



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB0043

Introduced 1/30/2009, by Sen. James F. Clayborne, Jr.

SYNOPSIS AS INTRODUCED:

See Index

Amends the Prevailing Wage Act. Provides that "public works" includes all projects located in an enterprise zone as defined in the Illinois Enterprise Zone Act or located in an economic development project area as defined in the Economic Development Project Area Tax Increment Allocation Act of 1995, but does not include projects at an owner-occupied single family residence or owner-occupied multi-family residence located in an enterprise zone or economic development project area. Provides that all contractors and subcontractors required to pay the prevailing wage under the Act shall make payment of such wages in legal tender, without any deduction for food, sleeping accommodations, transportation, use of tools, or any other thing of any kind or description. Provides that the Department of Labor shall make revised prevailing wage rates available on its official website and such posting on the website shall be deemed notice to the contractor or subcontractor of the revised rate. Provides that the contractor or subcontractor shall be responsible to pay the revised rate. Provides that in lieu of posting the prevailing wage rates on the project site of the public works, a contractor which has a business location where laborers, workers and mechanics regularly visit may: (1) post in a conspicuous location at that business the current prevailing wage rates for each county in which the contractor is performing work; or (2) provide such laborer, worker or mechanic engaged on the public works project a written notice indicating the prevailing wage rates for the public works project. Makes other changes. Effective immediately.

LRB096 03898 RLC 13933 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

A BILL FOR

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 2, 3, 4, 6, 9, 11, and 11b as follows:

6 (820 ILCS 130/2) (from Ch. 48, par. 39s-2)

7 Sec. 2. Applicability; definitions. This Act applies to the
8 wages of laborers, mechanics and other workers employed in any
9 public works, as hereinafter defined, by any public body and to
10 anyone under contracts for public works. This includes any
11 maintenance, repair, assembly, or disassembly work performed
12 on equipment 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 by any
16 public body, other than work done directly by any public
17 utility company, whether or not done under public supervision
18 or direction, or paid for wholly or in part out of public
19 funds. "Public works" as defined herein includes all projects
20 financed in whole or in part with bonds issued under the
21 Industrial Project Revenue Bond Act (Article 11, Division 74 of
22 the Illinois Municipal Code), the Industrial Building Revenue
23 Bond Act, the Illinois Finance Authority Act, the Illinois

1 Sports Facilities Authority Act, or the Build Illinois Bond
2 Act, and all projects financed in whole or in part with loans
3 or other funds made available pursuant to the Build Illinois
4 Act. "Public works" also includes all projects financed in
5 whole or in part with funds from the Fund for Illinois' Future
6 under Section 6z-47 of the State Finance Act, funds for school
7 construction under Section 5 of the General Obligation Bond
8 Act, funds authorized under Section 3 of the School
9 Construction Bond Act, funds for school infrastructure under
10 Section 6z-45 of the State Finance Act, and funds for
11 transportation purposes under Section 4 of the General
12 Obligation Bond Act. "Public works" also includes all projects
13 financed in whole or in part with funds from the Department of
14 Commerce and Economic Opportunity under the Illinois Renewable
15 Fuels Development Program Act for which there is no project
16 labor agreement. "Public works" also includes all projects at
17 leased facility property used for airport purposes under
18 Section 35 of the Local Government Facility Lease Act and all
19 projects located in an enterprise zone as defined in the
20 Illinois Enterprise Zone Act or located in an economic
21 development project area as defined in the Economic Development
22 Project Area Tax Increment Allocation Act of 1995, but does not
23 include projects at an owner-occupied single family residence
24 or owner-occupied multi-family residence located in an
25 enterprise zone or economic development project area.

26 "Construction" means all work on public works involving

1 laborers, workers or mechanics. This includes any maintenance,
2 repair, assembly, or disassembly work performed on equipment
3 whether owned, leased, or rented.

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

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

26 The terms "general prevailing rate of hourly wages",

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

9 "Contractor" or "subcontractor" means any person or entity
10 who undertakes to, offers to undertake to, purports to have the
11 capacity to undertake to, submits a bid to, or does himself or
12 herself or by or through others, engage in public works.

13 (Source: P.A. 94-750, eff. 5-9-06; 95-341, eff. 8-21-07.)

14 (820 ILCS 130/3) (from Ch. 48, par. 39s-3)

15 Sec. 3. Requirements to pay prevailing wage. Not less than
16 the general prevailing rate of hourly wages for work of a
17 similar character on public works in the locality in which the
18 work is performed, and not less than the general prevailing
19 rate of hourly wages for legal holiday and overtime work, shall
20 be paid to all laborers, workers and mechanics employed by or
21 on behalf of any public body engaged in the construction of
22 public works. This includes any maintenance, repair, assembly,
23 or disassembly work performed on equipment whether owned,
24 leased, or rented. Laborers ~~Only such laborers,~~ workers, and
25 mechanics ~~as are~~ directly employed by contractors or

1 subcontractors in actual construction work on the site of the
2 building or construction job shall be deemed to be employed
3 upon public works. Laborers, and ~~laborers,~~ workers, and
4 mechanics engaged in the transportation of materials and
5 equipment to or from the site, but not including the
6 transportation by the sellers and suppliers or the manufacture
7 or processing of materials or equipment, in the execution of
8 any contract or contracts for public works with any public body
9 shall also be deemed to be employed upon public works. The wage
10 for a tradesman performing maintenance is equivalent to that of
11 a tradesman engaged in construction. All contractors and
12 subcontractors required to pay the prevailing wage under this
13 Act shall make payment of such wages in legal tender, without
14 any deduction for food, sleeping accommodations,
15 transportation, use of tools, or any other thing of any kind or
16 description.

17 (Source: P.A. 95-341, eff. 8-21-07.)

18 (820 ILCS 130/4) (from Ch. 48, par. 39s-4)

19 Sec. 4. Ascertaining prevailing wage; compliance.

20 (a) The public body awarding any contract for public works
21 ~~work~~ or otherwise undertaking any public works, shall ascertain
22 the general prevailing rate of hourly wages in the locality in
23 which the work is to be performed, for each craft or type of
24 worker or mechanic needed to execute the contract, and where
25 the public body performs the work without letting a contract

1 therefor, shall ascertain the prevailing rate of wages on a per
2 hour basis in the locality. Such ~~, and such~~ public body shall
3 specify in the resolution or ordinance and in the call for bids
4 for the contract, that the general prevailing rate of wages in
5 the locality for each craft or type of worker or mechanic
6 needed to execute the contract or perform such work, also the
7 general prevailing rate for legal holiday and overtime work, as
8 ascertained by the public body or by the Department of Labor
9 shall be paid for each craft or type of worker needed to
10 execute the contract or to perform such work. ~~, and it~~

11 (a-1) It shall be mandatory upon the contractor to whom the
12 contract is awarded and upon any subcontractor under him, and
13 where the public body performs the work, upon the public body,
14 to pay not less than the specified rates to all laborers,
15 workers and mechanics employed by them in the execution of the
16 contract or such work; provided, however, that if the public
17 body desires that the Department of Labor ascertain the
18 prevailing rate of wages, it shall notify the Department of
19 Labor to ascertain the general prevailing rate of hourly wages
20 for work under contract, or for work performed by a public body
21 without letting a contract as required in the locality in which
22 the work is to be performed, for each craft or type of worker
23 or mechanic needed to execute the contract or project or work
24 to be performed. Upon such notification the Department of Labor
25 shall ascertain such general prevailing rate of wages, and
26 certify the prevailing wage to such public body.

1 (a-2) The public body or other entity awarding the contract
2 shall cause to be inserted in the project specifications and
3 the contract a stipulation to the effect that not less than the
4 prevailing rate of wages as found by the public body or
5 Department of Labor or determined by the court on review shall
6 be paid to all laborers, workers and mechanics performing work
7 under the contract.

8 (a-3) When a public body or other entity covered by this
9 Act has awarded work to a contractor without a public bid,
10 contract or project specification, such public body or other
11 entity shall comply with subsection (a-2) by providing the
12 contractor with written notice on the purchase order related to
13 the work to be done or on a separate document indicating that
14 not less than the prevailing rate of wages as found by the
15 public body or Department of Labor or determined by the court
16 on review shall be paid to all laborers, workers, and mechanics
17 performing work on the project.

18 (a-4) Where a complaint is made and the Department of Labor
19 determines that a violation occurred, the Department of Labor
20 shall determine if proper written notice under this Section 4
21 was given. If proper written notice was not provided to the
22 contractor by the public body or other entity, the Department
23 of Labor shall order the public body or other entity to pay any
24 interest, penalties or fines that would have been owed by the
25 contractor if proper written notice were provided. The failure
26 by a public body or other entity to provide written notice does

1 not relieve the contractor of the duty to comply with the
2 prevailing wage rate, nor of the obligation to pay any back
3 wages, as determined under this Act. For the purposes of this
4 subsection, back wages shall be limited to the difference
5 between the actual amount paid and the prevailing rate of wages
6 required to be paid for the project. The failure of a public
7 body or other entity to provide written notice under this
8 Section 4 does not diminish the right of a laborer, worker, or
9 mechanic to the prevailing rate of wages as determined under
10 this Act.

11 (b) It shall also be mandatory upon the contractor to whom
12 the contract is awarded to insert into each subcontract and
13 into the project specifications for each subcontract a written
14 stipulation to the effect that not less than the prevailing
15 rate of wages shall be paid to all laborers, workers, and
16 mechanics performing work under the contract. It shall also be
17 mandatory upon each subcontractor to cause to be inserted into
18 each lower tiered subcontract and into the project
19 specifications for each lower tiered subcontract a stipulation
20 to the effect that not less than the prevailing rate of wages
21 shall be paid to all laborers, workers, and mechanics
22 performing work under the contract. A contractor or
23 subcontractor who fails to comply with this subsection (b) is
24 in violation of this Act.

25 (b-1) When a contractor has awarded work to a subcontractor
26 without a contract or contract specification, the contractor

1 shall comply with subsection (b) by providing a subcontractor
2 with a written statement indicating that not less than the
3 prevailing rate of wages shall be paid to all laborers,
4 workers, and mechanics performing work on the project. A
5 contractor or subcontractor who fails to comply with this
6 subsection (b-1) is in violation of this Act.

7 (b-2) Where a complaint is made and the Department of Labor
8 determines that a violation has occurred, the Department of
9 Labor shall determine if proper written notice under this
10 Section 4 was given. If proper written notice was not provided
11 to the subcontractor by the contractor, the Department of Labor
12 shall order the contractor to pay any interest, penalties, or
13 finances that would have been owed by the subcontractor if proper
14 written notice were provided. The failure by a contractor to
15 provide written notice to a subcontractor does not relieve the
16 subcontractor of the duty to comply with the prevailing wage
17 rate, nor of the obligation to pay any back wages, as
18 determined under this Act. For the purposes of this subsection,
19 back wages shall be limited to the difference between the
20 actual amount paid and the prevailing rate of wages required
21 for the project. However, if proper written notice was not
22 provided to the contractor by the public body or other entity
23 under this Section 4, the Department of Labor shall order the
24 public body or other entity to pay any interest, penalties, or
25 finances that would have been owed by the subcontractor if proper
26 written notice were provided. The failure by a public body or

1 other entity to provide written notice does not relieve the
2 subcontractor of the duty to comply with the prevailing wage
3 rate, nor of the obligation to pay any back wages, as
4 determined under this Act. For the purposes of this subsection,
5 back wages shall be limited to the difference between the
6 actual amount paid and the prevailing rate of wages required
7 for the project. The failure to provide written notice by a
8 public body, other entity, or contractor does not diminish the
9 right of a laborer, worker, or mechanic to the prevailing rate
10 of wages as determined under this Act.

11 (c) A public body or other entity ~~It~~ shall also require in
12 all contractor's and subcontractor's ~~such contractor's~~ bonds
13 that the contractor or subcontractor include such provision as
14 will guarantee the faithful performance of such prevailing wage
15 clause as provided by contract or other written instrument. All
16 bid specifications shall list the specified rates to all
17 laborers, workers and mechanics in the locality for each craft
18 or type of worker or mechanic needed to execute the contract.

19 (d) If the Department of Labor revises the prevailing rate
20 of hourly wages to be paid by the public body, the revised rate
21 shall apply to such contract. The Department of Labor shall
22 make the revised rate available on its official website and
23 such posting on the website shall be deemed notice to the
24 contractor or subcontractor of the revised rate. The contractor
25 or subcontractor shall be responsible to pay the revised rate 7
26 ~~and the public body shall be responsible to notify the~~

1 ~~contractor and each subcontractor, of the revised rate.~~

2 (e) (Blank) ~~Two or more investigatory hearings under this~~
3 ~~Section on the issue of establishing a new prevailing wage~~
4 ~~classification for a particular craft or type of worker shall~~
5 ~~be consolidated in a single hearing before the Department. Such~~
6 ~~consolidation shall occur whether each separate investigatory~~
7 ~~hearing is conducted by a public body or the Department. The~~
8 ~~party requesting a consolidated investigatory hearing shall~~
9 ~~have the burden of establishing that there is no existing~~
10 ~~prevailing wage classification for the particular craft or type~~
11 ~~of worker in any of the localities under consideration.~~

12 (f) It shall be mandatory upon the contractor or
13 construction manager to whom a contract for public works is
14 awarded to post, at a location on the project site of the
15 public works that is easily accessible to the workers engaged
16 on the project, the prevailing wage rates for each craft or
17 type of worker or mechanic needed to execute the contract or
18 project or work to be performed. In lieu of posting on the
19 project site of the public works, a contractor which has a
20 business location where laborers, workers, and mechanics
21 regularly visit may: (1) post in a conspicuous location at that
22 business the current prevailing wage rates for each county in
23 which the contractor is performing work; or (2) provide such
24 laborer, worker, or mechanic engaged on the public works
25 project a written notice indicating the prevailing wage rates
26 for the public works project. A failure to post or provide a

1 prevailing wage rate as required by this Section is a violation
2 of this Act.

3 (g) Beginning January 1, 2010, every public body awarding
4 any contract for a public works project or otherwise
5 undertaking any public works project shall notify the
6 Department of Labor in writing, on a form prescribed by the
7 Department of Labor, whenever a project subject to the
8 provisions of this Act is awarded or undertaken. The
9 notification mentioned herein shall be filed with the
10 Department of Labor within 30 days after such contract is
11 awarded or within 30 days before commencement of a public works
12 project, and shall include a list of all first-tier
13 subcontractors.

14 (Source: P.A. 95-331, eff. 8-21-07.)

15 (820 ILCS 130/6) (from Ch. 48, par. 39s-6)

16 Sec. 6. Penalties. Any officer, agent or representative of
17 any public body who wilfully violates, or omits to comply with,
18 any of the provisions of this Act, and any contractor or
19 subcontractor, or agent or representative thereof, doing
20 public work as aforesaid, who wilfully violates, or omits to
21 comply with, any of the provisions of this Act ~~neglects to~~
22 ~~keep, or cause to be kept, an accurate record of the names,~~
23 ~~occupation and actual wages paid to each laborer, worker and~~
24 ~~mechanic employed by him, in connection with the public work or~~
25 ~~who refuses to allow access to same at any reasonable hour to~~

1 ~~any person authorized to inspect same under this Act,~~ is guilty
2 of a Class A misdemeanor.

3 The Department of Labor shall inquire diligently as to any
4 violation of this Act, shall institute actions for penalties
5 herein prescribed, and shall enforce generally the provisions
6 of this Act. The Attorney General shall prosecute such cases
7 upon complaint by the Department or any interested person.

8 (Source: P.A. 94-488, eff. 1-1-06.)

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

10 Sec. 9. Duties of the Department of Labor and public
11 bodies. To effectuate the purpose and policy of this Act each
12 public body shall, during the month of June of each calendar
13 year, investigate and ascertain the prevailing rate of wages as
14 defined in this Act and publicly post or keep available for
15 inspection by any interested party in the main office of such
16 public body its determination of such prevailing rate of wage
17 and shall promptly file, no later than July 15 of each year, a
18 certified copy thereof in the office of the Secretary of State
19 at Springfield and the office of the Illinois Department of
20 Labor.

21 The Department of Labor shall during the month of June of
22 each calendar year, investigate and ascertain the prevailing
23 rate of wages for each county in the State. If a public body
24 does not investigate and ascertain the prevailing rate of wages
25 during the month of June as required by the previous paragraph,

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

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

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

1 At any time within 30 days after the Department of Labor
2 has published on its official web site a prevailing wage
3 schedule, any person affected thereby may object in writing to
4 the determination or such part thereof as they may deem
5 objectionable by filing a written notice with the public body
6 or Department of Labor, whichever has made such determination,
7 stating the specified grounds of the objection. It shall
8 thereafter be the duty of the public body or Department of
9 Labor to set a date for a hearing on the objection after giving
10 written notice to the objectors at least 10 days before the
11 date of the hearing and said notice shall state the time and
12 place of such hearing. Such hearing by a public body shall be
13 held within 45 days after the objection is filed, and shall not
14 be postponed or reset for a later date except upon the consent,
15 in writing, of all the objectors and the public body. If such
16 hearing is not held by the public body within the time herein
17 specified, the Department of Labor may, upon request of the
18 objectors, conduct the hearing on behalf of the public body.

19 The public body or Department of Labor, whichever has made
20 such determination, is authorized ~~in its discretion~~ to hear
21 each timely filed written objection. Two or more hearings under
22 this Section on the issue of establishing a new prevailing wage
23 classification for a particular craft or type of worker shall
24 be consolidated in a single hearing before the Department. Such
25 consolidation shall occur whether each separate hearing is
26 conducted by a public body or the Department. The party

1 requesting a consolidated hearing shall have the burden of
2 establishing that there is no existing prevailing wage
3 classification for the particular craft or type of worker in
4 any of the localities under consideration ~~filed separately or~~
5 ~~consolidate for hearing any one or more written objections~~
6 ~~filed with them.~~ At any such hearing the public body or
7 Department of Labor shall introduce in evidence the
8 investigation it instituted which formed the basis of its
9 determination, and the public body or Department of Labor, or
10 any interested objectors may thereafter introduce such
11 evidence as is material to the issue. Thereafter, the public
12 body or Department of Labor, must rule upon the written
13 objection and make such final determination as it believes the
14 evidence warrants, and promptly file a certified copy of its
15 final determination with such public body and the Secretary of
16 State, and serve a copy by personal service or registered mail
17 on all parties to the proceedings. The final determination by
18 the Department of Labor or a public body shall be rendered
19 within 30 days after the conclusion of the hearing.

20 If proceedings to review judicially the final
21 determination of the public body or Department of Labor are not
22 instituted as hereafter provided, such determination shall be
23 final and binding.

24 The provisions of the Administrative Review Law, and all
25 amendments and modifications thereof, and the rules adopted
26 pursuant thereto, shall apply to and govern all proceedings for

1 the judicial review of final administrative decisions of any
2 public body or the Department of Labor hereunder. The term
3 "administrative decision" is defined as in Section 3-101 of the
4 Code of Civil Procedure.

5 Appeals from all final orders and judgments entered by the
6 court in review of the final administrative decision of the
7 public body or Department of Labor, may be taken by any party
8 to the action.

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

13 In all reviews or appeals under this Act, it shall be the
14 duty of the Attorney General to represent the Department of
15 Labor, and defend its determination. The Attorney General shall
16 not represent any public body, except the State, in any such
17 review or appeal.

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

19 (820 ILCS 130/11) (from Ch. 48, par. 39s-11)

20 Sec. 11. Failure to comply; civil remedies.

21 (a) No public works project shall be instituted unless the
22 provisions of this Act have been complied with. The provisions
23 of this Act shall not be applicable to Federal construction
24 projects which require a prevailing wage determination by the
25 United States Secretary of Labor. The Illinois Department of

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

18 Any laborer, worker or mechanic employed by the contractor
19 or by any sub-contractor under him who is paid for his services
20 in a sum less than the stipulated rates for work done under
21 such contract, shall have a right of action for whatever
22 difference there may be between the amount so paid, and the
23 prevailing rate of wages required to be paid on the public
24 works project ~~rates provided by the contract~~ together with
25 costs and such reasonable attorney's fees as shall be allowed
26 by the court. Such contractor or subcontractor shall also be

1 liable to the Department of Labor for 20% of such underpayments
2 and shall be additionally liable to the laborer, worker or
3 mechanic for punitive damages in the amount of 2% of the amount
4 of any such penalty to the State for underpayments for each
5 month following the date of payment during which such
6 underpayments remain unpaid. Where a second or subsequent
7 action to recover underpayments is brought against a contractor
8 or subcontractor and the contractor or subcontractor is found
9 liable for underpayments to any laborer, worker, or mechanic,
10 the contractor or subcontractor shall also be liable to the
11 Department of Labor for 50% of the underpayments payable as a
12 result of the second or subsequent action, and shall be
13 additionally liable to the laborer, worker, or mechanic for
14 punitive damages in the amount of ~~for~~ 5% of the amount of any
15 such penalty to the State for underpayments for each month
16 following the date of payment during which the underpayments
17 remain unpaid. The Department shall also have a right of action
18 on behalf of any individual who has a right of action under
19 this Section. An action brought to recover same shall be deemed
20 to be a suit for wages, and any and all judgments entered
21 therein shall have the same force and effect as other judgments
22 for wages. At the request of any laborer, workman or mechanic
23 employed by the contractor or by any subcontractor under him
24 who is paid less than the prevailing wage rate required by this
25 Act, the Department of Labor may take an assignment of such
26 wage claim in trust for the assigning laborer, workman or

1 mechanic and may bring any legal action necessary to collect
2 such claim, and the contractor or subcontractor shall be
3 required to pay the costs incurred in collecting such claim.

4 (b) The Director of the Department of Labor shall publish
5 in the Illinois Register no less often than once each calendar
6 quarter a list of contractors or subcontractors found to have
7 disregarded their obligations to employees under this Act. The
8 Department of Labor shall determine the contractors or
9 subcontractors who, on 2 separate occasions within 5 years,
10 have been determined to have violated the provisions of this
11 Act. Upon such determinations the Department shall notify the
12 violating contractor or subcontractor. Such contractor or
13 subcontractor shall then have 10 working days to request a
14 hearing by the Department on the alleged violations. Failure to
15 respond within the 10-working-day period shall result in
16 automatic and immediate placement and publication on the list.
17 If the contractor or subcontractor requests a hearing within
18 the 10-working-day period, the Director shall set a hearing on
19 the alleged violations. Such hearing shall take place no later
20 than 45 calendar days after the receipt by the Department of
21 Labor of the request for a hearing. The Department of Labor is
22 empowered to promulgate, adopt, amend, and rescind rules and
23 regulations to govern the hearing procedure. No contract shall
24 be awarded to a contractor or subcontractor appearing on the
25 list, or to any firm, corporation, partnership, or association
26 in which such contractor or subcontractor has an interest,

1 until 4 years have elapsed from the date of publication of the
2 list containing the name of such contractor or subcontractor.

3 (Source: P.A. 94-488, eff. 1-1-06.)

4 (820 ILCS 130/11b)

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

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

16 (b) Any employee or a representative of employees who
17 believes that he has been discharged, disciplined, or otherwise
18 discriminated against by any person in violation of subsection
19 (a) of this Section may, within 60 ~~30~~ days after the alleged
20 violation occurs, apply to the Director of Labor for a review
21 of the discharge, discipline, or alleged discrimination. A copy
22 of the application shall be sent to the person who allegedly
23 committed the violation, who shall be the respondent. Upon
24 receipt of an application, the Director shall cause such
25 investigation to be made as he or she deems appropriate. The

1 investigation shall provide an opportunity for a public hearing
2 at the request of any party to the review to enable the parties
3 to present information relating to the alleged violation. The
4 parties shall be given written notice of the time and place of
5 the hearing at least 30 ~~5~~ days before the hearing. Upon
6 receiving the report of the investigation, the Director shall
7 make findings of fact. If the Director finds that a violation
8 did occur, he or she shall issue a decision incorporating his
9 or her findings and requiring the party committing the
10 violation to take such affirmative action to abate the
11 violation as the Director deems appropriate, including, but not
12 limited to, the rehiring or reinstatement of the employee or
13 representative of employees to his or her former position and
14 compensating him or her for the time he or she was unemployed.
15 The party committing the violation shall also be liable to the
16 Department of Labor for a penalty of \$5,000 for each violation
17 of this Section. If the Director finds that there was no
18 violation, he or she shall issue an order denying the
19 application. An order issued by the Director under this Section
20 shall be subject to judicial review under the Administrative
21 Review Law.

22 (c) The Director shall adopt rules implementing this
23 Section in accordance with the Illinois Administrative
24 Procedure Act.

25 (Source: P.A. 94-488, eff. 1-1-06.)

1 (820 ILCS 130/11a rep.)

2 Section 10. The Prevailing Wage Act is amended by repealing
3 Section 11a.

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.

1 INDEX

2 Statutes amended in order of appearance

3 820 ILCS 130/2 from Ch. 48, par. 39s-2

4 820 ILCS 130/3 from Ch. 48, par. 39s-3

5 820 ILCS 130/4 from Ch. 48, par. 39s-4

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

7 820 ILCS 130/9 from Ch. 48, par. 39s-9

8 820 ILCS 130/11 from Ch. 48, par. 39s-11

9 820 ILCS 130/11b

10 820 ILCS 130/11a rep.