

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 2, 5, and 11 as follows:

6 (820 ILCS 130/2)

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,
2 or 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
10 Act, funds for school infrastructure under Section 6z-45 of
11 the State Finance Act, and funds for transportation purposes
12 under Section 4 of the General Obligation Bond Act. "Public
13 works" also includes (i) all projects financed in whole or in
14 part with funds from the Environmental Protection Agency under
15 the Illinois Renewable Fuels Development Program Act for which
16 there is no project labor agreement; (ii) all work performed
17 pursuant to a public private agreement under the Public
18 Private Agreements for the Illiana Expressway Act or the
19 Public-Private Agreements for the South Suburban Airport Act;
20 (iii) all projects undertaken under a public-private agreement
21 under the Public-Private Partnerships for Transportation Act
22 or the Department of Natural Resources World Shooting and
23 Recreational Complex Act; and (iv) all transportation
24 facilities undertaken under a design-build contract or a
25 Construction Manager/General Contractor contract under the
26 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

1 Transmission Systems Construction Standards Act. "Public
2 works" does not include work done directly by any public
3 utility company, whether or not done under public supervision
4 or direction, or paid for wholly or in part out of public
5 funds. "Public works" also includes construction projects
6 performed by a third party contracted by any public utility,
7 as described in subsection (a) of Section 2.1, in public
8 rights-of-way, as defined in Section 21-201 of the Public
9 Utilities Act, whether or not done under public supervision or
10 direction, or paid for wholly or in part out of public funds.
11 "Public works" also includes construction projects that exceed
12 15 aggregate miles of new fiber optic cable, performed by a
13 third party contracted by any public utility, as described in
14 subsection (b) of Section 2.1, in public rights-of-way, as
15 defined in Section 21-201 of the Public Utilities Act, whether
16 or not done under public supervision or direction, or paid for
17 wholly or in part out of public funds. "Public works" also
18 includes any corrective action performed pursuant to Title XVI
19 of the Environmental Protection Act for which payment from the
20 Underground Storage Tank Fund is requested. "Public works"
21 also includes all construction projects involving fixtures or
22 permanent attachments affixed to light poles that are owned by
23 a public body, including street light poles, traffic light
24 poles, and other lighting fixtures, whether or not done under
25 public supervision or direction, or paid for wholly or in part
26 out of public funds, unless the project is performed by

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

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

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

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

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

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

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

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

6 (Source: P.A. 102-9, eff. 1-1-22; 102-444, eff. 8-20-21;
7 102-673, eff. 11-30-21; 102-813, eff. 5-13-22; 102-1094, eff.
8 6-15-22; 103-8, eff. 6-7-23; 103-327, eff. 1-1-24; 103-346,
9 eff. 1-1-24; 103-359, eff. 7-28-23; 103-447, eff. 8-4-23;
10 103-605, eff. 7-1-24; 103-1066, eff. 2-20-25.)

11 (820 ILCS 130/5) (from Ch. 48, par. 39s-5)

12 Sec. 5. Certified payroll.

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

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

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

15 (2) no later than the 15th day of each calendar month
16 file a certified payroll for the immediately preceding
17 month with the public body in charge of the project until
18 the Department of Labor activates the database created
19 under Section 5.1 at which time certified payroll shall
20 only be submitted to that database, except for projects
21 done by State agencies that opt to have contractors submit
22 certified payrolls directly to that State agency. A State
23 agency that opts to directly receive certified payrolls
24 must submit the required information in a specified
25 electronic format to the Department of Labor no later than
26 10 days after the certified payroll was filed with the

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

1 paragraph to be filed and any person who willfully files a
2 false certified payroll that is false as to any material
3 fact is in violation of this Act and guilty of a Class A
4 misdemeanor. The public body in charge of the project
5 shall keep the records submitted in accordance with this
6 paragraph (2) of subsection (a) before January 1, 2014
7 (the effective date of Public Act 98-328) for a period of
8 not less than 3 years, and the records submitted in
9 accordance with this paragraph (2) of subsection (a) on or
10 after January 1, 2014 (the effective date of Public Act
11 98-328) for a period of 5 years, from the date of the last
12 payment for work on a contract or subcontract for public
13 works or until the Department of Labor activates the
14 database created under Section 5.1, whichever is less.
15 After the activation of the database created under Section
16 5.1, the Department of Labor rather than the public body
17 in charge of the project shall keep the records and
18 maintain the database. The records submitted in accordance
19 with this paragraph (2) of subsection (a) shall be
20 considered public records, except an employee's address,
21 telephone number, social security number, race, ethnicity,
22 and gender, and made available in accordance with the
23 Freedom of Information Act. The public body shall accept
24 any reasonable submissions by the contractor that meet the
25 requirements of this Section.
26 A contractor, subcontractor, or public body may retain

1 records required under this Section in paper or electronic
2 format.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (820 ILCS 185/50)

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

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

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

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

14 (820 ILCS 96/1-35)

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

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

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