

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 2, 4, 7, 9, and 10 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
17 out of public funds. "Public works" as defined herein includes
18 all projects financed in whole or in part with bonds, grants,
19 loans, or other funds made available by or through the State or
20 any of its political subdivisions, including but not limited
21 to: bonds issued under the Industrial Project Revenue Bond Act
22 (Article 11, Division 74 of the Illinois Municipal Code), the
23 Industrial Building Revenue Bond Act, the Illinois Finance

1 Authority Act, the Illinois Sports Facilities Authority Act, or
2 the Build Illinois Bond Act; loans or other funds made
3 available pursuant to the Build Illinois Act; loans or other
4 funds made available pursuant to the Riverfront Development
5 Fund under Section 10-15 of the River Edge Redevelopment Zone
6 Act; or funds from the Fund for Illinois' Future under Section
7 6z-47 of the State Finance Act, funds for school construction
8 under Section 5 of the General Obligation Bond Act, funds
9 authorized under Section 3 of the School Construction Bond Act,
10 funds for school infrastructure under Section 6z-45 of the
11 State Finance Act, and funds for transportation purposes under
12 Section 4 of the General Obligation Bond Act. "Public works"
13 also includes (i) all projects financed in whole or in part
14 with funds from the Department of Commerce and Economic
15 Opportunity under the Illinois Renewable Fuels Development
16 Program Act for which there is no project labor agreement; (ii)
17 all work performed pursuant to a public private agreement under
18 the Public Private Agreements for the Illiana Expressway Act or
19 the Public-Private Agreements for the South Suburban Airport
20 Act; and (iii) all projects undertaken under a public-private
21 agreement under the Public-Private Partnerships for
22 Transportation Act. "Public works" also includes all projects
23 at leased facility property used for airport purposes under
24 Section 35 of the Local Government Facility Lease Act. "Public
25 works" also includes the construction of a new wind power
26 facility by a business designated as a High Impact Business

1 under Section 5.5(a) (3) (E) of the Illinois Enterprise Zone Act.
2 "Public works" does not include work done directly by any
3 public utility company, whether or not done under public
4 supervision or direction, or paid for wholly or in part out of
5 public funds. "Public works" also includes any corrective
6 action performed pursuant to Title XVI of the Environmental
7 Protection Act for which payment from the Underground Storage
8 Tank Fund is requested. "Public works" does not include
9 projects undertaken by the owner at an owner-occupied
10 single-family residence or at an owner-occupied unit of a
11 multi-family residence. "Public works" does not include work
12 performed for soil and water conservation purposes on
13 agricultural lands, whether or not done under public
14 supervision or paid for wholly or in part out of public funds,
15 done directly by an owner or person who has legal control of
16 those lands.

17 "Construction" means all work on public works involving
18 laborers, workers or mechanics. This includes any maintenance,
19 repair, assembly, or disassembly work performed on equipment
20 whether owned, leased, or rented.

21 "Locality" means the county where the physical work upon
22 public works is performed, except (1) that if there is not
23 available in the county a sufficient number of competent
24 skilled laborers, workers and mechanics to construct the public
25 works efficiently and properly, "locality" includes any other
26 county nearest the one in which the work or construction is to

1 be performed and from which such persons may be obtained in
2 sufficient numbers to perform the work and (2) that, with
3 respect to contracts for highway work with the Department of
4 Transportation of this State, "locality" may at the discretion
5 of the Secretary of the Department of Transportation be
6 construed to include two or more adjacent counties from which
7 workers may be accessible for work on such construction.

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

17 "Labor organization" means an organization that is the
18 exclusive representative of an employer's employees recognized
19 or certified pursuant to the National Labor Relations Act.

20 The terms "general prevailing rate of hourly wages",
21 "general prevailing rate of wages" or "prevailing rate of
22 wages" when used in this Act mean the hourly cash wages plus
23 annualized fringe benefits for training and apprenticeship
24 programs approved by the U.S. Department of Labor, Bureau of
25 Apprenticeship and Training, health and welfare, insurance,
26 vacations and pensions paid generally, in the locality in which

1 the work is being performed, to employees engaged in work of a
2 similar character on public works.

3 (Source: P.A. 97-502, eff. 8-23-11; 98-109, eff. 7-25-13;
4 98-482, eff. 1-1-14; 98-740, eff. 7-16-14; 98-756, eff.
5 7-16-14.)

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

7 Sec. 4. Ascertaining prevailing wage.

8 (a) The prevailing rate of wages paid to individuals
9 covered under this Act shall not be less than the rate that
10 prevails for work of a similar character on public works in the
11 locality in which the work is performed under collective
12 bargaining agreements or understandings between employers or
13 employer associations and bona fide labor organizations
14 relating to each craft or type of worker or mechanic needed to
15 execute the contract or perform such work, and collective
16 bargaining agreements or understandings successor thereto,
17 provided that said employers or members of said employer
18 associations employ at least 30% of the laborers, workers, or
19 mechanics in the same trade or occupation in the locality where
20 the work is being performed.

21 (b) If the prevailing rates of wages and fringe benefits
22 cannot reasonably and fairly be applied in any locality because
23 no such agreements or understandings exist, the Department of
24 Labor shall determine the rates and fringe benefits for the
25 same or most similar work in the nearest and most similar

1 neighboring locality in which such agreements or
2 understandings exist. The Department of Labor shall keep a
3 record of its findings available for inspection by any
4 interested party in the office of the Department of Labor.

5 (c) In the event it is determined, after a written
6 objection is filed and hearing is held in accordance with
7 Section 9 of this Act, that less than 30% of the laborers,
8 workers, or mechanics in a particular trade or occupation in
9 the locality where the work is performed receive a collectively
10 bargained rate of wage, then the average wage paid to such
11 laborers, workers, or mechanics in the same trade or occupation
12 in the locality for the 12-month period preceding the
13 Department of Labor's annual determination shall be the
14 prevailing rate of wage.

15 (d) ~~(a)~~ The public body awarding any contract for public
16 work or otherwise undertaking any public works, ~~shall ascertain~~
17 ~~the general prevailing rate of hourly wages in the locality in~~
18 ~~which the work is to be performed, for each craft or type of~~
19 ~~worker or mechanic needed to execute the contract, and where~~
20 ~~the public body performs the work without letting a contract~~
21 ~~therefor, shall ascertain the prevailing rate of wages on a per~~
22 ~~hour basis in the locality, and such public body shall specify~~
23 ~~in the resolution or ordinance and in the call for bids for the~~
24 contract, or where the public body performs the work without
25 letting the contract in a written instrument provided to the
26 contractor, that the general prevailing rate of wages in the

1 locality for each craft or type of worker or mechanic needed to
2 execute the contract or perform such work, also the general
3 prevailing rate for legal holiday and overtime work, as
4 ascertained by the ~~public body or by the~~ Department of Labor
5 shall be paid for each craft or type of worker needed to
6 execute the contract or to perform such work, and it shall be
7 mandatory upon the contractor to whom the contract is awarded
8 and upon any subcontractor under him, and where the public body
9 performs the work, upon the public body, to pay not less than
10 the specified rates to all laborers, workers and mechanics
11 employed by them in the execution of the contract or such work.
12 Compliance with this Act is a matter of statewide concern, and
13 a public body may not opt out of any provisions herein.~~†~~
14 ~~provided, however, that if the public body desires that the~~
15 ~~Department of Labor ascertain the prevailing rate of wages, it~~
16 ~~shall notify the Department of Labor to ascertain the general~~
17 ~~prevailing rate of hourly wages for work under contract, or for~~
18 ~~work performed by a public body without letting a contract as~~
19 ~~required in the locality in which the work is to be performed,~~
20 ~~for each craft or type of worker or mechanic needed to execute~~
21 ~~the contract or project or work to be performed. Upon such~~
22 ~~notification the Department of Labor shall ascertain such~~
23 ~~general prevailing rate of wages, and certify the prevailing~~
24 ~~wage to such public body.~~

25 (e) ~~(a-1)~~ The public body or other entity awarding the
26 contract shall cause to be inserted in the project

1 specifications and the contract a stipulation to the effect
2 that not less than the prevailing rate of wages as found by the
3 ~~public body or~~ Department of Labor or determined by the court
4 on review shall be paid to all laborers, workers and mechanics
5 performing work under the contract.

6 (f) ~~(a-2)~~ When a public body or other entity covered by
7 this Act has awarded work to a contractor without a public bid,
8 contract or project specification, such public body or other
9 entity shall comply with subsection (e) ~~(a-1)~~ by providing the
10 contractor with written notice on the purchase order related to
11 the work to be done or on a separate document indicating that
12 not less than the prevailing rate of wages ascertained ~~as found~~
13 by the ~~public body or~~ Department of Labor or determined by the
14 court on review shall be paid to all laborers, workers, and
15 mechanics performing work on the project.

16 (g) ~~(a-3)~~ Where a complaint is made and the Department of
17 Labor determines that a violation occurred, the Department of
18 Labor shall determine if proper written notice under this
19 Section 4 was given. If proper written notice was not provided
20 to the contractor by the public body or other entity, the
21 Department of Labor shall order the public body or other entity
22 to pay any interest, penalties or fines that would have been
23 owed by the contractor if proper written notice were provided.
24 The failure by a public body or other entity to provide written
25 notice does not relieve the contractor of the duty to comply
26 with the prevailing wage rate, nor of the obligation to pay any

1 back wages, as determined under this Act. For the purposes of
2 this subsection, back wages shall be limited to the difference
3 between the actual amount paid and the prevailing rate of wages
4 required to be paid for the project. The failure of a public
5 body or other entity to provide written notice under this
6 Section 4 does not diminish the right of a laborer, worker, or
7 mechanic to the prevailing rate of wages as determined under
8 this Act.

9 (h) ~~(b)~~ It shall also be mandatory upon the contractor to
10 whom the contract is awarded to insert into each subcontract
11 and into the project specifications for each subcontract a
12 written stipulation to the effect that not less than the
13 prevailing rate of wages shall be paid to all laborers,
14 workers, and mechanics performing work under the contract. It
15 shall also be mandatory upon each subcontractor to cause to be
16 inserted into each lower tiered subcontract and into the
17 project specifications for each lower tiered subcontract a
18 stipulation to the effect that not less than the prevailing
19 rate of wages shall be paid to all laborers, workers, and
20 mechanics performing work under the contract. A contractor or
21 subcontractor who fails to comply with this subsection ~~(b)~~ is
22 in violation of this Act.

23 (i) ~~(b-1)~~ When a contractor has awarded work to a
24 subcontractor without a contract or contract specification,
25 the contractor shall comply with subsection (h) ~~(b)~~ by
26 providing a subcontractor with a written statement indicating

1 that not less than the prevailing rate of wages shall be paid
2 to all laborers, workers, and mechanics performing work on the
3 project. A contractor or subcontractor who fails to comply with
4 this subsection ~~(b-1)~~ is in violation of this Act.

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

1 rate, nor of the obligation to pay any back wages, as
2 determined under this Act. For the purposes of this subsection,
3 back wages shall be limited to the difference between the
4 actual amount paid and the prevailing rate of wages required
5 for the project. The failure to provide written notice by a
6 public body, other entity, or contractor does not diminish the
7 right of a laborer, worker, or mechanic to the prevailing rate
8 of wages as determined under this Act.

9 (k) ~~(e)~~ A public body or other entity shall also require in
10 all contractor's and subcontractor's bonds that the contractor
11 or subcontractor include such provision as will guarantee the
12 faithful performance of such prevailing wage clause as provided
13 by contract or other written instrument. All bid specifications
14 shall list the specified rates to all laborers, workers and
15 mechanics in the locality for each craft or type of worker or
16 mechanic needed to execute the contract.

17 (l) ~~(d)~~ If the Department of Labor revises the prevailing
18 rate of hourly wages to be paid by the public body or other
19 entity, the revised rate shall apply to such contract, and the
20 public body or other entity shall be responsible to notify the
21 contractor and each subcontractor, of the revised rate.

22 The public body or other entity shall discharge its duty to
23 notify of the revised rates by inserting a written stipulation
24 in all contracts or other written instruments that states the
25 prevailing rate of wages are revised by the Department of Labor
26 and are available on the Department's official website. This

1 shall be deemed to be proper notification of any rate changes
2 under this subsection.

3 (m) ~~(e)~~ Two or more investigatory hearings under this
4 Section on the issue of establishing a new prevailing wage
5 classification for a particular craft or type of worker shall
6 be consolidated in a single hearing before the Department. ~~Such~~
7 ~~consolidation shall occur whether each separate investigatory~~
8 ~~hearing is conducted by a public body or the Department.~~ The
9 party requesting a consolidated investigatory hearing shall
10 have the burden of establishing that there is no existing
11 prevailing wage classification for the particular craft or type
12 of worker in any of the localities under consideration.

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

1 for the public works project. A failure to post or provide a
2 prevailing wage rate as required by this Section is a violation
3 of this Act.

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

5 (820 ILCS 130/7) (from Ch. 48, par. 39s-7)

6 Sec. 7. The finding of the ~~public body awarding the~~
7 ~~contract or authorizing the work or the~~ Department of Labor
8 ascertaining and declaring the general prevailing rate of
9 hourly wages shall be final for all purposes of the contract
10 for public work then being considered, unless reviewed under
11 the provisions of this Act. Nothing in this Act, however, shall
12 be construed to prohibit the payment to any laborer, worker or
13 mechanic employed on any public work, as aforesaid, of more
14 than the prevailing rate of wages; provided further that
15 nothing in this Act shall be construed to limit the hours of
16 work which may be performed by any person in any particular
17 period of time.

18 (Source: P.A. 81-992.)

19 (820 ILCS 130/9) (from Ch. 48, par. 39s-9)

20 Sec. 9. To effectuate the purpose and policy of this Act,
21 ~~the each public body shall, during the month of June of each~~
22 ~~calendar year, investigate and ascertain the prevailing rate of~~
23 ~~wages as defined in this Act and publicly post or keep~~
24 ~~available for inspection by any interested party in the main~~

1 ~~office of such public body its determination of such prevailing~~
2 ~~rate of wage and shall promptly file, no later than July 15 of~~
3 ~~each year, a certified copy thereof in the office of the~~
4 ~~Illinois Department of Labor. The Department of Labor shall,~~
5 during the month of June of each calendar year, investigate and
6 ascertain the prevailing rate of wages for each county in the
7 State and shall publish the prevailing wage schedule
8 ascertained on its official website no later than July 15 of
9 each year. If the prevailing rate of wages is based on a
10 collective bargaining agreement, any increases directly
11 ascertainable from such collective bargaining agreement shall
12 also be published on the website. Further, if the prevailing
13 rate of wages is based on a collective bargaining agreement,
14 the explanation of classes on the prevailing wage schedule
15 shall be consistent with the classifications established under
16 the collective bargaining agreement. ~~If a public body does not~~
17 ~~investigate and ascertain the prevailing rate of wages during~~
18 ~~the month of June as required by the previous paragraph, then~~
19 ~~the prevailing rate of wages for that public body shall be the~~
20 ~~rate as determined by the Department under this paragraph for~~
21 ~~the county in which such public body is located.~~

22 ~~Where the Department of Labor ascertains the prevailing~~
23 ~~rate of wages, it is the duty of the Department of Labor within~~
24 ~~30 days after receiving a notice from the public body~~
25 ~~authorizing the proposed work, to conduct an investigation to~~
26 ~~ascertain the prevailing rate of wages as defined in this Act~~

1 ~~and such investigation shall be conducted in the locality in~~
2 ~~which the work is to be performed. The Department of Labor~~
3 ~~shall send a certified copy of its findings to the public body~~
4 ~~authorizing the work and keep a record of its findings~~
5 ~~available for inspection by any interested party in the office~~
6 ~~of the Department of Labor at Springfield.~~

7 ~~The public body except for the Department of Transportation~~
8 ~~with respect to highway contracts shall within 30 days after~~
9 ~~filing with the Department of Labor, or the Department of Labor~~
10 ~~shall within 30 days after filing with such public body,~~
11 ~~publish in a newspaper of general circulation within the area~~
12 ~~that the determination is effective, a notice of its~~
13 ~~determination and shall promptly mail a copy of its~~
14 ~~determination to any employer, and to any association of~~
15 ~~employers and to any person or association of employees who~~
16 ~~have filed their names and addresses, requesting copies of any~~
17 ~~determination stating the particular rates and the particular~~
18 ~~class of workers whose wages will be affected by such rates.~~

19 At any time within 30 days after the Department of Labor
20 has published on its official web site a prevailing wage
21 schedule, any person affected thereby may object in writing to
22 the determination or such part thereof as they may deem
23 objectionable by filing a written notice with the ~~public body~~
24 ~~or Department of Labor, whichever has made such determination,~~
25 stating the specified grounds of the objection. A person filing
26 an objection alleging that the actual percentage of laborers,

1 workers, or mechanics that receive a collectively bargained
2 rate of wage is below the required 30% shall have the burden of
3 establishing such and shall support the allegation with
4 competent evidence. During the pendency of any objection and
5 until final determination thereof, the work in question shall
6 proceed under the rate established by the Department. It shall
7 ~~thereafter~~ be the duty of the ~~public body or~~ Department of
8 Labor to set a date for a hearing on the objection after giving
9 written notice to the objectors at least 10 days before the
10 date of the hearing and said notice shall state the time and
11 place of such hearing. Such hearing by the Department of Labor
12 ~~a public body~~ shall be held within 45 days after the objection
13 is filed, and shall not be postponed or reset for a later date
14 except upon the consent, in writing, of all the objectors and
15 the Department of Labor ~~public body~~. ~~If such hearing is not~~
16 ~~held by the public body within the time herein specified, the~~
17 ~~Department of Labor may, upon request of the objectors, conduct~~
18 ~~the hearing on behalf of the public body.~~

19 The ~~public body or~~ Department of Labor may, ~~whichever has~~
20 ~~made such determination, is authorized in its discretion to~~
21 hear each written objection filed separately or consolidate for
22 hearing any one or more written objections filed ~~with them~~. At
23 such hearing, the ~~public body or~~ Department of Labor shall
24 introduce in evidence the investigation it instituted which
25 formed the basis of its determination, and the ~~public body or~~
26 Department of Labor, ~~or~~ any interested objectors may thereafter

1 introduce such evidence as is material to the issue.
2 Thereafter, the ~~public body or~~ Department of Labor, must rule
3 upon the written objection and make such final determination as
4 it believes the evidence warrants, ~~and promptly file a~~
5 ~~certified copy of its final determination with such public~~
6 ~~body,~~ and serve a copy by personal service, or registered mail, or
7 electronic mail on all parties to the proceedings. The final
8 determination by the Department of Labor ~~or a public body~~ shall
9 be rendered within 30 days after the conclusion of the hearing.

10 If proceedings to review judicially the final
11 determination of the ~~public body or~~ Department of Labor are not
12 instituted as hereafter provided, such determination shall be
13 final and binding.

14 The provisions of the Administrative Review Law, and all
15 amendments and modifications thereof, and the rules adopted
16 pursuant thereto, shall apply to and govern all proceedings for
17 the judicial review of final administrative decisions of ~~any~~
18 ~~public body or~~ the Department of Labor ~~hereunder~~. The term
19 "administrative decision" is defined as in Section 3-101 of the
20 Code of Civil Procedure.

21 Appeals from all final orders and judgments entered by the
22 court in review of the final administrative decision of the
23 ~~public body or~~ Department of Labor, may be taken by any party
24 to the action.

25 Any proceeding in any court affecting a determination of
26 the Department of Labor ~~or public body~~ shall have priority in

1 hearing and determination over all other civil proceedings
2 pending in said court, except election contests.

3 In all reviews or appeals under this Act, it shall be the
4 duty of the Attorney General to represent the Department of
5 Labor, and defend its determination. ~~The Attorney General shall~~
6 ~~not represent any public body, except the State, in any such~~
7 ~~review or appeal.~~

8 (Source: P.A. 98-173, eff. 1-1-14.)

9 (820 ILCS 130/10) (from Ch. 48, par. 39s-10)

10 Sec. 10. The ~~presiding officer of the public body, or his~~
11 ~~or her authorized representative and the~~ Director of the
12 Department of Labor, or his or her authorized representative
13 may interview workers, administer oaths, take or cause to be
14 taken the depositions of witnesses, and require by subpoena the
15 attendance and testimony of witnesses, and the production of
16 all books, records, and other evidence relative to the matter
17 under investigation or hearing. Such subpoena shall be signed
18 and issued by ~~such presiding officer or his or her authorized~~
19 ~~representative, or~~ the Director or his or her authorized
20 representative.

21 Upon request by the Director of Labor or his or her
22 deputies or agents, records shall be copied and submitted for
23 evidence at no cost to the Department of Labor. Every employer
24 upon request shall furnish to the Director or his or her
25 authorized representative, on demand, a sworn statement of the

1 accuracy of the records. Any employer who refuses to furnish a
2 sworn statement of the records is in violation of this Act.

3 In case of failure of any person to comply with any
4 subpoena lawfully issued under this Section ~~section~~ or on the
5 refusal of any witness to produce evidence or to testify to any
6 matter regarding which he or she may be lawfully interrogated,
7 it is the duty of any circuit court, upon application of ~~such~~
8 ~~presiding officer or his or her authorized representative, or~~
9 the Director or his or her authorized representative, to compel
10 obedience by proceedings for contempt, as in the case of
11 disobedience of the requirements of a subpoena issued by such
12 court or a refusal to testify therein. The ~~Such presiding~~
13 ~~officer and the~~ Director may certify to official acts.

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

15 (820 ILCS 130/8 rep.)

16 Section 10. The Prevailing Wage Act is amended by repealing
17 Section 8.