

AN ACT concerning employment.

**Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:**

Section 5. The Prevailing Wage Act is amended by changing Section 2, 5, and 11 as follows:

(820 ILCS 130/2)

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

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

"Public works" means all fixed works constructed or demolished by any public body, or paid for wholly or in part out of public funds. "Public works" as defined herein includes all projects financed in whole or in part with bonds, grants, loans, or other funds made available by or through the State or any of its political subdivisions, including but not limited to: bonds issued under the Industrial Project Revenue Bond Act (Article 11, Division 74 of the Illinois Municipal Code), the Industrial Building Revenue Bond Act, the Illinois Finance

Authority Act, the Illinois Sports Facilities Authority Act, or the Build Illinois Bond Act; loans or other funds made available pursuant to the Build Illinois Act; loans or other funds made available pursuant to the Riverfront Development Fund under Section 10-15 of the River Edge Redevelopment Zone Act; or funds from the Fund for Illinois' Future under Section 6z-47 of the State Finance Act, funds for school construction under Section 5 of the General Obligation Bond Act, funds authorized under Section 3 of the School Construction Bond Act, funds for school infrastructure under Section 6z-45 of the State Finance Act, and funds for transportation purposes under Section 4 of the General Obligation Bond Act. "Public works" also includes (i) all projects financed in whole or in part with funds from the Environmental Protection Agency under the Illinois Renewable Fuels Development Program Act for which there is no project labor agreement; (ii) all work performed pursuant to a public private agreement under the Public Private Agreements for the Illiana Expressway Act or the Public-Private Agreements for the South Suburban Airport Act; (iii) all projects undertaken under a public-private agreement under the Public-Private Partnerships for Transportation Act or the Department of Natural Resources World Shooting and Recreational Complex Act; and (iv) all transportation facilities undertaken under a design-build contract or a Construction Manager/General Contractor contract under the Innovations for Transportation Infrastructure Act. "Public

works" also includes all projects at leased facility property used for airport purposes under Section 35 of the Local Government Facility Lease Act. "Public works" also includes the construction of a new wind power facility by a business designated as a High Impact Business under Section 5.5(a)(3)(E) of the Illinois Enterprise Zone Act, the construction of a new utility-scale solar power facility by a business designated as a High Impact Business under Section 5.5(a)(3)(E-5) of the Illinois Enterprise Zone Act, the construction of a new battery energy storage solution facility by a business designated as a High Impact Business under Section 5.5(a)(3)(I) of the Illinois Enterprise Zone Act, and the construction of a high voltage direct current converter station by a business designated as a High Impact Business under Section 5.5(a)(3)(J) of the Illinois Enterprise Zone Act. "Public works" also includes electric vehicle charging station projects financed pursuant to the Electric Vehicle Act and renewable energy projects required to pay the prevailing wage pursuant to the Illinois Power Agency Act. "Public works" also includes power washing projects by a public body or paid for wholly or in part out of public funds in which steam or pressurized water, with or without added abrasives or chemicals, is used to remove paint or other coatings, oils or grease, corrosion, or debris from a surface or to prepare a surface for a coating. "Public works" also includes all electric transmission systems projects subject to the Electric

Transmission Systems Construction Standards Act. "Public works" does not include work done directly by any public utility company, whether or not done under public supervision or direction, or paid for wholly or in part out of public funds. "Public works" also includes construction projects performed by a third party contracted by any public utility, as described in subsection (a) of Section 2.1, in public rights-of-way, as defined in Section 21-201 of the Public Utilities Act, whether or not done under public supervision or direction, or paid for wholly or in part out of public funds. "Public works" also includes construction projects that exceed 15 aggregate miles of new fiber optic cable, performed by a third party contracted by any public utility, as described in subsection (b) of Section 2.1, in public rights-of-way, as defined in Section 21-201 of the Public Utilities Act, whether or not done under public supervision or direction, or paid for wholly or in part out of public funds. "Public works" also includes any corrective action performed pursuant to Title XVI of the Environmental Protection Act for which payment from the Underground Storage Tank Fund is requested. "Public works" also includes all construction projects involving fixtures or permanent attachments affixed to light poles that are owned by a public body, including street light poles, traffic light poles, and other lighting fixtures, whether or not done under public supervision or direction, or paid for wholly or in part out of public funds, unless the project is performed by

employees employed directly by the public body. "Public works" also includes work performed subject to the Mechanical Insulation Energy and Safety Assessment Act. "Public works" also includes the removal, hauling, and transportation of biosolids, lime sludge, and lime residue from a water treatment plant or facility and the disposal of biosolids, lime sludge, and lime residue removed from a water treatment plant or facility at a landfill. "Public works" also includes sewer inspection projects that use a closed-circuit television to identify issues in a sewer system, such as cracks in pipes, root intrusion, blockages, or other structural damage. "Public works" does not include projects undertaken by the owner at an owner-occupied single-family residence or at an owner-occupied unit of a multi-family residence. "Public works" does not include work performed for soil and water conservation purposes on agricultural lands, whether or not done under public supervision or paid for wholly or in part out of public funds, done directly by an owner or person who has legal control of those lands.

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

"Locality" means the county where the physical work upon public works is performed, except (1) that if there is not available in the county a sufficient number of competent

skilled laborers, workers and mechanics to construct the public works efficiently and properly, "locality" includes any other county nearest the one in which the work or construction is to be performed and from which such persons may be obtained in sufficient numbers to perform the work and (2) that, with respect to contracts for highway work with the Department of Transportation of this State, "locality" may at the discretion of the Secretary of the Department of Transportation be construed to include two or more adjacent counties from which workers may be accessible for work on such construction.

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

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

The terms "general prevailing rate of hourly wages", "general prevailing rate of wages" or "prevailing rate of wages" when used in this Act mean the hourly cash wages plus annualized fringe benefits for training and apprenticeship

programs approved by the U.S. Department of Labor, Bureau of Apprenticeship and Training, health and welfare, insurance, vacations and pensions paid generally, in the locality in which the work is being performed, to employees engaged in work of a similar character on public works.

(Source: P.A. 102-9, eff. 1-1-22; 102-444, eff. 8-20-21; 102-673, eff. 11-30-21; 102-813, eff. 5-13-22; 102-1094, eff. 6-15-22; 103-8, eff. 6-7-23; 103-327, eff. 1-1-24; 103-346, eff. 1-1-24; 103-359, eff. 7-28-23; 103-447, eff. 8-4-23; 103-605, eff. 7-1-24; 103-1066, eff. 2-20-25.)

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

Sec. 5. Certified payroll.

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

(1) make and keep, for a period of not less than 3 years from the date of the last payment made before January 1, 2014 (the effective date of Public Act 98-328) and for a period of 5 years from the date of the last payment made on or after January 1, 2014 (the effective date of Public Act 98-328) on a contract or subcontract for public works, records of all laborers, mechanics, and other workers employed by them on the project; the records shall include (i) the worker's name, (ii) the worker's address, (iii) the worker's telephone number when available, (iv) the last 4 digits of the worker's social

security number, (v) the worker's gender, (vi) the worker's race, (vii) the worker's ethnicity, (viii) veteran status, (ix) the worker's classification or classifications, (x) the worker's skill level, such as apprentice or journeyman, (xi) the worker's gross and net wages paid in each pay period, (xii) the worker's number of hours worked each day, (xiii) the worker's starting and ending times of work each day, (xiv) the worker's hourly wage rate, (xv) the worker's hourly overtime wage rate, (xvi) the worker's hourly fringe benefit rates, (xvii) the name and address of each fringe benefit fund, (xviii) the plan sponsor of each fringe benefit, if applicable, and (xix) the plan administrator of each fringe benefit, if applicable; and

(2) no later than the 15th day of each calendar month file a certified payroll for the immediately preceding month with the public body in charge of the project until the Department of Labor activates the database created under Section 5.1 at which time certified payroll shall only be submitted to that database, except for projects done by State agencies that opt to have contractors submit certified payrolls directly to that State agency. A State agency that opts to directly receive certified payrolls must submit the required information in a specified electronic format to the Department of Labor no later than 10 days after the certified payroll was filed with the



State agency. A certified payroll must be filed for only those calendar months during which construction on a public works project has occurred. The certified payroll shall consist of a complete copy of the records identified in paragraph (1) of this subsection (a), but may exclude the starting and ending times of work each day. The certified payroll shall be accompanied by a statement signed by the contractor or subcontractor or an officer, employee, or agent of the contractor or subcontractor which avers that: (i) he or she has examined the certified payroll records required to be submitted by the Act and such records are true and accurate; (ii) the hourly rate paid to each worker is not less than the general prevailing rate of hourly wages required by this Act; and (iii) the contractor or subcontractor is aware that filing a certified payroll that he or she knows to be false is a Class A misdemeanor. A general contractor is not prohibited from relying on the certification of a lower tier subcontractor, provided the general contractor does not knowingly rely upon a subcontractor's false certification. Any contractor or subcontractor subject to this Act and any officer, employee, or agent of such contractor or subcontractor whose duty as such officer, employee, or agent it is to file such certified payroll who willfully fails to file such a certified payroll on or before the date such certified payroll is required by this

paragraph to be filed and any person who willfully files a false certified payroll that is false as to any material fact is in violation of this Act and guilty of a Class A misdemeanor. The public body in charge of the project shall keep the records submitted in accordance with this paragraph (2) of subsection (a) before January 1, 2014 (the effective date of Public Act 98-328) for a period of not less than 3 years, and the records submitted in accordance with this paragraph (2) of subsection (a) on or after January 1, 2014 (the effective date of Public Act 98-328) for a period of 5 years, from the date of the last payment for work on a contract or subcontract for public works or until the Department of Labor activates the database created under Section 5.1, whichever is less. After the activation of the database created under Section 5.1, the Department of Labor rather than the public body in charge of the project shall keep the records and maintain the database. The records submitted in accordance with this paragraph (2) of subsection (a) shall be considered public records, except an employee's address, telephone number, social security number, race, ethnicity, and gender, and made available in accordance with the Freedom of Information Act. The public body shall accept any reasonable submissions by the contractor that meet the requirements of this Section.

A contractor, subcontractor, or public body may retain

records required under this Section in paper or electronic format.

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

(c) A contractor or subcontractor who remits contributions to fringe benefit funds that are jointly maintained and jointly governed by one or more employers and one or more labor organizations in accordance with the federal Labor Management Relations Act shall make and keep certified payroll records that include the information required under items (i) through (viii) of paragraph (1) of subsection (a) only. However, the information required under items (ix) through (xv) of paragraph (1) of subsection (a) shall be required for any contractor or subcontractor who remits contributions to a fringe benefit fund that is not jointly maintained and jointly governed by one or more employers and one or more labor organizations in accordance with the federal Labor Management Relations Act.

(d) Any contractor or subcontractor subject to this Act and any officer, employee, or agent of the contractor or

subcontractor whose duty as the officer, employee, or agent is to file the certified payroll, who the Department of Labor finds has failed to file the certified payroll for any public works project as required under this Act, is subject to a civil penalty, payable to the Department of Labor, of up to \$1,000 for a first offense and up to \$2,000 for a second or subsequent offense no more than 5 years after the first offense. A second or subsequent offense that occurs more than 5 years after the first offense shall be considered a first offense. Each month in which a violation of this Section occurs shall constitute a separate offense.

A finding of an offense by the Department of Labor for failure to file the certified payroll may be challenged if a request for administrative hearing is received no later than 10 business days after receipt of the notice of the offense. The Department of Labor shall have the burden of establishing good cause for its action. Good cause exists if the Department of Labor establishes that the contractor or subcontractor participated in a public works project under this Act and failed to submit a certified payroll to the Department of Labor's electronic database no later than 15 calendar days after the immediately preceding month in which the public works were performed by the contractor or subcontractor. Any mitigating evidence that a contractor or subcontractor attempted to timely submit certified payrolls to the Department of Labor's electronic database but failed due to

technical issues shall be considered. A contractor or subcontractor's lack of knowledge of the requirements of this Section shall not be considered as mitigating evidence.

All hearings held under this Section shall comply with the Illinois Administrative Procedure Act and the Department of Labor's rules for administrative hearings. The final administrative decision by the Department of Labor shall be rendered after the conclusion of the hearing. A final administrative decision made under this Section is subject to the Administrative Review Law. If a final administrative decision issued by the Department of Labor requires a contractor or subcontractor to pay a civil penalty, and the subcontractor or contractor has not: (i) made the required payment within 35 days after the issuance of the final administrative decision; or (ii) timely filed a complaint seeking review of the final administrative decision within 35 days after the issuance of the final administrative decision in a court of competent jurisdiction, the Department of Labor, by and through the Office of the Attorney General, may file a verified petition against the contractor or subcontractor to enforce the final administrative decision and to collect any amounts due in the circuit court of any county where an office of the Department of Labor is located.

(Source: P.A. 100-1177, eff. 6-1-19; 101-31, eff. 6-28-19.)

Sec. 11. No public works project shall be instituted unless the provisions of this Act have been complied with. The provisions of this Act shall not be applicable to Federal construction projects which require a prevailing wage determination by the United States Secretary of Labor. The Illinois Department of Labor represented by the Attorney General is empowered to sue for injunctive relief against the awarding of any contract or the continuation of work under any contract for public works at a time when the prevailing wage prerequisites have not been met. Any contract for public works awarded at a time when the prevailing wage prerequisites had not been met shall be void as against public policy and the contractor is prohibited from recovering any damages for the voiding of the contract or pursuant to the terms of the contract. The contractor is limited to a claim for amounts actually paid for labor and materials supplied to the public body. Where objections to a determination of the prevailing rate of wages or a court action relative thereto is pending, the public body shall not continue work on the project unless sufficient funds are available to pay increased wages if such are finally determined or unless the Department of Labor certifies such determination of the prevailing rate of wages as correct.

Any laborer, worker or mechanic employed by the contractor or by any sub-contractor under him who is paid for his services in a sum less than the prevailing rates for work done under

such contract, shall have a right of action for whatever difference there may be between the amount so paid, and the rates provided by the contract together with costs and such reasonable attorney's fees as shall be allowed by the court. Such contractor or subcontractor shall also be liable to the Department of Labor for 20% of such underpayments and shall be additionally liable to the laborer, worker or mechanic for punitive damages in the amount of 2% of the amount of any such penalty to the State for underpayments for each month following the date of payment during which such underpayments remain unpaid. Where a second or subsequent action to recover underpayments is brought against a contractor or subcontractor and the contractor or subcontractor is found liable for underpayments to any laborer, worker, or mechanic, the contractor or subcontractor shall also be liable to the Department of Labor for 50% of the underpayments payable as a result of the second or subsequent action, and shall be additionally liable for 5% of the amount of any such penalty to the State for underpayments for each month following the date of payment during which the underpayments remain unpaid. The Department shall also have a right of action on behalf of any individual who has a right of action under this Section. An action brought to recover same shall be deemed to be a suit for wages, and any and all judgments entered therein shall have the same force and effect as other judgments for wages. The action shall be brought within 5 years from the date of the

failure to pay the wages or compensation. At the request of any laborer, workman or mechanic employed by the contractor or by any subcontractor under him who is paid less than the prevailing wage rate required by this Act, the Department of Labor may take an assignment of such wage claim in trust for the assigning laborer, workman or mechanic and may bring any legal action necessary to collect such claim, and the contractor or subcontractor shall be required to pay the costs incurred in collecting such claim.

All moneys owed to the Department under this Act shall be remitted to the Employee Classification Fund, and the Department may use those funds for the purposes identified in Section 50 of the Employee Classification Act.

(Source: P.A. 103-48, eff. 1-1-24.)

Section 10. The Employee Classification Act is amended by changing Section 50 as follows:

(820 ILCS 185/50)

Sec. 50. Employee Classification Fund. All moneys received by the Department as fees and civil penalties under this Act and all moneys owed to the Department under the Prevailing Wage Act shall be deposited into the Employee Classification Fund and shall be used, subject to appropriation by the General Assembly, by the Department for administration, investigation, outreach, and educational activities related to



this Act and the Prevailing Wage Act and other expenses incurred in carrying out its powers and duties under this Act and the Prevailing Wage Act. The Department shall hire as many investigators and other personnel as may be necessary to carry out the purposes of this Act. Any moneys in the Fund at the end of a fiscal year in excess of those moneys necessary for the Department to carry out its powers and duties under this Act shall be available to the Department for the next fiscal year for any of the Department's duties.

(Source: P.A. 95-26, eff. 1-1-08.)

Section 15. If and only if House Bill 3638 of the 104th General Assembly becomes law, then the Workplace Transparency Act is amended by changing Section 1-35 as follows:

(820 ILCS 96/1-35)

Sec. 1-35. Compensatory damages, costs, ~~Costs~~ and attorney's fees. An employee, prospective employee, or former employee shall be entitled to compensatory damages, in addition to reasonable attorney's fees and costs incurred in challenging a contract for violation of this Act upon a final, non-appealable action in favor of the employee, prospective employee, or former employee on the question of the validity and enforceability of the contract or defending an action for breach of a confidentiality agreement pursuant to this Act.

(Source: P.A. 101-221, eff. 1-1-20.)

Public Act 104-0023

SB1344 Enrolled

LRB104 08238 SPS 18288 b

Section 99. Effective date. This Act takes effect upon becoming law, except that Section 15 takes effect upon becoming law or on the date House Bill 3638 of the 104th General Assembly takes effect, whichever is later.