



Rep. Frances Ann Hurley

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LRB098 03767 JLS 44270 a

1 AMENDMENT TO HOUSE BILL 922

2 AMENDMENT NO. _____. Amend House Bill 922 by replacing
3 everything after the enacting clause with the following:

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

6 (820 ILCS 130/5) (from Ch. 48, par. 39s-5)

7 Sec. 5. Certified payroll.

8 (a) Any contractor and each subcontractor who participates
9 in public works shall:

10 (1) make and keep, for a period of not less than 3
11 years from the date of the last payment made before the
12 effective date of this amendatory Act of the 98th General
13 Assembly and for a period of 10 years from the date of the
14 last payment made on or after the effective date of this
15 amendatory Act of the 98th General Assembly on a contract
16 or subcontract for public works, records of all laborers,

1 mechanics, and other workers employed by them on the
2 project; the records shall include each worker's name,
3 address, telephone number when available, social security
4 number, classification or classifications, the hourly
5 wages paid in each pay period, the number of hours worked
6 each day, and the starting and ending times of work each
7 day; and

8 (2) no later than the tenth day of each calendar month
9 file a certified payroll for the immediately preceding
10 month with the public body in charge of the project. A
11 certified payroll must be filed for only those calendar
12 months during which construction on a public works project
13 has occurred. The certified payroll shall consist of a
14 complete copy of the records identified in paragraph (1) of
15 this subsection (a), but may exclude the starting and
16 ending times of work each day. The certified payroll shall
17 be accompanied by a statement signed by the contractor or
18 subcontractor or an officer, employee, or agent of the
19 contractor or subcontractor which avers that: (i) he or she
20 has examined the certified payroll records required to be
21 submitted by the Act and such records are true and
22 accurate; (ii) the hourly rate paid to each worker is not
23 less than the general prevailing rate of hourly wages
24 required by this Act; and (iii) the contractor or
25 subcontractor is aware that filing a certified payroll that
26 he or she knows to be false is a Class A misdemeanor. A

1 general contractor is not prohibited from relying on the
2 certification of a lower tier subcontractor, provided the
3 general contractor does not knowingly rely upon a
4 subcontractor's false certification. Any contractor or
5 subcontractor subject to this Act and any officer,
6 employee, or agent of such contractor or subcontractor
7 whose duty as such officer, employee, or agent it is to
8 file such certified payroll who willfully fails to file
9 such a certified payroll on or before the date such
10 certified payroll is required by this paragraph to be filed
11 and any person who willfully files a false certified
12 payroll that is false as to any material fact is in
13 violation of this Act and guilty of a Class A misdemeanor.
14 The public body in charge of the project shall keep the
15 records submitted in accordance with this paragraph (2) of
16 subsection (a) before the effective date of this amendatory
17 Act of the 98th General Assembly for a period of not less
18 than 3 years, and the records submitted in accordance with
19 this paragraph (2) of subsection (a) on or after the
20 effective date of this amendatory Act of the 98th General
21 Assembly for a period of 10 years, from the date of the
22 last payment for work on a contract or subcontract for
23 public works. The records submitted in accordance with this
24 paragraph (2) of subsection (a) shall be considered public
25 records, except an employee's address, telephone number,
26 and social security number, and made available in

1 accordance with the Freedom of Information Act. The public
2 body shall accept any reasonable submissions by the
3 contractor that meet the requirements of this Section.

4 (b) Upon 7 business days' notice, the contractor and each
5 subcontractor shall make available for inspection and copying
6 at a location within this State during reasonable hours, the
7 records identified in paragraph (1) of subsection (a) of this
8 Section to the public body in charge of the project, its
9 officers and agents, the Director of Labor and his deputies and
10 agents, and to federal, State, or local law enforcement
11 agencies and prosecutors.

12 (Source: P.A. 97-571, eff. 1-1-12.)

13 (820 ILCS 130/11) (from Ch. 48, par. 39s-11)

14 Sec. 11. No public works project shall be instituted unless
15 the provisions of this Act have been complied with. The
16 provisions of this Act shall not be applicable to Federal
17 construction projects which require a prevailing wage
18 determination by the United States Secretary of Labor. The
19 Illinois Department of Labor represented by the Attorney
20 General is empowered to sue for injunctive relief against the
21 awarding of any contract or the continuation of work under any
22 contract for public works at a time when the prevailing wage
23 prerequisites have not been met. Any contract for public works
24 awarded at a time when the prevailing wage prerequisites had
25 not been met shall be void as against public policy and the

1 contractor is prohibited from recovering any damages for the
2 voiding of the contract or pursuant to the terms of the
3 contract. The contractor is limited to a claim for amounts
4 actually paid for labor and materials supplied to the public
5 body. Where objections to a determination of the prevailing
6 rate of wages or a court action relative thereto is pending,
7 the public body shall not continue work on the project unless
8 sufficient funds are available to pay increased wages if such
9 are finally determined or unless the Department of Labor
10 certifies such determination of the prevailing rate of wages as
11 correct.

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

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

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

1 Sec. 11a. The Director of the Department of Labor shall
2 publish in the Illinois Register no less often than once each
3 calendar quarter a list of contractors or subcontractors found
4 to have disregarded their obligations to employees under this
5 Act. The Department of Labor shall determine the contractors or
6 subcontractors who, before the effective date of this
7 amendatory Act of the 98th General Assembly ~~on 2 separate~~
8 ~~occasions within 5 years~~, have been determined to have violated
9 the provisions of this Act on 2 separate occasions within 5
10 years and who, on or after the effective date of this
11 amendatory Act of the 98th General Assembly, have been
12 determined to have violated the provisions of this Act of 2
13 separate occasions within 10 years. Upon such determination the
14 Department shall notify the violating contractor or
15 subcontractor. Such contractor or subcontractor shall then
16 have 10 working days to request a hearing by the Department on
17 the alleged violations. Failure to respond within the 10
18 working day period shall result in automatic and immediate
19 placement and publication on the list. If the contractor or
20 subcontractor requests a hearing within the 10 working day
21 period, the Director shall set a hearing on the alleged
22 violations. Such hearing shall take place no later than 45
23 calendar days after the receipt by the Department of Labor of
24 the request for a hearing. The Department of Labor is empowered
25 to promulgate, adopt, amend and rescind rules and regulations
26 to govern the hearing procedure. No contract shall be awarded

1 to a contractor or subcontractor appearing on the list, or to
2 any firm, corporation, partnership or association in which such
3 contractor or subcontractor has an interest until 4 years have
4 elapsed from the date of publication of the list containing the
5 name of such contractor or subcontractor.

6 A contractor or subcontractor convicted or found guilty
7 under Section 5 or 6 of this Act shall be subject to an
8 automatic and immediate debarment, thereafter prohibited from
9 participating in any public works project for 4 years, with no
10 right to a hearing.

11 (Source: P.A. 97-571, eff. 1-1-12.)".