



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

SB0163

Introduced 1/30/2019, by Sen. Cristina Castro

#### SYNOPSIS AS INTRODUCED:

30 ILCS 500/50-14.6 new  
30 ILCS 500/50-60  
820 ILCS 115/14

from Ch. 48, par. 39m-14

Amends the Illinois Procurement Code. Prohibits any person or business that violates the Illinois Wage Payment and Collection Act, the Minimum Wage Law, the Illinois Worker Adjustment and Retraining Notification Act, the Employee Classification Act, the Day and Temporary Labor Services Act, the Fair Labor Standards Act of 1938, or any comparable statute or regulation of any state that governs the payment of wages to do business with the State or any State agency or enter into a subcontract that is subject to the Code for a period of 5 years. Amends the Illinois Wage Payment and Collection Act. Provides that every offer submitted to the State, every contract and subcontract executed by the State, and every submission to a vendor portal shall contain a certification that the certifying party is not barred from being awarded a contract or subcontract, and acknowledgment that the chief procurement officer may declare void the bid, offer, or contract on the basis that any of the certifications are false. Provides that any employee not timely paid wages, final compensation, or wage supplements by his or her employer shall be entitled to recover treble the amount of any such underpayments plus damages of 2% of the amount of any such underpayments for each month following the date of payment during which such underpayments remain unpaid. Provides that a subsequent failure to pay within 5 years (rather than 2 years) of a prior conviction is a Class 4 felony.

LRB101 04555 TAE 50903 b

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 Illinois Procurement Code is amended by  
5 changing Section 50-60 and by adding Section 50-14.6 as  
6 follows:

7 (30 ILCS 500/50-14.6 new)

8 Sec. 50-14.6. Wage payment violations.

9 (a) No person or business that has admitted guilt or  
10 liability or has been adjudicated guilty or liable in a  
11 judicial or administrative proceeding of committing a repeated  
12 or willful violation of the Illinois Wage Payment and  
13 Collection Act, the Minimum Wage Law, the Illinois Worker  
14 Adjustment and Retraining Notification Act, the Employee  
15 Classification Act, the Day and Temporary Labor Services Act,  
16 the Fair Labor Standards Act of 1938, any other State law  
17 relating to wages and payments of wages, or any comparable  
18 statute, law, or regulation of any state that governs wages or  
19 the payment of wages shall do business with the State of  
20 Illinois or any State agency or enter into a subcontract that  
21 is subject to this Code for a period of 5 years from the date of  
22 entry of an adverse civil judgment, conviction, entry of a  
23 plea, administrative finding, or admission of guilt. A repeated

1 violation is more than one admission of guilt or liability or  
2 adjudication of guilt or liability. A violation is willful if  
3 the employer either knew or showed reckless disregard for the  
4 matter of whether its conduct was prohibited by the statute,  
5 law, or regulation.

6 (b) Every bid or offer submitted to the State, every  
7 contract executed by the State, every submission to a vendor  
8 portal, and every subcontract subject to Section 20-120 of this  
9 Code shall contain a certification by the bidder, offeror,  
10 potential contractor, contractor, or subcontractor,  
11 respectively, that the bidder, offeror, potential contractor,  
12 contractor, or subcontractor is not barred from being awarded a  
13 contract or subcontract under this Section and acknowledges  
14 that the chief procurement officer at a contracting State  
15 agency may declare the related contract void if any of the  
16 certifications completed pursuant to this subsection are  
17 false. If the false certification is made by a subcontractor,  
18 then the contractor's submitted bid or offer and the executed  
19 contract may not be declared void unless the contractor refuses  
20 to terminate the subcontract upon the State's request after a  
21 finding that the subcontract's certification was false.

22 (30 ILCS 500/50-60)

23 Sec. 50-60. Voidable contracts.

24 (a) If any contract or amendment thereto is entered into or  
25 purchase or expenditure of funds is made at any time in

1 violation of this Code or any other law, the contract or  
2 amendment thereto may be declared void by the chief procurement  
3 officer or may be ratified and affirmed, provided the chief  
4 procurement officer determines that ratification is in the best  
5 interests of the State. If the contract is ratified and  
6 affirmed, it shall be without prejudice to the State's rights  
7 to any appropriate damages.

8 (b) If, during the term of a contract, the chief  
9 procurement officer determines that the contractor is  
10 delinquent in the payment of debt as set forth in Section 50-11  
11 of this Code, the chief procurement officer may declare the  
12 contract void if it determines that voiding the contract is in  
13 the best interests of the State. The Debt Collection Bureau  
14 shall adopt rules for the implementation of this subsection  
15 (b).

16 (c) If, during the term of a contract, the chief  
17 procurement officer determines that the contractor is in  
18 violation of Section 50-10.5 of this Code, the chief  
19 procurement officer shall declare the contract void.

20 (d) If, during the term of a contract, the contracting  
21 agency learns from an annual certification or otherwise  
22 determines that the contractor no longer qualifies to enter  
23 into State contracts by reason of Section 50-5, 50-10, 50-12,  
24 50-14, ~~or~~ 50-14.5, or 50-14.6 of this Article, the chief  
25 procurement officer may declare the contract void if it  
26 determines that voiding the contract is in the best interests

1 of the State.

2 (e) If, during the term of a contract, the chief  
3 procurement officer learns from an annual certification or  
4 otherwise determines that a subcontractor subject to Section  
5 20-120 no longer qualifies to enter into State contracts by  
6 reason of Section 50-5, 50-10, 50-10.5, 50-11, 50-12, 50-14, ~~or~~  
7 50-14.5, or 50-14.6 of this Article, the chief procurement  
8 officer may declare the related contract void if it determines  
9 that voiding the contract is in the best interests of the  
10 State. However, the related contract shall not be declared void  
11 unless the contractor refuses to terminate the subcontract upon  
12 the State's request after a finding that the subcontractor no  
13 longer qualifies to enter into State contracts by reason of one  
14 of the Sections listed in this subsection.

15 (f) The changes to this Section made by Public Act 96-795  
16 apply to actions taken by the chief procurement officer on or  
17 after July 1, 2010.

18 (g) The changes to this Section made by this amendatory Act  
19 of the 101st General Assembly apply to actions taken by the  
20 chief procurement officer on or after its effective date.

21 (Source: P.A. 96-493, eff. 1-1-10; 96-795, eff. 7-1-10 (see  
22 Section 5 of P.A. 96-793 for the effective date of changes made  
23 by P.A. 96-795); 96-1000, eff. 7-2-10; 97-895, eff. 8-3-12.)

24 Section 10. The Illinois Wage Payment and Collection Act is  
25 amended by changing Section 14 as follows:

1 (820 ILCS 115/14) (from Ch. 48, par. 39m-14)

2 Sec. 14. (a) Any employee not timely paid wages, final  
3 compensation, or wage supplements by his or her employer as  
4 required by this Act shall be entitled to recover through a  
5 claim filed with the Department of Labor or in a civil action,  
6 but not both, treble the amount of any such underpayments and  
7 damages of 2% of the amount of any such underpayments for each  
8 month following the date of payment during which such  
9 underpayments remain unpaid. In a civil action, such employee  
10 shall also recover costs and all reasonable attorney's fees.

11 (a-5) In addition to the remedies provided in subsections  
12 (a), (b), and (c) of this Section, any employer or any agent of  
13 an employer, who, being able to pay wages, final compensation,  
14 or wage supplements and being under a duty to pay, wilfully  
15 refuses to pay as provided in this Act, or falsely denies the  
16 amount or validity thereof or that the same is due, with intent  
17 to secure for himself or other person any underpayment of such  
18 indebtedness or with intent to annoy, harass, oppress, hinder,  
19 delay or defraud the person to whom such indebtedness is due,  
20 upon conviction, is guilty of:

21 (1) for unpaid wages, final compensation or wage  
22 supplements in the amount of \$5,000 or less, a Class B  
23 misdemeanor; or

24 (2) for unpaid wages, final compensation or wage  
25 supplements in the amount of more than \$5,000, a Class A

1           misdemeanor.

2           Each day during which any violation of this Act continues  
3 shall constitute a separate and distinct offense.

4           Any employer or any agent of an employer who violates this  
5 Section of the Act a subsequent time within 5 ~~2~~ years of a  
6 prior criminal conviction under this Section is guilty, upon  
7 conviction, of a Class 4 felony.

8           (b) Any employer who has been demanded or ordered by the  
9 Department or ordered by the court to pay wages, final  
10 compensation, or wage supplements due an employee shall be  
11 required to pay a non-waivable administrative fee to the  
12 Department of Labor in the amount of \$250 if the amount ordered  
13 by the Department as wages owed is \$3,000 or less; \$500 if the  
14 amount ordered by the Department as wages owed is more than  
15 \$3,000, but less than \$10,000; and \$1,000 if the amount ordered  
16 by the Department as wages owed is \$10,000 or more. Any  
17 employer who has been so demanded or ordered by the Department  
18 or ordered by a court to pay such wages, final compensation, or  
19 wage supplements and who fails to seek timely review of such a  
20 demand or order as provided for under this Act and who fails to  
21 comply within 15 calendar days after such demand or within 35  
22 days of an administrative or court order is entered shall also  
23 be liable to pay a penalty to the Department of Labor of 20% of  
24 the amount found owing and a penalty to the employee of 1% per  
25 calendar day of the amount found owing for each day of delay in  
26 paying such wages to the employee. All moneys recovered as fees

1 and civil penalties under this Act, except those owing to the  
2 affected employee, shall be deposited into the Wage Theft  
3 Enforcement Fund, a special fund which is hereby created in the  
4 State treasury. Moneys in the Fund may be used only for  
5 enforcement of this Act.

6 (b-5) Penalties and fees under this Section may be assessed  
7 by the Department and recovered in a civil action brought by  
8 the Department in any circuit court or in any administrative  
9 adjudicative proceeding under this Act. In any such civil  
10 action or administrative adjudicative proceeding under this  
11 Act, the Department shall be represented by the Attorney  
12 General.

13 (c) Any employer, or any agent of an employer, who  
14 discharges or in any other manner discriminates against any  
15 employee because that employee has made a complaint to his  
16 employer, to the Director of Labor or his authorized  
17 representative, in a public hearing, or to a community  
18 organization that he or she has not been paid in accordance  
19 with the provisions of this Act, or because that employee has  
20 caused to be instituted any proceeding under or related to this  
21 Act, or because that employee has testified or is about to  
22 testify in an investigation or proceeding under this Act, is  
23 guilty, upon conviction, of a Class C misdemeanor. An employee  
24 who has been unlawfully retaliated against shall be entitled to  
25 recover through a claim filed with the Department of Labor or  
26 in a civil action, but not both, all legal and equitable relief



1 as may be appropriate. In a civil action, such employee shall  
2 also recover costs and all reasonable attorney's fees.

3 (Source: P.A. 98-527, eff. 1-1-14.)