the general
2 prevailing rate of hourly wages for work under contract, or for
3 work performed by a public body without letting a contract as
4 required in the locality in which the work is to be performed,
5 for each craft or type of worker or mechanic needed to execute
6 the contract or project or work to be performed. Upon such
7 notification the Department of Labor shall ascertain such
8 general prevailing rate of wages, and certify the prevailing
9 wage to such public body.

10 (a-0.5) To effectuate the purpose and policy of this Act, a
11 public body awarding a contract for public work or otherwise
12 undertaking any public works shall specify in the call for bids
13 and shall require that each bidder be a responsible bidder.

14 (a-1) The public body or other entity awarding the contract
15 shall cause to be inserted in the project specifications and
16 the contract a stipulation to the effect that not less than the
17 prevailing rate of wages as found by the public body or
18 Department of Labor or determined by the court on review shall
19 be paid to all laborers, workers and mechanics performing work
20 under the contract.

21 (a-2) When a public body or other entity covered by this
22 Act has awarded work to a contractor without a public bid,
23 contract or project specification, such public body or other
24 entity shall comply with subsection (a-1) by providing the
25 contractor with written notice on the purchase order related to
26 the work to be done or on a separate document indicating that

1 not less than the prevailing rate of wages as found by the
2 public body or Department of Labor or determined by the court
3 on review shall be paid to all laborers, workers, and mechanics
4 performing work on the project.

5 (a-3) Where a complaint is made and the Department of Labor
6 determines that a violation occurred, the Department of Labor
7 shall determine if proper written notice under this Section 4
8 was given. If proper written notice was not provided to the
9 contractor by the public body or other entity, the Department
10 of Labor shall order the public body or other entity to pay any
11 interest, penalties or fines that would have been owed by the
12 contractor if proper written notice were provided. The failure
13 by a public body or other entity to provide written notice does
14 not relieve the contractor of the duty to comply with the
15 prevailing wage rate, nor of the obligation to pay any back
16 wages, as determined under this Act. For the purposes of this
17 subsection, back wages shall be limited to the difference
18 between the actual amount paid and the prevailing rate of wages
19 required to be paid for the project. The failure of a public
20 body or other entity to provide written notice under this
21 Section 4 does not diminish the right of a laborer, worker, or
22 mechanic to the prevailing rate of wages as determined under
23 this Act.

24 (b) It shall also be mandatory upon the contractor to whom
25 the contract is awarded to insert into each subcontract and
26 into the project specifications for each subcontract a written

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

12 (b-1) When a contractor has awarded work to a subcontractor
13 without a contract or contract specification, the contractor
14 shall comply with subsection (b) by providing a subcontractor
15 with a written statement indicating that not less than the
16 prevailing rate of wages shall be paid to all laborers,
17 workers, and mechanics performing work on the project. A
18 contractor or subcontractor who fails to comply with this
19 subsection (b-1) is in violation of this Act.

20 (b-2) Where a complaint is made and the Department of Labor
21 determines that a violation has occurred, the Department of
22 Labor shall determine if proper written notice under this
23 Section 4 was given. If proper written notice was not provided
24 to the subcontractor by the contractor, the Department of Labor
25 shall order the contractor to pay any interest, penalties, or
26 fines that would have been owed by the subcontractor if proper

1 written notice were provided. The failure by a contractor to
2 provide written notice to a subcontractor does not relieve the
3 subcontractor of the duty to comply with the prevailing wage
4 rate, nor of the obligation to pay any back wages, as
5 determined under this Act. For the purposes of this subsection,
6 back wages shall be limited to the difference between the
7 actual amount paid and the prevailing rate of wages required
8 for the project. However, if proper written notice was not
9 provided to the contractor by the public body or other entity
10 under this Section 4, the Department of Labor shall order the
11 public body or other entity to pay any interest, penalties, or
12 fines that would have been owed by the subcontractor if proper
13 written notice were provided. The failure by a public body or
14 other entity to provide written notice does not relieve the
15 subcontractor of the duty to comply with the prevailing wage
16 rate, nor of the obligation to pay any back wages, as
17 determined under this Act. For the purposes of this subsection,
18 back wages shall be limited to the difference between the
19 actual amount paid and the prevailing rate of wages required
20 for the project. The failure to provide written notice by a
21 public body, other entity, or contractor does not diminish the
22 right of a laborer, worker, or mechanic to the prevailing rate
23 of wages as determined under this Act.

24 (c) A public body or other entity shall also require in all
25 contractor's and subcontractor's bonds that the contractor or
26 subcontractor include such provision as will guarantee the

1 faithful performance of such prevailing wage clause as provided
2 by contract or other written instrument. All bid specifications
3 shall list the specified rates to all laborers, workers and
4 mechanics in the locality for each craft or type of worker or
5 mechanic needed to execute the contract.

6 (d) If the Department of Labor revises the prevailing rate
7 of hourly wages to be paid by the public body or other entity,
8 the revised rate shall apply to such contract, and the public
9 body or other entity shall be responsible to notify the
10 contractor and each subcontractor, of the revised rate.

11 The public body or other entity shall discharge its duty to
12 notify of the revised rates by inserting a written stipulation
13 in all contracts or other written instruments that states the
14 prevailing rate of wages are revised by the Department of Labor
15 and are available on the Department's official website. This
16 shall be deemed to be proper notification of any rate changes
17 under this subsection.

18 (e) Two or more investigatory hearings under this Section
19 on the issue of establishing a new prevailing wage
20 classification for a particular craft or type of worker shall
21 be consolidated in a single hearing before the Department. Such
22 consolidation shall occur whether each separate investigatory
23 hearing is conducted by a public body or the Department. The
24 party requesting a consolidated investigatory hearing shall
25 have the burden of establishing that there is no existing
26 prevailing wage classification for the particular craft or type

1 of worker in any of the localities under consideration.

2 (f) It shall be mandatory upon the contractor or
3 construction manager to whom a contract for public works is
4 awarded to post, at a location on the project site of the
5 public works that is easily accessible to the workers engaged
6 on the project, the prevailing wage rates for each craft or
7 type of worker or mechanic needed to execute the contract or
8 project or work to be performed. In lieu of posting on the
9 project site of the public works, a contractor which has a
10 business location where laborers, workers, and mechanics
11 regularly visit may: (1) post in a conspicuous location at that
12 business the current prevailing wage rates for each county in
13 which the contractor is performing work; or (2) provide such
14 laborer, worker, or mechanic engaged on the public works
15 project a written notice indicating the prevailing wage rates
16 for the public works project. A failure to post or provide a
17 prevailing wage rate as required by this Section is a violation
18 of this Act.

19 (Source: P.A. 96-437, eff. 1-1-10; 97-964, eff. 1-1-13.)

20 (820 ILCS 130/5) (from Ch. 48, par. 39s-5)

21 Sec. 5. Certified payroll.

22 (a) Any contractor and each subcontractor who participates
23 in public works shall:

24 (1) make and keep, for a period of not less than 3
25 years from the date of the last payment on a contract or

1 subcontract for public works, records of all laborers,
2 mechanics, and other workers employed by them on the
3 project; the records shall include each worker's name,
4 address, telephone number when available, social security
5 number, classification or classifications, the hourly
6 wages paid in each pay period, the number of hours worked
7 each day, and the starting and ending times of work each
8 day; ~~and~~

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

1 he or she knows to be false is a Class A misdemeanor. A
2 general contractor is not prohibited from relying on the
3 certification of a lower tier subcontractor, provided the
4 general contractor does not knowingly rely upon a
5 subcontractor's false certification. Any contractor or
6 subcontractor subject to this Act and any officer,
7 employee, or agent of such contractor or subcontractor
8 whose duty as such officer, employee, or agent it is to
9 file such certified payroll who willfully fails to file
10 such a certified payroll on or before the date such
11 certified payroll is required by this paragraph to be filed
12 and any person who willfully files a false certified
13 payroll that is false as to any material fact is in
14 violation of this Act and guilty of a Class A misdemeanor.
15 The public body in charge of the project shall keep the
16 records submitted in accordance with this paragraph (2) of
17 subsection (a) for a period of not less than 3 years from
18 the date of the last payment for work on a contract or
19 subcontract for public works. The records submitted in
20 accordance with this paragraph (2) of subsection (a) shall
21 be considered public records, except an employee's
22 address, telephone number, and social security number, and
23 made available in accordance with the Freedom of
24 Information Act. The public body shall accept any
25 reasonable submissions by the contractor that meet the
26 requirements of this Section; and.

1 (3) identify and report to the public body in charge of
2 the project the number of hours worked by minorities and
3 females, as defined in the Illinois Human Rights Act, for
4 each craft or type of worker or mechanic needed to execute
5 the contract. Each contractor and subcontractor shall
6 provide this information on a certified payroll report, or
7 on a monthly manpower utilization report.

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

16 (c) No later than October 1 of each year, the following
17 State agencies shall submit a report to the General Assembly
18 compiling the total number of hours worked during the
19 immediately preceding fiscal year by minorities and females as
20 reported in accordance with subsection (a): the Illinois
21 Capital Development Board, Illinois Department of
22 Transportation, and Illinois State Toll Highway Authority.
23 This report shall be filed as provided in Section 3.1 of the
24 General Assembly Organization Act.

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