

SB2762



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB2762

Introduced 2/17/2016, by Sen. Jason A. Barickman

SYNOPSIS AS INTRODUCED:

820 ILCS 130/4

from Ch. 48, par. 39s-4

Amends the Prevailing Wage Act. Deletes provisions regarding investigatory hearings by the Department of Labor regarding new wage classifications. Requires the creation of any new prevailing wage classification to be promulgated by administrative rule by the Department of Labor in accordance with the Illinois Administrative Procedure Act.

LRB099 18274 JLS 42645 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 Prevailing Wage Act is amended by changing
5 Section 4 as follows:

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

7 Sec. 4. Ascertaining prevailing wage.

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

1 mandatory upon the contractor to whom the contract is awarded
2 and upon any subcontractor under him, and where the public body
3 performs the work, upon the public body, to pay not less than
4 the specified rates to all laborers, workers and mechanics
5 employed by them in the execution of the contract or such work;
6 provided, however, that if the public body desires that the
7 Department of Labor ascertain the prevailing rate of wages, it
8 shall notify the Department of Labor to ascertain the general
9 prevailing rate of hourly wages for work under contract, or for
10 work performed by a public body without letting a contract as
11 required in the locality in which the work is to be performed,
12 for each craft or type of worker or mechanic needed to execute
13 the contract or project or work to be performed. Upon such
14 notification the Department of Labor shall ascertain such
15 general prevailing rate of wages, and certify the prevailing
16 wage to such public body.

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

24 (a-2) When a public body or other entity covered by this
25 Act has awarded work to a contractor without a public bid,
26 contract or project specification, such public body or other

1 entity shall comply with subsection (a-1) by providing the
2 contractor with written notice on the purchase order related to
3 the work to be done or on a separate document indicating that
4 not less than the prevailing rate of wages as found by the
5 public body or Department of Labor or determined by the court
6 on review shall be paid to all laborers, workers, and mechanics
7 performing work on the project.

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

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

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

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

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

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

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

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

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

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

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

22 (g) The creation of any new prevailing wage classification
23 shall be promulgated by administrative rule by the Department
24 of Labor in accordance with the Illinois Administrative
25 Procedure Act.

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