



Sen. Kimberly A. Lightford

Filed: 5/30/2018

10000HB5166sam001

LRB100 20641 KTG 41190 a

1 AMENDMENT TO HOUSE BILL 5166

2 AMENDMENT NO. _____. Amend House Bill 5166 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Prevailing Wage Act is amended by changing
5 Sections 5 and 5.1 and by adding Sections 3.1 and 3.2 as
6 follows:

7 (820 ILCS 130/3.1 new)

8 Sec. 3.1. Employment of local laborers; report. The
9 Department of Labor shall report annually, no later than
10 February 1, to the General Assembly and the Governor the number
11 of people employed on public works in the State during the
12 preceding calendar year. This report shall include the total
13 number of people employed and the total number of hours worked
14 on public works both statewide and by county. Additionally, the
15 report shall include the total number of people employed and
16 the hours worked on public works by the 5-digit zip code, as

1 collected on certified payroll, of the individual's residence
2 during employment on public works. The report to the General
3 Assembly shall be filed with the Clerk of the House of
4 Representatives and the Secretary of the Senate in electronic
5 form only, in the manner that the clerk and Secretary shall
6 direct.

7 (820 ILCS 130/3.2 new)

8 Sec. 3.2. Employment of females and minorities on public
9 works.

10 (a) The Department of Labor shall study and report on the
11 participation of females and minorities on public works in
12 Illinois. The Department of Labor shall use certified payrolls
13 collected under Section 5.1 to obtain this information. The
14 Department of Labor shall use the same categories for gender,
15 race, and ethnicity as the U.S. Census Bureau for data
16 collected under Section 5.

17 (b) No later than December 31, 2020, the Department of
18 Labor shall create recommendations for female and minority
19 participation on public works projects by county. The
20 Department of Labor shall use its own study, data from the U.S.
21 Department of Labor's goals for Davis-Bacon Act covered
22 projects, and any available data from the State or federal
23 governments.

24 (c) The Department of Labor shall adopt rules to implement
25 this Section.

1 (820 ILCS 130/5) (from Ch. 48, par. 39s-5)

2 Sec. 5. Certified payroll.

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

5 (1) make and keep, for a period of not less than 3
6 years from the date of the last payment made before January
7 1, 2014 (the effective date of Public Act 98-328) and for a
8 period of 5 years from the date of the last payment made on
9 or after January 1, 2014 (the effective date of Public Act
10 98-328) on a contract or subcontract for public works,
11 records of all laborers, mechanics, and other workers
12 employed by them on the project; the records shall include
13 (i) the worker's name, (ii) the worker's address, (iii) the
14 worker's telephone number when available, (iv) the last 4
15 digits of the worker's social security number, (v) the
16 worker's gender, (vi) the worker's race, (vii) the worker's
17 ethnicity, (viii) veteran status, (ix) the worker's
18 classification or classifications, (x) ~~(vi)~~ the worker's
19 gross and net wages paid in each pay period, (xi) ~~(vii)~~ the
20 worker's number of hours worked each day, (xii) ~~(viii)~~ the
21 worker's starting and ending times of work each day, (xiii)
22 ~~(ix)~~ the worker's hourly wage rate, (xiv) ~~(x)~~ the worker's
23 hourly overtime wage rate, (xv) ~~(xi)~~ the worker's hourly
24 fringe benefit rates, (xvi) ~~(xii)~~ the name and address of
25 each fringe benefit fund, (xvii) ~~(xiii)~~ the plan sponsor of

1 each fringe benefit, if applicable, and (xviii) ~~(xiv)~~ the
2 plan administrator of each fringe benefit, if applicable;
3 and

4 (2) no later than the 15th day of each calendar month
5 file a certified payroll for the immediately preceding
6 month with the public body in charge of the project until
7 the Department of Labor activates the database created
8 under Section 5.1 at which time certified payroll shall
9 only be submitted to that database, except for projects
10 done by State agencies that opt to have contractors submit
11 certified payrolls directly to that State agency. A State
12 agency that opts to directly receive certified payrolls
13 must submit the required information in a specified
14 electronic format to the Department of Labor no later than
15 10 days after the certified payroll was filed with the
16 State agency. A certified payroll must be filed for only
17 those calendar months during which construction on a public
18 works project has occurred. The certified payroll shall
19 consist of a complete copy of the records identified in
20 paragraph (1) of this subsection (a), but may exclude the
21 starting and ending times of work each day. The certified
22 payroll shall be accompanied by a statement signed by the
23 contractor or subcontractor or an officer, employee, or
24 agent of the contractor or subcontractor which avers that:
25 (i) he or she has examined the certified payroll records
26 required to be submitted by the Act and such records are

1 true and accurate; (ii) the hourly rate paid to each worker
2 is not less than the general prevailing rate of hourly
3 wages required by this Act; and (iii) the contractor or
4 subcontractor is aware that filing a certified payroll that
5 he or she knows to be false is a Class A misdemeanor. A
6 general contractor is not prohibited from relying on the
7 certification of a lower tier subcontractor, provided the
8 general contractor does not knowingly rely upon a
9 subcontractor's false certification. Any contractor or
10 subcontractor subject to this Act and any officer,
11 employee, or agent of such contractor or subcontractor
12 whose duty as such officer, employee, or agent it is to
13 file such certified payroll who willfully fails to file
14 such a certified payroll on or before the date such
15 certified payroll is required by this paragraph to be filed
16 and any person who willfully files a false certified
17 payroll that is false as to any material fact is in
18 violation of this Act and guilty of a Class A misdemeanor.
19 The public body in charge of the project shall keep the
20 records submitted in accordance with this paragraph (2) of
21 subsection (a) before January 1, 2014 (the effective date
22 of Public Act 98-328) for a period of not less than 3
23 years, and the records submitted in accordance with this
24 paragraph (2) of subsection (a) on or after January 1, 2014
25 (the effective date of Public Act 98-328) for a period of 5
26 years, from the date of the last payment for work on a

1 contract or subcontract for public works or until the
2 Department of Labor activates the database created under
3 Section 5.1, whichever is less. After the activation of the
4 database created under Section 5.1, the Department of Labor
5 rather than the public body in charge of the project shall
6 keep the records and maintain the database. The records
7 submitted in accordance with this paragraph (2) of
8 subsection (a) shall be considered public records, except
9 an employee's address, telephone number, ~~and~~ social
10 security number, race, ethnicity, and gender, and made
11 available in accordance with the Freedom of Information
12 Act. The public body shall accept any reasonable
13 submissions by the contractor that meet the requirements of
14 this Section.

15 A contractor, subcontractor, or public body may retain
16 records required under this Section in paper or electronic
17 format.

18 (b) Upon 7 business days' notice, the contractor and each
19 subcontractor shall make available for inspection and copying
20 at a location within this State during reasonable hours, the
21 records identified in paragraph (1) of subsection (a) of this
22 Section to the public body in charge of the project, its
23 officers and agents, the Director of Labor and his deputies and
24 agents, and to federal, State, or local law enforcement
25 agencies and prosecutors.

26 (c) A contractor or subcontractor who remits contributions

1 to fringe benefit funds that are jointly maintained and jointly
2 governed by one or more employers and one or more labor
3 organizations in accordance with the federal Labor Management
4 Relations Act shall make and keep certified payroll records
5 that include the information required under items (i) through
6 (viii) of paragraph (1) of subsection (a) only. However, the
7 information required under items (ix) through (xiv) of
8 paragraph (1) of subsection (a) shall be required for any
9 contractor or subcontractor who remits contributions to a
10 fringe benefit fund that is not jointly maintained and jointly
11 governed by one or more employers and one or more labor
12 organizations in accordance with the federal Labor Management
13 Relations Act.

14 (d) The Department of Labor shall adopt rules to implement
15 this Section.

16 (Source: P.A. 97-571, eff. 1-1-12; 98-328, eff. 1-1-14; 98-482,
17 eff. 1-1-14; 98-756, eff. 7-16-14.)

18 (820 ILCS 130/5.1)

19 Sec. 5.1. Electronic database. The ~~Subject to~~
20 ~~appropriation, the~~ Department shall develop and maintain an
21 electronic database capable of accepting and retaining
22 certified payrolls submitted under this Act no later than April
23 1, 2019. The database shall accept certified payroll forms
24 provided by the Department that are fillable and designed to
25 accept electronic signatures. The Department of Labor shall

1 adopt rules to implement this Section.

2 (Source: P.A. 98-482, eff. 1-1-14.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.".