



Rep. Dave Vella

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LRB104 08238 SPS 27118 a

1 AMENDMENT TO SENATE BILL 1344

2 AMENDMENT NO. _____. Amend Senate Bill 1344 by replacing
3 everything after the enacting clause with the following:

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

1 out of public funds. "Public works" as defined herein includes
2 all projects financed in whole or in part with bonds, grants,
3 loans, or other funds made available by or through the State or
4 any of its political subdivisions, including but not limited
5 to: bonds issued under the Industrial Project Revenue Bond Act
6 (Article 11, Division 74 of the Illinois Municipal Code), the
7 Industrial Building Revenue Bond Act, the Illinois Finance
8 Authority Act, the Illinois Sports Facilities Authority Act,
9 or the Build Illinois Bond Act; loans or other funds made
10 available pursuant to the Build Illinois Act; loans or other
11 funds made available pursuant to the Riverfront Development
12 Fund under Section 10-15 of the River Edge Redevelopment Zone
13 Act; or funds from the Fund for Illinois' Future under Section
14 6z-47 of the State Finance Act, funds for school construction
15 under Section 5 of the General Obligation Bond Act, funds
16 authorized under Section 3 of the School Construction Bond
17 Act, funds for school infrastructure under Section 6z-45 of
18 the State Finance Act, and funds for transportation purposes
19 under Section 4 of the General Obligation Bond Act. "Public
20 works" also includes (i) all projects financed in whole or in
21 part with funds from the Environmental Protection Agency under
22 the Illinois Renewable Fuels Development Program Act for which
23 there is no project labor agreement; (ii) all work performed
24 pursuant to a public private agreement under the Public
25 Private Agreements for the Illiana Expressway Act or the
26 Public-Private Agreements for the South Suburban Airport Act;

1 (iii) all projects undertaken under a public-private agreement
2 under the Public-Private Partnerships for Transportation Act
3 or the Department of Natural Resources World Shooting and
4 Recreational Complex Act; and (iv) all transportation
5 facilities undertaken under a design-build contract or a
6 Construction Manager/General Contractor contract under the
7 Innovations for Transportation Infrastructure Act. "Public
8 works" also includes all projects at leased facility property
9 used for airport purposes under Section 35 of the Local
10 Government Facility Lease Act. "Public works" also includes
11 the construction of a new wind power facility by a business
12 designated as a High Impact Business under Section
13 5.5(a)(3)(E) of the Illinois Enterprise Zone Act, the
14 construction of a new utility-scale solar power facility by a
15 business designated as a High Impact Business under Section
16 5.5(a)(3)(E-5) of the Illinois Enterprise Zone Act, the
17 construction of a new battery energy storage solution facility
18 by a business designated as a High Impact Business under
19 Section 5.5(a)(3)(I) of the Illinois Enterprise Zone Act, and
20 the construction of a high voltage direct current converter
21 station by a business designated as a High Impact Business
22 under Section 5.5(a)(3)(J) of the Illinois Enterprise Zone
23 Act. "Public works" also includes electric vehicle charging
24 station projects financed pursuant to the Electric Vehicle Act
25 and renewable energy projects required to pay the prevailing
26 wage pursuant to the Illinois Power Agency Act. "Public works"

1 also includes power washing projects by a public body or paid
2 for wholly or in part out of public funds in which steam or
3 pressurized water, with or without added abrasives or
4 chemicals, is used to remove paint or other coatings, oils or
5 grease, corrosion, or debris from a surface or to prepare a
6 surface for a coating. "Public works" also includes all
7 electric transmission systems projects subject to the Electric
8 Transmission Systems Construction Standards Act. "Public
9 works" does not include work done directly by any public
10 utility company, whether or not done under public supervision
11 or direction, or paid for wholly or in part out of public
12 funds. "Public works" also includes construction projects
13 performed by a third party contracted by any public utility,
14 as described in subsection (a) of Section 2.1, in public
15 rights-of-way, as defined in Section 21-201 of the Public
16 Utilities Act, whether or not done under public supervision or
17 direction, or paid for wholly or in part out of public funds.
18 "Public works" also includes construction projects that exceed
19 15 aggregate miles of new fiber optic cable, performed by a
20 third party contracted by any public utility, as described in
21 subsection (b) of Section 2.1, in public rights-of-way, as
22 defined in Section 21-201 of the Public Utilities Act, whether
23 or not done under public supervision or direction, or paid for
24 wholly or in part out of public funds. "Public works" also
25 includes any corrective action performed pursuant to Title XVI
26 of the Environmental Protection Act for which payment from the

1 Underground Storage Tank Fund is requested. "Public works"
2 also includes all construction projects involving fixtures or
3 permanent attachments affixed to light poles that are owned by
4 a public body, including street light poles, traffic light
5 poles, and other lighting fixtures, whether or not done under
6 public supervision or direction, or paid for wholly or in part
7 out of public funds, unless the project is performed by
8 employees employed directly by the public body. "Public works"
9 also includes work performed subject to the Mechanical
10 Insulation Energy and Safety Assessment Act. "Public works"
11 also includes the removal, hauling, and transportation of
12 biosolids, lime sludge, and lime residue from a water
13 treatment plant or facility and the disposal of biosolids,
14 lime sludge, and lime residue removed from a water treatment
15 plant or facility at a landfill. "Public works" also includes
16 sewer inspection projects that use a closed-circuit television
17 to identify issues in a sewer system, such as cracks in pipes,
18 root intrusion, blockages, or other structural damage. "Public
19 works" does not include projects undertaken by the owner at an
20 owner-occupied single-family residence or at an owner-occupied
21 unit of a multi-family residence. "Public works" does not
22 include work performed for soil and water conservation
23 purposes on agricultural lands, whether or not done under
24 public supervision or paid for wholly or in part out of public
25 funds, done directly by an owner or person who has legal
26 control of those lands.

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

5 "Locality" means the county where the physical work upon
6 public works is performed, except (1) that if there is not
7 available in the county a sufficient number of competent
8 skilled laborers, workers and mechanics to construct the
9 public works efficiently and properly, "locality" includes any
10 other county nearest the one in which the work or construction
11 is to be performed and from which such persons may be obtained
12 in sufficient numbers to perform the work and (2) that, with
13 respect to contracts for highway work with the Department of
14 Transportation of this State, "locality" may at the discretion
15 of the Secretary of the Department of Transportation be
16 construed to include two or more adjacent counties from which
17 workers may be accessible for work on such construction.

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

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

4 The terms "general prevailing rate of hourly wages",
5 "general prevailing rate of wages" or "prevailing rate of
6 wages" when used in this Act mean the hourly cash wages plus
7 annualized fringe benefits for training and apprenticeship
8 programs approved by the U.S. Department of Labor, Bureau of
9 Apprenticeship and Training, health and welfare, insurance,
10 vacations and pensions paid generally, in the locality in
11 which the work is being performed, to employees engaged in
12 work of a similar character on public works.

13 (Source: P.A. 102-9, eff. 1-1-22; 102-444, eff. 8-20-21;
14 102-673, eff. 11-30-21; 102-813, eff. 5-13-22; 102-1094, eff.
15 6-15-22; 103-8, eff. 6-7-23; 103-327, eff. 1-1-24; 103-346,
16 eff. 1-1-24; 103-359, eff. 7-28-23; 103-447, eff. 8-4-23;
17 103-605, eff. 7-1-24; 103-1066, eff. 2-20-25.)

18 (820 ILCS 130/5) (from Ch. 48, par. 39s-5)

19 Sec. 5. Certified payroll.

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

22 (1) make and keep, for a period of not less than 3
23 years from the date of the last payment made before
24 January 1, 2014 (the effective date of Public Act 98-328)
25 and for a period of 5 years from the date of the last

1 payment made on or after January 1, 2014 (the effective
2 date of Public Act 98-328) on a contract or subcontract
3 for public works, records of all laborers, mechanics, and
4 other workers employed by them on the project; the records
5 shall include (i) the worker's name, (ii) the worker's
6 address, (iii) the worker's telephone number when
7 available, (iv) the last 4 digits of the worker's social
8 security number, (v) the worker's gender, (vi) the
9 worker's race, (vii) the worker's ethnicity, (viii)
10 veteran status, (ix) the worker's classification or
11 classifications, (x) the worker's skill level, such as
12 apprentice or journeyman, (xi) the worker's gross and net
13 wages paid in each pay period, (xii) the worker's number
14 of hours worked each day, (xiii) the worker's starting and
15 ending times of work each day, (xiv) the worker's hourly
16 wage rate, (xv) the worker's hourly overtime wage rate,
17 (xvi) the worker's hourly fringe benefit rates, (xvii) the
18 name and address of each fringe benefit fund, (xviii) the
19 plan sponsor of each fringe benefit, if applicable, and
20 (xix) the plan administrator of each fringe benefit, if
21 applicable; and

22 (2) no later than the 15th day of each calendar month
23 file a certified payroll for the immediately preceding
24 month with the public body in charge of the project until
25 the Department of Labor activates the database created
26 under Section 5.1 at which time certified payroll shall

1 only be submitted to that database, except for projects
2 done by State agencies that opt to have contractors submit
3 certified payrolls directly to that State agency. A State
4 agency that opts to directly receive certified payrolls
5 must submit the required information in a specified
6 electronic format to the Department of Labor no later than
7 10 days after the certified payroll was filed with the
8 State agency. A certified payroll must be filed for only
9 those calendar months during which construction on a
10 public works project has occurred. The certified payroll
11 shall consist of a complete copy of the records identified
12 in paragraph (1) of this subsection (a), but may exclude
13 the starting and ending times of work each day. The
14 certified payroll shall be accompanied by a statement
15 signed by the contractor or subcontractor or an officer,
16 employee, or agent of the contractor or subcontractor
17 which avers that: (i) he or she has examined the certified
18 payroll records required to be submitted by the Act and
19 such records are true and accurate; (ii) the hourly rate
20 paid to each worker is not less than the general
21 prevailing rate of hourly wages required by this Act; and
22 (iii) the contractor or subcontractor is aware that filing
23 a certified payroll that he or she knows to be false is a
24 Class A misdemeanor. A general contractor is not
25 prohibited from relying on the certification of a lower
26 tier subcontractor, provided the general contractor does

1 not knowingly rely upon a subcontractor's false
2 certification. Any contractor or subcontractor subject to
3 this Act and any officer, employee, or agent of such
4 contractor or subcontractor whose duty as such officer,
5 employee, or agent it is to file such certified payroll
6 who willfully fails to file such a certified payroll on or
7 before the date such certified payroll is required by this
8 paragraph to be filed and any person who willfully files a
9 false certified payroll that is false as to any material
10 fact is in violation of this Act and guilty of a Class A
11 misdemeanor. The public body in charge of the project
12 shall keep the records submitted in accordance with this
13 paragraph (2) of subsection (a) before January 1, 2014
14 (the effective date of Public Act 98-328) for a period of
15 not less than 3 years, and the records submitted in
16 accordance with this paragraph (2) of subsection (a) on or
17 after January 1, 2014 (the effective date of Public Act
18 98-328) for a period of 5 years, from the date of the last
19 payment for work on a contract or subcontract for public
20 works or until the Department of Labor activates the
21 database created under Section 5.1, whichever is less.
22 After the activation of the database created under Section
23 5.1, the Department of Labor rather than the public body
24 in charge of the project shall keep the records and
25 maintain the database. The records submitted in accordance
26 with this paragraph (2) of subsection (a) shall be

1 considered public records, except an employee's address,
2 telephone number, social security number, race, ethnicity,
3 and gender, and made available in accordance with the
4 Freedom of Information Act. The public body shall accept
5 any reasonable submissions by the contractor that meet the
6 requirements of this Section.

7 A contractor, subcontractor, or public body may retain
8 records required under this Section in paper or electronic
9 format.

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

18 (c) A contractor or subcontractor who remits contributions
19 to fringe benefit funds that are jointly maintained and
20 jointly governed by one or more employers and one or more labor
21 organizations in accordance with the federal Labor Management
22 Relations Act shall make and keep certified payroll records
23 that include the information required under items (i) through
24 (viii) of paragraph (1) of subsection (a) only. However, the
25 information required under items (ix) through (xv) of
26 paragraph (1) of subsection (a) shall be required for any

1 contractor or subcontractor who remits contributions to a
2 fringe benefit fund that is not jointly maintained and jointly
3 governed by one or more employers and one or more labor
4 organizations in accordance with the federal Labor Management
5 Relations Act.

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

19 A finding of an offense by the Department of Labor for
20 failure to file the certified payroll may be challenged if a
21 request for administrative hearing is received no later than
22 10 business days after receipt of the notice of the offense.
23 The Department of Labor shall have the burden of establishing
24 good cause for its action. Good cause exists if the Department
25 of Labor establishes that the contractor or subcontractor
26 participated in a public works project under this Act and

1 failed to submit a certified payroll to the Department of
2 Labor's electronic database no later than 15 calendar days
3 after the immediately preceding month in which the public
4 works were performed by the contractor or subcontractor. Any
5 mitigating evidence that a contractor or subcontractor
6 attempted to timely submit certified payrolls to the
7 Department of Labor's electronic database but failed due to
8 technical issues shall be considered. A contractor or
9 subcontractor's lack of knowledge of the requirements of this
10 Section shall not be considered as mitigating evidence.

11 All hearings held under this Section shall comply with the
12 Illinois Administrative Procedure Act and the Department of
13 Labor's rules for administrative hearings. The final
14 administrative decision by the Department of Labor shall be
15 rendered after the conclusion of the hearing. A final
16 administrative decision made under this Section is subject to
17 the Administrative Review Law. If a final administrative
18 decision issued by the Department of Labor requires a
19 contractor or subcontractor to pay a civil penalty, and the
20 subcontractor or contractor has not: (i) made the required
21 payment within 35 days after the issuance of the final
22 administrative decision; or (ii) timely filed a complaint
23 seeking review of the final administrative decision within 35
24 days after the issuance of the final administrative decision
25 in a court of competent jurisdiction, the Department of Labor,
26 by and through the Office of the Attorney General, may file a

1 verified petition against the contractor or subcontractor to
2 enforce the final administrative decision and to collect any
3 amounts due in the circuit court of any county where an office
4 of the Department of Labor is located.

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

6 (820 ILCS 130/11) (from Ch. 48, par. 39s-11)

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

1 sufficient funds are available to pay increased wages if such
2 are finally determined or unless the Department of Labor
3 certifies such determination of the prevailing rate of wages
4 as correct.

5 Any laborer, worker or mechanic employed by the contractor
6 or by any sub-contractor under him who is paid for his services
7 in a sum less than the prevailing rates for work done under
8 such contract, shall have a right of action for whatever
9 difference there may be between the amount so paid, and the
10 rates provided by the contract together with costs and such
11 reasonable attorney's fees as shall be allowed by the court.
12 Such contractor or subcontractor shall also be liable to the
13 Department of Labor for 20% of such underpayments and shall be
14 additionally liable to the laborer, worker or mechanic for
15 punitive damages in the amount of 2% of the amount of any such
16 penalty to the State for underpayments for each month
17 following the date of payment during which such underpayments
18 remain unpaid. Where a second or subsequent action to recover
19 underpayments is brought against a contractor or subcontractor
20 and the contractor or subcontractor is found liable for
21 underpayments to any laborer, worker, or mechanic, the
22 contractor or subcontractor shall also be liable to the
23 Department of Labor for 50% of the underpayments payable as a
24 result of the second or subsequent action, and shall be
25 additionally liable for 5% of the amount of any such penalty to
26 the State for underpayments for each month following the date

1 of payment during which the underpayments remain unpaid. The
2 Department shall also have a right of action on behalf of any
3 individual who has a right of action under this Section. An
4 action brought to recover same shall be deemed to be a suit for
5 wages, and any and all judgments entered therein shall have
6 the same force and effect as other judgments for wages. The
7 action shall be brought within 5 years from the date of the
8 failure to pay the wages or compensation. At the request of any
9 laborer, workman or mechanic employed by the contractor or by
10 any subcontractor under him who is paid less than the
11 prevailing wage rate required by this Act, the Department of
12 Labor may take an assignment of such wage claim in trust for
13 the assigning laborer, workman or mechanic and may bring any
14 legal action necessary to collect such claim, and the
15 contractor or subcontractor shall be required to pay the costs
16 incurred in collecting such claim.

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

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

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

24 (820 ILCS 185/50)

1 Sec. 50. Employee Classification Fund. All moneys received
2 by the Department as fees and civil penalties under this Act
3 and all moneys owed to the Department under the Prevailing
4 Wage Act shall be deposited into the Employee Classification
5 Fund and shall be used, subject to appropriation by the
6 General Assembly, by the Department for administration,
7 investigation, outreach, and educational activities related to
8 this Act and the Prevailing Wage Act and other expenses
9 incurred in carrying out its powers and duties under this Act
10 and the Prevailing Wage Act. The Department shall hire as many
11 investigators and other personnel as may be necessary to carry
12 out the purposes of this Act. Any moneys in the Fund at the end
13 of a fiscal year in excess of those moneys necessary for the
14 Department to carry out its powers and duties under this Act
15 shall be available to the Department for the next fiscal year
16 for any of the Department's duties.

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

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

21 (820 ILCS 96/1-35)

22 Sec. 1-35. Compensatory damages, costs, ~~Costs~~ and
23 attorney's fees. An employee, prospective employee, or former
24 employee shall be entitled to compensatory damages, in

1 addition to reasonable attorney's fees and costs incurred in
2 challenging a contract for violation of this Act upon a final,
3 non-appealable action in favor of the employee, prospective
4 employee, or former employee on the question of the validity
5 and enforceability of the contract or defending an action for
6 breach of a confidentiality agreement pursuant to this Act.

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

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