



Sen. Dale A. Righter

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1 AMENDMENT TO SENATE BILL 1511

2 AMENDMENT NO. _____. Amend Senate Bill 1511 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Prevailing Wage Act is amended by changing
5 Sections 2, 4, and 11a as follows:

6 (820 ILCS 130/2) (from Ch. 48, par. 39s-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, or
9 the Build Illinois Bond Act; loans or other funds made
10 available pursuant to the Build Illinois Act; or funds from the
11 Fund for Illinois' Future under Section 6z-47 of the State
12 Finance Act, funds for school construction under Section 5 of
13 the General Obligation Bond Act, funds authorized under Section
14 3 of the School Construction Bond Act, funds for school
15 infrastructure under Section 6z-45 of the State Finance Act,
16 and funds for transportation purposes under Section 4 of the
17 General Obligation Bond Act. "Public works" also includes (i)
18 all projects financed in whole or in part with funds from the
19 Department of Commerce and Economic Opportunity under the
20 Illinois Renewable Fuels Development Program Act for which
21 there is no project labor agreement and (ii) all work performed
22 pursuant to a public private agreement under the Public Private
23 Agreements for the Illiana Expressway Act. "Public works" also
24 includes all projects at leased facility property used for
25 airport purposes under Section 35 of the Local Government
26 Facility Lease Act. "Public works" also includes the

1 construction of a new wind power facility by a business
2 designated as a High Impact Business under Section 5.5(a)(3)(E)
3 of the Illinois Enterprise Zone Act. "Public works" does not
4 include work done directly by any public utility company,
5 whether or not done under public supervision or direction, or
6 paid for wholly or in part out of public funds. "Public works"
7 does not include projects undertaken by the owner at an
8 owner-occupied single-family residence or at an owner-occupied
9 unit of a multi-family residence.

10 "Compensatory damages" or "actual damages" are the sum of
11 economic and non-economic damages.

12 "Construction" means all work on public works involving
13 laborers, workers or mechanics. This includes any maintenance,
14 repair, assembly, or disassembly work performed on equipment
15 whether owned, leased, or rented.

16 "Locality" means the county where the physical work upon
17 public works is performed, except (1) that if there is not
18 available in the county a sufficient number of competent
19 skilled laborers, workers and mechanics to construct the public
20 works efficiently and properly, "locality" includes any other
21 county nearest the one in which the work or construction is to
22 be performed and from which such persons may be obtained in
23 sufficient numbers to perform the work and (2) that, with
24 respect to contracts for highway work with the Department of
25 Transportation of this State, "locality" may at the discretion
26 of the Secretary of the Department of Transportation be

1 construed to include two or more adjacent counties from which
2 workers may be accessible for work on such construction.

3 "Public body" means the State or any officer, board or
4 commission of the State or any political subdivision or
5 department thereof, or any institution supported in whole or in
6 part by public funds, and includes every county, city, town,
7 village, township, school district, irrigation, utility,
8 reclamation improvement or other district and every other
9 political subdivision, district or municipality of the state
10 whether such political subdivision, municipality or district
11 operates under a special charter or not.

12 The terms "general prevailing rate of hourly wages",
13 "general prevailing rate of wages" or "prevailing rate of
14 wages" when used in this Act mean the hourly cash wages plus
15 fringe benefits for training and apprenticeship programs
16 approved by the U.S. Department of Labor, Bureau of
17 Apprenticeship and Training, health and welfare, insurance,
18 vacations and pensions paid generally, in the locality in which
19 the work is being performed, to employees engaged in work of a
20 similar character on public works.

21 (Source: P.A. 95-341, eff. 8-21-07; 96-28, eff. 7-1-09; 96-58,
22 eff. 1-1-10; 96-186, eff. 1-1-10; 96-913, eff. 6-9-10; 96-1000,
23 eff. 7-2-10.)

24 (820 ILCS 130/4) (from Ch. 48, par. 39s-4)

25 Sec. 4. Ascertaining prevailing wage.

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

1 required in the locality in which the work is to be performed,
2 for each craft or type of worker or mechanic needed to execute
3 the contract or project or work to be performed. Upon such
4 notification the Department of Labor shall ascertain such
5 general prevailing rate of wages, and certify the prevailing
6 wage to such public body.

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

14 (a-2) When a public body or other entity covered by this
15 Act has awarded work to a contractor without a public bid,
16 contract or project specification, such public body or other
17 entity shall comply with subsection (a-1) by providing the
18 contractor with written notice on the purchase order related to
19 the work to be done or on a separate document indicating that
20 not less than the prevailing rate of wages as found by the
21 public body or Department of Labor or determined by the court
22 on review shall be paid to all laborers, workers, and mechanics
23 performing work on the project.

24 (a-3) Where a complaint is made and the Department of Labor
25 determines that a violation occurred, the Department of Labor
26 shall determine if proper written notice under this Section 4

1 was given. If proper written notice was not provided to the
2 contractor by the public body or other entity, the Department
3 of Labor shall order the public body or other entity to pay any
4 interest, penalties or fines that would have been owed by the
5 contractor if proper written notice were provided. The failure
6 by a public body or other entity to provide written notice does
7 not relieve the contractor of the duty to comply with the
8 prevailing wage rate, nor of the obligation to pay any back
9 wages, as determined under this Act. For the purposes of this
10 subsection, back wages shall be limited to the difference
11 between the actual amount paid and the prevailing rate of wages
12 required to be paid for the project. The failure of a public
13 body or other entity to provide written notice under this
14 Section 4 does not diminish the right of a laborer, worker, or
15 mechanic to the prevailing rate of wages as determined under
16 this Act.

17 (a-4) Any individual, contractor, or subcontractor who has
18 been aggrieved by a falsely filed complaint may institute a
19 civil action for damages, including, but not limited to,
20 compensatory damages, legal fees, administrative fees,
21 penalties assessed by the Department of Labor pursuant to the
22 complaint, injunctive relief, and other appropriate equitable
23 relief. Any person found to knowingly file a false complaint
24 shall be liable to the individual, contractor, or subcontractor
25 who was falsely accused for damages as provided in this
26 subsection.

1 (b) It shall also be mandatory upon the contractor to whom
2 the contract is awarded to insert into each subcontract and
3 into the project specifications for each subcontract a written
4 stipulation to the effect that not less than the prevailing
5 rate of wages shall be paid to all laborers, workers, and
6 mechanics performing work under the contract. It shall also be
7 mandatory upon each subcontractor to cause to be inserted into
8 each lower tiered subcontract and into the project
9 specifications for each lower tiered subcontract a stipulation
10 to the effect that not less than the prevailing rate of wages
11 shall be paid to all laborers, workers, and mechanics
12 performing work under the contract. A contractor or
13 subcontractor who fails to comply with this subsection (b) is
14 in violation of this Act.

15 (b-1) When a contractor has awarded work to a subcontractor
16 without a contract or contract specification, the contractor
17 shall comply with subsection (b) by providing a subcontractor
18 with a written statement indicating that not less than the
19 prevailing rate of wages shall be paid to all laborers,
20 workers, and mechanics performing work on the project. A
21 contractor or subcontractor who fails to comply with this
22 subsection (b-1) is in violation of this Act.

23 (b-2) Where a complaint is made and the Department of Labor
24 determines that a violation has occurred, the Department of
25 Labor shall determine if proper written notice under this
26 Section 4 was given. If proper written notice was not provided

1 to the subcontractor by the contractor, the Department of Labor
2 shall order the contractor to pay any interest, penalties, or
3 fines that would have been owed by the subcontractor if proper
4 written notice were provided. The failure by a contractor to
5 provide written notice to a subcontractor does not relieve the
6 subcontractor of the duty to comply with the prevailing wage
7 rate, nor of the obligation to pay any back wages, as
8 determined under this Act. For the purposes of this subsection,
9 back wages shall be limited to the difference between the
10 actual amount paid and the prevailing rate of wages required
11 for the project. However, if proper written notice was not
12 provided to the contractor by the public body or other entity
13 under this Section 4, the Department of Labor shall order the
14 public body or other entity to pay any interest, penalties, or
15 fines that would have been owed by the subcontractor if proper
16 written notice were provided. The failure by a public body or
17 other entity to provide written notice does not relieve the
18 subcontractor of the duty to comply with the prevailing wage
19 rate, nor of the obligation to pay any back wages, as
20 determined under this Act. For the purposes of this subsection,
21 back wages shall be limited to the difference between the
22 actual amount paid and the prevailing rate of wages required
23 for the project. The failure to provide written notice by a
24 public body, other entity, or contractor does not diminish the
25 right of a laborer, worker, or mechanic to the prevailing rate
26 of wages as determined under this Act.

1 (c) A public body or other entity shall also require in all
2 contractor's and subcontractor's bonds that the contractor or
3 subcontractor include such provision as will guarantee the
4 faithful performance of such prevailing wage clause as provided
5 by contract or other written instrument. All bid specifications
6 shall list the specified rates to all laborers, workers and
7 mechanics in the locality for each craft or type of worker or
8 mechanic needed to execute the contract.

9 (d) If the Department of Labor revises the prevailing rate
10 of hourly wages to be paid by the public body, the revised rate
11 shall apply to such contract, and the public body shall be
12 responsible to notify the contractor and each subcontractor, of
13 the revised rate.

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

24 (f) It shall be mandatory upon the contractor or
25 construction manager to whom a contract for public works is
26 awarded to post, at a location on the project site of the

1 public works that is easily accessible to the workers engaged
2 on the project, the prevailing wage rates for each craft or
3 type of worker or mechanic needed to execute the contract or
4 project or work to be performed. In lieu of posting on the
5 project site of the public works, a contractor which has a
6 business location where laborers, workers, and mechanics
7 regularly visit may: (1) post in a conspicuous location at that
8 business the current prevailing wage rates for each county in
9 which the contractor is performing work; or (2) provide such
10 laborer, worker, or mechanic engaged on the public works
11 project a written notice indicating the prevailing wage rates
12 for the public works project. A failure to post or provide a
13 prevailing wage rate as required by this Section is a violation
14 of this Act.

15 (Source: P.A. 95-331, eff. 8-21-07; 96-437, eff. 1-1-10.)

16 (820 ILCS 130/11a) (from Ch. 48, par. 39s-11a)

17 Sec. 11a. The Director of the Department of Labor shall
18 publish in the Illinois Register no less often than once each
19 calendar quarter a list of contractors or subcontractors found
20 to have disregarded their obligations to employees under this
21 Act. The Department of Labor shall determine the contractors or
22 subcontractors who, on 2 separate occasions within 5 years,
23 have been determined to have violated the provisions of this
24 Act. Upon such determination the Department shall notify the
25 violating contractor or subcontractor. Such contractor or

1 subcontractor shall then have 10 working days to request a
2 hearing by the Department on the alleged violations. Failure to
3 respond within the 10 working day period shall result in
4 automatic and immediate placement and publication on the list.
5 If the contractor or subcontractor requests a hearing within
6 the 10 working day period, the Director shall set a hearing on
7 the alleged violations. Such hearing shall take place no later
8 than 45 calendar days after the receipt by the Department of
9 Labor of the request for a hearing. The Department of Labor is
10 empowered to promulgate, adopt, amend and rescind rules and
11 regulations to govern the hearing procedure. No contract shall
12 be awarded to a contractor or subcontractor appearing on the
13 list, or to any firm, corporation, partnership or association
14 in which such contractor or subcontractor has an interest until
15 4 years have elapsed from the date of publication of the list
16 containing the name of such contractor or subcontractor. No
17 public body, including a home rule unit, is authorized to use
18 as a basis for denying a contract to a contractor or
19 subcontractor any complaint filed with the Department or any
20 determination by the Department that the contractor or
21 subcontractor has committed a violation under this Act, unless
22 the contractor or subcontractor is debarred at the time of the
23 bid as provided under this Section. This subsection is a
24 limitation under subsection (i) of Section 6 of Article VII of
25 the Illinois Constitution on the concurrent exercise by home
26 rule units of powers and functions exercised by the State.

1 (Source: P.A. 93-38, eff. 6-1-04; 94-488, eff. 1-1-06.)".