

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 Sections 6, 11, 11a, and 11b as follows:

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

7 Sec. 6. Any officer, agent or representative of any public
8 body who wilfully violates, or omits to comply with, any of the
9 provisions of this Act, and any contractor or subcontractor, or
10 agent or representative thereof, doing public work as
11 aforesaid, who neglects to keep, or cause to be kept, an
12 accurate record of the names, occupation and actual wages paid
13 to each laborer, worker and mechanic employed by him, in
14 connection with the public work or who refuses to allow access
15 to same at any reasonable hour to any person authorized to
16 inspect same under this Act, is guilty of a Class A ~~B~~
17 misdemeanor.

18 The Department of Labor shall inquire diligently as to any
19 violation of this Act, shall institute actions for penalties
20 herein prescribed, and shall enforce generally the provisions
21 of this Act. The Attorney General shall prosecute such cases
22 upon complaint by the Department or any interested person.

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

24 (820 ILCS 130/11) (from Ch. 48, par. 39s-11)

25 Sec. 11. No public works project shall be instituted unless
26 the provisions of this Act have been complied with. The
27 provisions of this Act shall not be applicable to Federal
28 construction projects which require a prevailing wage
29 determination by the United States Secretary of Labor. The
30 Illinois Department of Labor represented by the Attorney
31 General is empowered to sue for injunctive relief against the

1 awarding of any contract or the continuation of work under any
2 contract for public works at a time when the prevailing wage
3 prerequisites have not been met. Any contract for public works
4 awarded at a time when the prevailing wage prerequisites had
5 not been met shall be void as against public policy and the
6 contractor is prohibited from recovering any damages for the
7 voiding of the contract or pursuant to the terms of the
8 contract. The contractor is limited to a claim for amounts
9 actually paid for labor and materials supplied to the public
10 body. Where objections to a determination of the prevailing
11 rate of wages or a court action relative thereto is pending,
12 the public body shall not continue work on the project unless
13 sufficient funds are available to pay increased wages if such
14 are finally determined or unless the Department of Labor
15 certifies such determination of the prevailing rate of wages as
16 correct.

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

1 additionally liable for 5% of the amount of any such penalty to
2 the State for underpayments for each month following the date
3 of payment during which the underpayments remain unpaid. The
4 Department shall also have a right of action on behalf of any
5 individual who has a right of action under this Section. An
6 action brought to recover same shall be deemed to be a suit for
7 wages, and any and all judgments entered therein shall have the
8 same force and effect as other judgments for wages. At the
9 request of any laborer, workman or mechanic employed by the
10 contractor or by any subcontractor under him who is paid less
11 than the prevailing wage rate required by this Act, the
12 Department of Labor may take an assignment of such wage claim
13 in trust for the assigning laborer, workman or mechanic and may
14 bring any 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 (Source: P.A. 86-799.)

18 (820 ILCS 130/11a) (from Ch. 48, par. 39s-11a)

19 Sec. 11a. The Director of the Department of Labor shall
20 publish in the Illinois Register no less often than once each
21 calendar quarter a list of contractors or subcontractors found
22 to have disregarded their obligations to employees under this
23 Act. The Department of Labor shall determine the contractors or
24 subcontractors who, on 2 separate occasions within 5 years,
25 have been determined to have violated the provisions of this
26 Act. Upon such determination the Department shall notify the
27 violating contractor or subcontractor. Such contractor or
28 subcontractor shall then have 10 working days to request a
29 hearing by the Department on the alleged violations. Failure to
30 respond within the 10 working day period shall result in
31 automatic and immediate placement and publication on the list.
32 If the contractor or subcontractor requests a hearing within
33 the 10 working day period, the Director shall set a hearing on
34 the alleged violations. Such hearing shall take place no later
35 than 45 calendar days after the receipt by the Department of

1 Labor of the request for a hearing. The Department of Labor is
2 empowered to promulgate, adopt, amend and rescind rules and
3 regulations to govern the hearing procedure. No contract shall
4 be awarded to a contractor or subcontractor appearing on the
5 list, or to any firm, corporation, partnership or association
6 in which such contractor or subcontractor has an interest until
7 4 ~~2~~ years have elapsed from the date of publication of the list
8 containing the name of such contractor or subcontractor.

9 (Source: P.A. 93-38, eff. 6-1-04.)

10 (820 ILCS 130/11b)

11 Sec. 11b. Discharge or discipline of "whistle blowers"
12 prohibited.

13 (a) No person shall discharge, discipline, or in any other
14 way discriminate against, or cause to be discharged,
15 disciplined, or discriminated against, any employee or any
16 authorized representative of employees by reason of the fact
17 that the employee or representative has filed, instituted, or
18 caused to be filed or instituted any proceeding under this Act,
19 or has testified or is about to testify in any proceeding
20 resulting from the administration or enforcement of this Act,
21 or offers any evidence of any violation of this Act.

22 (b) Any employee or a representative of employees who
23 believes that he has been discharged, disciplined, or otherwise
24 discriminated against by any person in violation of subsection
25 (a) of this Section may, within 30 days after the alleged
26 violation occurs, apply to the Director of Labor for a review
27 of the discharge, discipline, or alleged discrimination. A copy
28 of the application shall be sent to the person who allegedly
29 committed the violation, who shall be the respondent. Upon
30 receipt of an application, the Director shall cause such
31 investigation to be made as he or she deems appropriate. The
32 investigation shall provide an opportunity for a public hearing
33 at the request of any party to the review to enable the parties
34 to present information relating to the alleged violation. The
35 parties shall be given written notice of the time and place of

1 the hearing at least 5 days before the hearing. Upon receiving
2 the report of the investigation, the Director shall make
3 findings of fact. If the Director finds that a violation did
4 occur, he or she shall issue a decision incorporating his or
5 her findings and requiring the party committing the violation
6 to take such affirmative action to abate the violation as the
7 Director deems appropriate, including, but not limited to, the
8 rehiring or reinstatement of the employee or representative of
9 employees to his or her former position and compensating him or
10 her for the time he or she was unemployed. The party committing
11 the violation shall also be liable to the Department of Labor
12 for a penalty of \$5,000 for each violation of this Section. If
13 the Director finds that there was no violation, he or she shall
14 issue an order denying the application. An order issued by the
15 Director under this Section shall be subject to judicial review
16 under the Administrative Review Law.

17 (c) The Director shall adopt rules implementing this
18 Section in accordance with the Illinois Administrative
19 Procedure Act.

20 (Source: P.A. 88-359.)