

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 State Finance Act is amended by adding  
5 Section 5.595 as follows:

6 (30 ILCS 105/5.595 new)

7 Sec. 5.595. The Prevailing Wage Enforcement Fund.

8 Section 10. The Prevailing Wage Act is amended by  
9 changing Sections 2, 4, 5, 6, 9, 10, and 11a and adding  
10 Section 11c as follows:

11 (820 ILCS 130/2) (from Ch. 48, par. 39s-2)

12 Sec. 2. This Act applies to the wages of laborers,  
13 mechanics and other workers employed in any public works, as  
14 hereinafter defined, by any public body and to anyone under  
15 contracts for public works.

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

18 "Public works" means all fixed works constructed for  
19 public use by any public body, other than work done directly  
20 by any public utility company, whether or not done under  
21 public supervision or direction, or paid for wholly or in  
22 part out of public funds. "Public works" as defined herein  
23 includes all projects financed in whole or in part with bonds  
24 issued under the Industrial Project Revenue Bond Act (Article  
25 11, Division 74 of the Illinois Municipal Code), the  
26 Industrial Building Revenue Bond Act, the Illinois  
27 Development Finance Authority Act, the Illinois Sports  
28 Facilities Authority Act, or the Build Illinois Bond Act, and  
29 all projects financed in whole or in part with loans or other

1 funds made available pursuant to the Build Illinois Act or  
2 the Illinois FIRST program.

3 "Fixed works" means all construction associated with a  
4 permanent change in real estate.

5 "Construction" means all work on public works involving  
6 laborers, workers or mechanics.

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

21 "Public body" means the State or any officer, board or  
22 commission of the State or any political subdivision or  
23 department thereof, or any institution supported in whole or  
24 in part by public funds, ~~authorized--by-law-to-construct~~  
25 ~~public--works--or--to--enter--into--any--contract---for---the~~  
26 ~~construction--of--public--works,~~ and includes every county,  
27 city, town, village, township, school district, irrigation,  
28 utility, reclamation improvement or other district and every  
29 other political subdivision, district or municipality of the  
30 state whether such political subdivision, municipality or  
31 district operates under a special charter or not.

32 The terms "general prevailing rate of hourly wages",  
33 "general prevailing rate of wages" or "prevailing rate of  
34 wages" when used in this Act mean the hourly cash wages plus

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

7 (Source: P.A. 91-105, eff. 1-1-00; 91-935, eff. 6-1-01;  
8 92-16, eff. 6-28-01.)

9 (820 ILCS 130/4) (from Ch. 48, par. 39s-4)

10 Sec. 4. (a) The public body awarding any contract for  
11 public work or otherwise undertaking any public works, shall  
12 ascertain the general prevailing rate of hourly wages in the  
13 locality in which the work is to be performed, for each craft  
14 or type of worker or mechanic needed to execute the contract,  
15 and where the public body performs the work without letting a  
16 contract therefor, shall ascertain the prevailing rate of  
17 wages on a per hour basis in the locality, and such public  
18 body shall specify in the resolution or ordinance and in the  
19 call for bids for the contract, that the general prevailing  
20 rate of wages in the locality for each craft or type of  
21 worker or mechanic needed to execute the contract or perform  
22 such work, also the general prevailing rate for legal holiday  
23 and overtime work, as ascertained by the public body or by  
24 the Department of Labor shall be paid for each craft or type  
25 of worker needed to execute the contract or to perform such  
26 work, and it shall be mandatory upon the contractor to whom  
27 the contract is awarded and upon any subcontractor under him,  
28 and where the public body performs the work, upon the public  
29 body, to pay not less than the specified rates to all  
30 laborers, workers and mechanics employed by them in the  
31 execution of the contract or such work; provided, however,  
32 that if the public body desires that the Department of Labor  
33 ascertain the prevailing rate of wages, it shall notify the

1 Department of Labor to ascertain the general prevailing rate  
2 of hourly wages for work under contract, or for work  
3 performed by a public body without letting a contract as  
4 required in the locality in which the work is to be  
5 performed, for each craft or type of worker or mechanic  
6 needed to execute the contract or project or work to be  
7 performed. Upon such notification the Department of Labor  
8 shall ascertain such general prevailing rate of wages, and  
9 certify the prevailing wage to such public body. The public  
10 body awarding the contract shall cause to be inserted in the  
11 contract or bid proposal submitted by the bidding contractor  
12 a stipulation to the effect that not less than the prevailing  
13 rate of wages as found by the public body or Department of  
14 Labor or determined by the court on review shall be paid to  
15 all laborers, workers and mechanics performing work under the  
16 contract.

17 (b) It shall also be mandatory upon the contractor to  
18 whom the contract is awarded to insert into each subcontract,  
19 or require in each subcontractor's bid proposal, a written  
20 stipulation to the effect that not less than the prevailing  
21 rate of wages shall be paid to all laborers, workers, and  
22 mechanics performing work under the contract. It shall also  
23 be mandatory upon each subcontractor to cause to be inserted  
24 into each additional tier subcontract, or require in each  
25 tier subcontractor's bid proposal, a stipulation to the  
26 effect that not less than the prevailing rate of wages shall  
27 be paid to all laborers, workers, and mechanics performing  
28 work under the contract. A contractor or subcontractor who  
29 fails to comply with this subsection (b) is in violation of  
30 this Act.

31 (c) It shall also require in all such contractor's bonds  
32 that the contractor include such provision as will guarantee  
33 the faithful performance of such prevailing wage clause as  
34 provided by contract. All bid specifications shall list the

1 specified rates to all laborers, workers and mechanics in the  
2 locality for each craft or type of worker or mechanic needed  
3 to execute the contract.

4 (d) If the Department of Labor revises the prevailing  
5 rate of hourly wages to be paid by the public body, the  
6 revised rate shall apply to such contract, and the public  
7 body shall be responsible to notify the contractor and each  
8 subcontractor, of the revised rate. If any prevailing wage  
9 rate is increased from the rate contained in the original  
10 contract, the contractor may recover from the public body any  
11 additional sums of money that the contractor may be required  
12 to pay as the result of the increase.

13 (e) Two or more investigatory hearings under this  
14 Section on the issue of establishing a new prevailing wage  
15 classification for a particular craft or type of worker shall  
16 be consolidated in a single hearing before the Department.  
17 Such consolidation shall occur whether each separate  
18 investigatory hearing is conducted by a public body or the  
19 Department. The party requesting a consolidated investigatory  
20 hearing shall have the burden of establishing that there is  
21 no existing prevailing wage classification for the particular  
22 craft or type of worker in any of the localities under  
23 consideration.

24 (f) When 5 or more laborers, workers, or mechanics are  
25 working on a public works project, it shall be mandatory upon  
26 the contractor to whom the contract is awarded to cause to be  
27 posted on the job site in a area readily accessible to the  
28 employees a current copy of the prevailing rate of wages as  
29 established by the Illinois Department of Labor. Any  
30 contractor who fails to comply with this subsection (f) is in  
31 violation of this Act. One posting per job site is sufficient  
32 to comply with this subsection (f).

33 (Source: P.A. 92-783, eff. 8-6-02.)

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

Sec. 5. The contractor and each subcontractor or the officer of the public body in charge of the project shall make and keep, for a period of not less than 3 years, true and accurate records of the name, address, telephone number when available, social security number, ~~keep or cause to be kept,~~ an accurate record showing the names and occupation of all laborers, workers and mechanics employed by them, in connection with said public work. The records shall also show the actual hourly wages paid in each pay period to each employee and the hours worked each day in each work week by each employee. While participating on public works, each contractor's payroll records shall include the starting and ending times of work for each employee. The, ~~and showing also the actual hourly wages paid to each of such persons,~~ which record shall be open at all reasonable hours to the inspection of the public body awarding the contract, its officers and agents, and to the Director of Labor and his deputies and agents. Any contractor or subcontractor that maintains its principal place of business outside of this State shall make the required records or accurate copies of those records available within this State at all reasonable hours for inspection.

(Source: P.A. 92-783, eff. 8-6-02.)

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

Sec. 6. Any officer, agent or representative of any public body who wilfully violates, or omits to comply with, any of the provisions of this Act, and any contractor or subcontractor, or agent or representative thereof, doing public work as aforesaid, who neglects to keep, or cause to be kept, an accurate record of the names, occupation and actual wages paid to each laborer, worker and mechanic employed by him, in connection with the public work or who

1 refuses to allow access to same at any reasonable hour to any  
2 person authorized to inspect same under this Act, is guilty  
3 of a Class B misdemeanor. If the Director of Labor or his or  
4 her deputies or agents find that a contractor or  
5 subcontractor has failed to comply with the provisions of  
6 this Act, a request may be made to the public body to  
7 withhold payment to the contractor or subcontractor in the  
8 amount of the alleged underpayment. If agreed to by the  
9 public body, the withholding shall remain in effect until it  
10 is determined that the violation no longer exists.

11 The Department of Labor shall inquire diligently as to  
12 any violation of this Act, shall institute actions for  
13 penalties herein prescribed, and shall enforce generally the  
14 provisions of this Act. The Attorney General shall prosecute  
15 such cases upon complaint by the Department or any interested  
16 person.

17 (Source: P.A. 81-992.)

18 (820 ILCS 130/9) (from Ch. 48, par. 39s-9)

19 Sec. 9. To effectuate the purpose and policy of this Act  
20 each public body shall, during the month of June of each  
21 calendar year, investigate and ascertain the prevailing rate  
22 of wages as defined in this Act and publicly post or keep  
23 available for inspection by any interested party in the main  
24 office of such public body its determination of such  
25 prevailing rate of wage and shall promptly file, no later  
26 than July 15 of each year, a certified copy thereof in the  
27 office of the Secretary of State at Springfield and the  
28 office of the Illinois Department of Labor.

29 The Department of Labor shall during the month of June of  
30 each calendar year, investigate and ascertain the prevailing  
31 rate of wages for each county in the State. If a public body  
32 does not investigate and ascertain the prevailing rate of  
33 wages during the month of June as required by the previous

1 paragraph, then the prevailing rate of wages for that public  
2 body shall be the rate as determined by the Department under  
3 this paragraph for the county in which such public body is  
4 located.

5 Where the Department of Labor ascertains the prevailing  
6 rate of wages, it is the duty of the Department of Labor  
7 within 30 days after receiving a notice from the public body  
8 authorizing the proposed work, to conduct an investigation to  
9 ascertain the prevailing rate of wages as defined in this Act  
10 and such investigation shall be conducted in the locality in  
11 which the work is to be performed. The Department of Labor  
12 shall send a certified copy of its findings to the public  
13 body authorizing the work and keep a record of its findings  
14 available for inspection by any interested party in the  
15 office of the Department of Labor at Springfield.

16 The public body except for the Department of  
17 Transportation with respect to highway contracts shall within  
18 30 days after filing with the Secretary of State, or the  
19 Department of Labor shall within 30 days after filing with  
20 such public body, publish in a newspaper of general  
21 circulation within the area that the determination is  
22 effective, a notice of its determination and shall promptly  
23 mail a copy of its determination to any employer, and to any  
24 association of employers and to any person or association of  
25 employees who have filed their names and addresses,  
26 requesting copies of any determination stating the particular  
27 rates and the particular class of workers whose wages will be  
28 affected by such rates.

29 At any time within 30 ~~15~~ days after the Department of  
30 Labor has published on its official web site a prevailing  
31 wage schedule ~~a-certified-copy-of-the-determination-has--been~~  
32 ~~published-as-herein-provided~~, any person affected thereby may  
33 object in writing to the determination or such part thereof  
34 as they may deem objectionable by filing a written notice



1 with the public body or Department of Labor, whichever has  
2 made such determination, stating the specified grounds of the  
3 objection. It shall thereafter be the duty of the public body  
4 or Department of Labor to set a date for a hearing on the  
5 objection after giving written notice to the objectors at  
6 least 10 days before the date of the hearing and said notice  
7 shall state the time and place of such hearing. Such hearing  
8 by a public body shall be held within 45 20 days after the  
9 objection is filed, and shall not be postponed or reset for a  
10 later date except upon the consent, in writing, of all the  
11 objectors and the public body. If such hearing is not held by  
12 the public body within the time herein specified, the  
13 Department of Labor may, upon request of the objectors,  
14 conduct the hearing on behalf of the public body.

15 The public body or Department of Labor, whichever has  
16 made such determination, is authorized in its discretion to  
17 hear each written objection filed separately or consolidate  
18 for hearing any one or more written objections filed with  
19 them. At such hearing the public body or Department of Labor  
20 shall introduce in evidence the investigation it instituted  
21 which formed the basis of its determination, and the public  
22 body or Department of Labor, or any interested objectors may  
23 thereafter introduce such evidence as is material to the  
24 issue. Thereafter, the public body or Department of Labor,  
25 must rule upon the written objection and make such final  
26 determination as it believes the evidence warrants, and  
27 promptly file a certified copy of its final determination  
28 with such public body and the Secretary of State, and serve a  
29 copy by personal service or registered mail on all parties to  
30 the proceedings. The final determination by the Department of  
31 Labor or a public body shall be rendered within 30 10 days  
32 after the conclusion of the hearing.

33 If proceedings to review judicially the final  
34 determination of the public body or Department of Labor are

1 not instituted as hereafter provided, such determination  
2 shall be final and binding.

3 The provisions of the Administrative Review Law, and all  
4 amendments and modifications thereof, and the rules adopted  
5 pursuant thereto, shall apply to and govern all proceedings  
6 for the judicial review of final administrative decisions of  
7 any public body or the Department of Labor hereunder. The  
8 term "administrative decision" is defined as in Section 3-101  
9 of the Code of Civil Procedure.

10 Appeals from all final orders and judgments entered by  
11 the court in review of the final administrative decision of  
12 the public body or Department of Labor, may be taken by any  
13 party to the action.

14 Any proceeding in any court affecting a determination of  
15 the Department of Labor or public body shall have priority in  
16 hearing and determination over all other civil proceedings  
17 pending in said court, except election contests.

18 In all reviews or appeals under this Act, it shall be the  
19 duty of the Attorney General to represent the Department of  
20 Labor, and defend its determination. The Attorney General  
21 shall not represent any public body, except the State, in any  
22 such review or appeal.

23 (Source: P.A. 83-201.)

24 (820 ILCS 130/10) (from Ch. 48, par. 39s-10)

25 Sec. 10. The presiding officer of the public body, or  
26 his or her authorized representative and the Director of the  
27 Department of Labor, or his or her authorized representative  
28 may administer oaths, take or cause to be taken the  
29 depositions of witnesses, and require by subpoena the  
30 attendance and testimony of witnesses, and the production of  
31 all books, records, and other evidence relative to the matter  
32 under investigation or hearing. Such subpoena shall be signed  
33 and issued by such presiding officer or his or her authorized

1 representative, or the Director or his or her authorized  
2 representative.

3 Upon request by the Director of Labor or his or her  
4 deputies or agents, records shall be copied and submitted for  
5 evidence at no cost to the Department of Labor. Every  
6 employer upon request shall furnish to the Director or his or  
7 her authorized representative, on demand, a sworn statement  
8 of the accuracy of the records. The sworn statement shall be  
9 a statement approved by the Director of Labor and presented  
10 to the contractor by the Director or an authorized  
11 representative of the Director. Any employer who refuses to  
12 furnish a sworn statement of the records is in violation of  
13 this Act.

14 In case of failure of any person to comply with any  
15 subpoena lawfully issued under this section or on the refusal  
16 of any witness to produce evidence or to testify to any  
17 matter regarding which he or she may be lawfully  
18 interrogated, it is the duty of any circuit court, upon  
19 application of such presiding officer or his or her  
20 authorized representative, or the Director or his or her  
21 authorized representative, to compel obedience by proceedings  
22 for contempt, as in the case of disobedience of the  
23 requirements of a subpoena issued by such court or a refusal  
24 to testify therein. Such presiding officer and the Director  
25 may certify to official acts.

26 (Source: P.A. 83-334.)

27 (820 ILCS 130/11a) (from Ch. 48, par. 39s-11a)

28 Sec. 11a. The Director of the Department of Labor shall  
29 publish in the Illinois Register no less often than once each  
30 calendar quarter a list of contractors or subcontractors  
31 found to have disregarded their obligations to employees  
32 under this Act. The Department of Labor shall determine the  
33 contractors or subcontractors who, on 2 separate occasions,

1 have been determined to have violated the provisions of this  
2 Act. Upon such determination the Department shall notify the  
3 violating contractor or subcontractor. Such contractor or  
4 subcontractor shall then have 10 working days to request a  
5 hearing by the Department on the alleged violations. Failure  
6 to respond within the 10 working day period shall result in  
7 automatic and immediate placement and publication on the  
8 list. If the contractor or subcontractor requests a hearing  
9 within the 10 working day period, the Director shall set a  
10 hearing on the alleged violations. Such hearing shall take  
11 place no later than ~~45~~ 30 calendar days after the receipt by  
12 the Department of Labor of the request for a hearing. The  
13 Department of Labor is empowered to promulgate, adopt, amend  
14 and rescind rules and regulations to govern the hearing  
15 procedure. No contract shall be awarded to a contractor or  
16 subcontractor appearing on the list, or to any firm,  
17 corporation, partnership or association in which such  
18 contractor or subcontractor has an interest until 2 years  
19 have elapsed from the date of publication of the list  
20 containing the name of such contractor or subcontractor.  
21 (Source: P.A. 86-693; 86-799; 86-1028.)

22 (820 ILCS 130/11c new)  
23 Sec. 11c. Prevailing Wage Enforcement Fund. Twenty  
24 percent of the civil penalties recovered under this Act shall  
25 be paid into the Prevailing Wage Enforcement Fund, a special  
26 fund that is hereby created in the State treasury. Moneys in  
27 the Fund shall be used, subject to appropriation, for  
28 exemplary programs, demonstration projects, and other  
29 activities or purposes related to the enforcement of this  
30 Act.