



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB2364

by Rep. Jim Sacia

#### SYNOPSIS AS INTRODUCED:

30 ILCS 500/30-22	
820 ILCS 130/2	from Ch. 48, par. 39s-2
820 ILCS 130/3	from Ch. 48, par. 39s-3
820 ILCS 130/4	from Ch. 48, par. 39s-4
820 ILCS 130/5	from Ch. 48, par. 39s-5
820 ILCS 130/9	from Ch. 48, par. 39s-9
820 ILCS 130/11a	from Ch. 48, par. 39s-11a
820 ILCS 130/11c new	

Amends the Illinois Procurement Code. Provides that bidders shall participate in apprenticeship and training programs for trades the bidder specifies in the bid will be used in the performance of the contract. Amends the Prevailing Wage Act. Excludes projects with a total cost of \$25,000 or less, certain projects to be used for private purposes, and certain projects for charitable organizations. Excludes maintenance, repair, assembly, and disassembly work performed on equipment. Allows an action for damages for false complaints under the Act. Provides that a prevailing wage determined at the time of bid submission shall continue for the duration of the contract. Prohibits public bodies from denying a contract to a contractor based upon a complaint under the Act unless the contractor is debarred at the time of the bid; pre-empts home rule.

LRB098 06623 JLS 36666 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 Illinois Procurement Code is amended by  
5 changing Section 30-22 as follows:

6 (30 ILCS 500/30-22)

7 Sec. 30-22. Construction contracts; responsible bidder  
8 requirements. To be considered a responsible bidder on a  
9 construction contract for purposes of this Code, a bidder must  
10 comply with all of the following requirements and must present  
11 satisfactory evidence of that compliance to the appropriate  
12 construction agency:

13 (1) The bidder must comply with all applicable laws  
14 concerning the bidder's entitlement to conduct business in  
15 Illinois.

16 (2) The bidder must comply with all applicable  
17 provisions of the Prevailing Wage Act.

18 (3) The bidder must comply with Subchapter VI ("Equal  
19 Employment Opportunities") of Chapter 21 of Title 42 of the  
20 United States Code (42 U.S.C. 2000e and following) and with  
21 Federal Executive Order No. 11246 as amended by Executive  
22 Order No. 11375.

23 (4) The bidder must have a valid Federal Employer

1 Identification Number or, if an individual, a valid Social  
2 Security Number.

3 (5) The bidder must have a valid certificate of  
4 insurance showing the following coverages: general  
5 liability, professional liability, product liability,  
6 workers' compensation, completed operations, hazardous  
7 occupation, and automobile.

8 (6) The bidder and all bidder's subcontractors must  
9 participate in ~~applicable~~ apprenticeship and training  
10 programs, if any, that are (i) for those trades that the  
11 bidder specifies in the bid will be used by the bidder or  
12 the bidder's subcontractors in the performance of the  
13 contract and (ii) approved by and registered with the  
14 United States Department of Labor's Employment and  
15 Training Administration, Office ~~Bureau~~ of Apprenticeship  
16 and Training. For the purposes of this item (6),  
17 participation shall meet all United States Department of  
18 Labor standards and "participate" shall mean:

19 (i) a contractor or subcontractor not affiliated  
20 with a collective bargaining unit shall provide a  
21 certificate of registration issued by the United  
22 States Department of Labor to the individual  
23 contractor or to a program sponsor of the apprentice  
24 program when the contractor or subcontractor  
25 participates as part of a group; the contractor or  
26 subcontractor shall also provide evidence that it is in

1           "good standing" with the program sponsor when  
2           participation is through a group with training  
3           approved by the United States Department of Labor; or  
4           (ii) a contractor or subcontractor affiliated with  
5           a collective bargaining unit shall provide a copy of  
6           the affiliated collective bargaining unit's  
7           certificate of registration issued by the United  
8           States Department of Labor and evidence from the  
9           collective bargaining unit it is affiliated with that  
10          the contractor is in good standing.

11           (7) For contracts with the Illinois Power Agency, the  
12          Director of the Illinois Power Agency may establish  
13          additional requirements for responsible bidders. These  
14          additional requirements, if established, shall be set  
15          forth together with the other criteria contained in the  
16          invitation for bids, and shall appear in the appropriate  
17          volume of the Illinois Procurement Bulletin.

18           (8) The bidder must submit a signed affidavit stating  
19          that the bidder will maintain an Illinois office as the  
20          primary place of employment for persons employed in the  
21          construction authorized by the contract.

22          The provisions of this Section shall not apply to federally  
23          funded construction projects if such application would  
24          jeopardize the receipt or use of federal funds in support of  
25          such a project.

26          (Source: P.A. 97-369, eff. 8-15-11.)

1 Section 10. The Prevailing Wage Act is amended by changing  
2 Sections 2, 3, 4, 5, 9, and 11a and adding 11c as follows:

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

4 Sec. 2. Except for projects with a total cost of \$25,000 or  
5 less, this ~~This~~ Act applies to the wages of laborers, mechanics  
6 and other workers employed in any public works, as hereinafter  
7 defined, by any public body and to anyone under contracts for  
8 public works. ~~This includes any maintenance, repair, assembly,~~  
9 ~~or disassembly work performed on equipment whether owned,~~  
10 ~~leased, or rented.~~

11 As used in this Act, unless the context indicates  
12 otherwise:

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

1 Fund for Illinois' Future under Section 6z-47 of the State  
2 Finance Act, funds for school construction under Section 5 of  
3 the General Obligation Bond Act, funds authorized under Section  
4 3 of the School Construction Bond Act, funds for school  
5 infrastructure under Section 6z-45 of the State Finance Act,  
6 and funds for transportation purposes under Section 4 of the  
7 General Obligation Bond Act. "Public works" also includes (i)  
8 all projects financed in whole or in part with funds from the  
9 Department of Commerce and Economic Opportunity under the  
10 Illinois Renewable Fuels Development Program Act for which  
11 there is no project labor agreement; (ii) all work performed  
12 pursuant to a public private agreement under the Public Private  
13 Agreements for the Illiana Expressway Act; and (iii) all  
14 projects undertaken under a public-private agreement under the  
15 Public-Private Partnerships for Transportation Act. "Public  
16 works" also includes all projects at leased facility property  
17 used for airport purposes under Section 35 of the Local  
18 Government Facility Lease Act. "Public works" also includes the  
19 construction of a new wind power facility by a business  
20 designated as a High Impact Business under Section 5.5(a)(3)(E)  
21 of the Illinois Enterprise Zone Act. "Public works" does not  
22 include work done directly by any public utility company,  
23 whether or not done under public supervision or direction, or  
24 paid for wholly or in part out of public funds. "Public works"  
25 does not include projects undertaken by the owner at an  
26 owner-occupied single-family residence or at an owner-occupied

1 unit of a multi-family residence. "Public works" does not  
2 include any project performed for a charitable organization  
3 where all or a majority of the wages performed are donated.

4 "Public works" does not include any project that is to be  
5 used for private purposes, the work is done by private  
6 contractors and subcontractors, and no less than 70% of the  
7 project's financing is provided by private sources.

8 "Charitable organization" means any entity that has been  
9 designated as a 501(c)(3) organization by the United States  
10 Treasury.

11 "Compensatory damages" or "actual damages" are the sum of  
12 economic and non-economic damages.

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

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

1 of the Secretary of the Department of Transportation be  
2 construed to include two or more adjacent counties from which  
3 workers may be accessible for work on such construction.

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

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

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

25 (820 ILCS 130/3) (from Ch. 48, par. 39s-3)



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

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

23           (820 ILCS 130/4) (from Ch. 48, par. 39s-4)

24           Sec. 4. Ascertaining prevailing wage.

25           (a) The public body awarding any contract for public work

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

1 for each craft or type of worker or mechanic needed to execute  
2 the contract or project or work to be performed. Upon such  
3 notification the Department of Labor shall ascertain such  
4 general prevailing rate of wages, and certify the prevailing  
5 wage to such public body.

6 (a-1) The public body or other entity awarding the contract  
7 shall cause to be inserted in the project specifications and  
8 the contract a stipulation to the effect that not less than the  
9 prevailing rate of wages as found by the public body or  
10 Department of Labor or determined by the court on review shall  
11 be paid to all laborers, workers and mechanics performing work  
12 under the contract.

13 (a-2) When a public body or other entity covered by this  
14 Act has awarded work to a contractor without a public bid,  
15 contract or project specification, such public body or other  
16 entity shall comply with subsection (a-1) by providing the  
17 contractor with written notice on the purchase order related to  
18 the work to be done or on a separate document indicating that  
19 not less than the prevailing rate of wages as found by the  
20 public body or Department of Labor or determined by the court  
21 on review shall be paid to all laborers, workers, and mechanics  
22 performing work on the project.

23 (a-3) Where a complaint is made and the Department of Labor  
24 determines that a violation occurred, the Department of Labor  
25 shall determine if proper written notice under this Section 4  
26 was given. If proper written notice was not provided to the

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

16 (a-4) Any individual, contractor, subcontractor, or public  
17 body who has been aggrieved by a falsely filed complaint may  
18 institute a civil action for damages including, but not limited  
19 to, compensatory damages, legal fees, administrative fees,  
20 penalties assessed by the Department of Labor pursuant to the  
21 complaint, injunctive relief, and other appropriate equitable  
22 relief. Any person found to knowingly file a false complaint  
23 shall be liable to the individual, contractor, subcontractor,  
24 or public body who was falsely accused for damages as provided  
25 in this subsection.

26 (b) It shall also be mandatory upon the contractor to whom

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

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

22 (b-2) Where a complaint is made and the Department of Labor  
23 determines that a violation has occurred, the Department of  
24 Labor shall determine if proper written notice under this  
25 Section 4 was given. If proper written notice was not provided  
26 to the subcontractor by the contractor, the Department of Labor

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

26 (c) A public body or other entity shall also require in all

1 contractor's and subcontractor's bonds that the contractor or  
2 subcontractor include such provision as will guarantee the  
3 faithful performance of such prevailing wage clause as provided  
4 by contract or other written instrument. All bid specifications  
5 shall list the specified rates to all laborers, workers and  
6 mechanics in the locality for each craft or type of worker or  
7 mechanic needed to execute the contract.

8 (d) Any prevailing rate determined by a public body or the  
9 Department at the time of bid submission shall be the rate  
10 applicable for the duration of the contract awarded by the  
11 public body. ~~If the Department of Labor revises the prevailing~~  
12 ~~rate of hourly wages to be paid by the public body or other~~  
13 ~~entity, the revised rate shall apply to such contract, and the~~  
14 ~~public body or other entity shall be responsible to notify the~~  
15 ~~contractor and each subcontractor, of the revised rate.~~

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

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

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

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

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

25 (820 ILCS 130/5) (from Ch. 48, par. 39s-5)



1           Sec. 5. Certified payroll.

2           (a) Any contractor and each subcontractor who participates  
3 in public works shall:

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

14           (2) no later than the 15th ~~tenth~~ day of each calendar  
15 month file a certified payroll for the immediately  
16 preceding month with the public body in charge of the  
17 project. A certified payroll must be filed for only those  
18 calendar months during which construction on a public works  
19 project has occurred. The certified payroll shall consist  
20 of a complete copy of the records identified in paragraph  
21 (1) of this subsection (a), but may exclude the personal  
22 address, personal telephone number, and social security  
23 number, and the starting and ending times of work each day.  
24 The certified payroll shall be accompanied by a statement  
25 signed by the contractor or subcontractor or an officer,  
26 employee, or agent of the contractor or subcontractor which

1       avers that: (i) he or she has examined the certified  
2 payroll records required to be submitted by the Act and  
3 such records are true and accurate; (ii) the hourly rate  
4 paid to each worker is not less than the general prevailing  
5 rate of hourly wages required by this Act; and (iii) the  
6 contractor or subcontractor is aware that filing a  
7 certified payroll that he or she knows to be false is a  
8 Class A misdemeanor. A general contractor is not prohibited  
9 from relying on the certification of a lower tier  
10 subcontractor, provided the general contractor does not  
11 knowingly rely upon a subcontractor's false certification.  
12 Any contractor or subcontractor subject to this Act and any  
13 officer, employee, or agent of such contractor or  
14 subcontractor whose duty as such officer, employee, or  
15 agent it is to file such certified payroll who willfully  
16 fails to file such a certified payroll on or before the  
17 date such certified payroll is required by this paragraph  
18 to be filed and any person who willfully files a false  
19 certified payroll that is false as to any material fact is  
20 in violation of this Act and guilty of a Class A  
21 misdemeanor. The public body in charge of the project shall  
22 keep the records submitted in accordance with this  
23 paragraph (2) of subsection (a) for a period of not less  
24 than 3 years from the date of the last payment for work on  
25 a contract or subcontract for public works. The records  
26 submitted in accordance with this paragraph (2) of

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

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

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

16 (820 ILCS 130/9) (from Ch. 48, par. 39s-9)

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

1 Illinois Department of Labor.

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

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

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

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

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

25 The public body or Department of Labor, whichever has made  
26 such determination, is authorized in its discretion to hear

1 each written objection filed separately or consolidate for  
2 hearing any one or more written objections filed with them. At  
3 such hearing the public body or Department of Labor shall  
4 introduce in evidence the investigation it instituted which  
5 formed the basis of its determination, and the public body or  
6 Department of Labor, or any interested objectors may thereafter  
7 introduce such evidence as is material to the issue.  
8 Thereafter, the public body or Department of Labor, must rule  
9 upon the written objection and make such final determination as  
10 it believes the evidence warrants, and promptly file a  
11 certified copy of its final determination with such public body  
12 and the Secretary of State, and serve a copy by personal  
13 service or registered mail on all parties to the proceedings.  
14 The final determination by the Department of Labor or a public  
15 body shall be rendered within 30 days after the conclusion of  
16 the hearing.

17 If proceedings to review judicially the final  
18 determination of the public body or Department of Labor are not  
19 instituted as hereafter provided, such determination shall be  
20 final and binding.

21 The provisions of the Administrative Review Law, and all  
22 amendments and modifications thereof, and the rules adopted  
23 pursuant thereto, shall apply to and govern all proceedings for  
24 the judicial review of final administrative decisions of any  
25 public body or the Department of Labor hereunder. The term  
26 "administrative decision" is defined as in Section 3-101 of the

1 Code of Civil Procedure.

2 Appeals from all final orders and judgments entered by the  
3 court in review of the final administrative decision of the  
4 public body or Department of Labor, may be taken by any party  
5 to the action.

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

10 In all reviews or appeals under this Act, it shall be the  
11 duty of the Attorney General to represent the Department of  
12 Labor, and defend its determination. The Attorney General shall  
13 not represent any public body, except the State, in any such  
14 review or appeal.

15 Notwithstanding the provisions of this Section, any  
16 prevailing rate determined by a public body or the Department  
17 at the time of bid submission shall be the rate applicable for  
18 the duration of the contract awarded by the public body.

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

20 (820 ILCS 130/11a) (from Ch. 48, par. 39s-11a)

21 Sec. 11a. The Director of the Department of Labor shall  
22 publish in the Illinois Register no less often than once each  
23 calendar quarter a list of contractors or subcontractors found  
24 to have disregarded their obligations to employees under this  
25 Act. The Department of Labor shall determine the contractors or

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

21 A contractor or subcontractor convicted or found guilty  
22 under Section 5 or 6 of this Act shall be subject to an  
23 automatic and immediate debarment, thereafter prohibited from  
24 participating in any public works project for 4 years, ~~with no~~  
25 ~~right to a hearing.~~

26 No public body, including a home rule unit, is authorized



1 to use as a basis for denying a contract to a contractor or  
2 subcontractor any complaint filed with the Department or any  
3 determination by the Department that the contractor or  
4 subcontractor has committed a violation of the Act, unless the  
5 contractor or subcontractor is debarred at the time of the bid  
6 as provided under this Section. This subsection is a limitation  
7 under subsection (i) of Section 6 of Article VII of the  
8 Illinois Constitution on the concurrent exercise by home rule  
9 units of powers and functions exercised by the State.

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

11 (820 ILCS 130/11c new)

12 Sec. 11c. Department investigations. No investigation of a  
13 complaint filed under this Act shall be commenced unless the  
14 Department determines the identity of the complaining party and  
15 the specific facts that cause the alleged violation of the Act  
16 and the reason for the complaint to be filed. Upon the request  
17 of the contractor or subcontractor being investigated, the  
18 Department shall disclose the identity of any third party  
19 complainants and the facts that cause the alleged violation. In  
20 no case shall the Department disclose the identity of any  
21 complaining person who is an employee of the contractor or  
22 subcontractor that is the subject of the complaint.

23 The Department shall notify any complainants that their  
24 complaint is subject to certification and penalties of perjury  
25 under the law.