

AN ACT concerning finance.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Employment of Illinois Workers on Public Works Act is amended by changing Sections 0.01, 1, 1.1, 2, 3, 4, 5, 6, and 7 and by adding Sections 7.05, 7.10, 7.15, and 7.20 as follows:

(30 ILCS 570/0.01) (from Ch. 48, par. 2200)

Sec. 0.01. Short title. This Article 2 ~~Act~~ may be cited as the Employment of Illinois Workers on Public Works Act. In this Article 2, references to this Act mean this Article 2.

(Source: P.A. 86-1324.)

(30 ILCS 570/1) (from Ch. 48, par. 2201)

Sec. 1. Definitions. For the purposes of ~~Article 2 of~~ this Act, the following words have the meanings ascribed to them in this Section.

(1) "Illinois laborer" refers to any person who has resided in Illinois for at least 30 days and intends to become or remain an Illinois resident.

(2) "A period of excessive unemployment" means any month immediately following 2 consecutive calendar months during which the level of unemployment in the State of Illinois has

exceeded 5% as measured by the United States Bureau of Labor Statistics in its monthly publication of employment and unemployment figures.

(3) "Hazardous waste" has the definition ascribed to it in Section 3.220 of the Illinois Environmental Protection Act, approved June 29, 1970, as amended.

(4) "Interested party" means a person or entity with an interest in compliance with this Act.

(5) "Entity" means any sole proprietor, partnership, firm, corporation, limited liability company, association, or other business enterprise; however, the term "entity" does not include (i) the State of Illinois or its officers, agencies, or political subdivisions or (ii) the federal government.

(6) "Public works" means any fixed work construction or improvement for the State of Illinois or any political subdivision of the State if that fixed work construction or improvement is funded or financed in whole or in part with State funds or funds administered by the State of Illinois.

(Source: P.A. 92-574, eff. 6-26-02.)

(30 ILCS 570/1.1) (from Ch. 48, par. 2201.1)

Sec. 1.1. Findings. The General Assembly finds and declares that unemployment in the Illinois construction industry has traditionally tended to be higher in those counties which border upon other states. Further, the General Assembly finds and declares that the over-utilization of out-of-state

laborers on public works projects or improvements for the State of Illinois or any political subdivision, municipal corporation or other governmental units thereof is a contributing factor to higher levels of unemployment both in the border counties and throughout Illinois. It is the public policy of this State and the objective of this Act to promote the general welfare of the people of this State by ensuring that Illinois laborers are utilized to the greatest extent possible on public works projects or improvements for the State of Illinois or any political subdivision, municipal corporation or other governmental units thereof. To this end, this Act shall be liberally construed to effectuate its purpose.

(Source: P.A. 87-377.)

(30 ILCS 570/2) (from Ch. 48, par. 2202)

Sec. 2. Applicability. ~~This Article 2 of this~~ Act applies to all labor on public works projects or improvements, including projects involving the clean-up and on-site disposal of hazardous waste, but excluding emergency response or immediate removal activities, whether skilled, semi-skilled or unskilled, whether manual or non-manual.

(Source: P.A. 86-1015.)

(30 ILCS 570/3) (from Ch. 48, par. 2203)

Sec. 3. Employment of Illinois laborers. Whenever there is

a period of excessive unemployment in Illinois, if a every person or entity ~~who~~ is charged with the duty, either by law or contract, of (1) constructing or building any public works, as defined in this Act, project or improvement or (2) for the clean-up and on-site disposal of hazardous waste for the State of Illinois or any political subdivision of the State, and that clean-up or on-site disposal is funded or financed in whole or in part with State funds or funds administered by the State of Illinois, then that person or entity ~~municipal corporation or other governmental unit thereof~~ shall employ at least 90% only Illinois laborers on such project. Any public works project financed in whole or in part by federal funds administered by the State of Illinois is covered under the provisions of this Act, to the extent permitted by any applicable federal law or regulation. Every public works or improvement, and every contract let by any such person shall contain a provision requiring that such labor be used: Provided, that other laborers may be used when Illinois laborers as defined in this Act are not available, or are incapable of performing the particular type of work involved, if so certified by the contractor and approved by the contracting officer.

(Source: P.A. 86-1015.)

(30 ILCS 570/4) (from Ch. 48, par. 2204)

Sec. 4. Non-resident executive and technical experts.
Every contractor on a public works project or improvement or

hazardous waste clean-up and on-site disposal project in this State may place on such work no more than 3, or 6 in the case of a hazardous waste clean-up and on-site disposal project, of his regularly employed non-resident executive and technical experts, even though they do not qualify as Illinois laborers as defined in Section 1 ~~of Article 2~~ of this Act.

(Source: P.A. 86-1015.)

(30 ILCS 570/5) (from Ch. 48, par. 2205)

Sec. 5. Expenditure of federal funds.

(a) In all contracts involving the expenditure of federal aid funds in relation to a public works project or improvement, ~~Article 2 of~~ this Act shall not be enforced in such manner as to conflict with any federal statutes or rules and regulations.

(b) When federal expenditures are used in combination with State expenditures for clean-up and on-site disposal of hazardous waste, it shall be the responsibility of the Illinois Environmental Protection Agency to notify, with respect to such project, any Illinois hazardous waste cleanup contractor who has requested such notification of the date when bids will be accepted for such projects and the requirements necessary to successfully compete for such projects.

(Source: P.A. 86-1015.)

(30 ILCS 570/6) (from Ch. 48, par. 2206)

Sec. 6. Penalties. Any person or entity that violates the

provisions of this Act is subject to a civil penalty in an amount not to exceed \$1,000 for each violation found in the first investigation by the Department, not to exceed \$5,000 for each violation found in the second investigation by the Department, and not to exceed \$15,000 for a third or subsequent violation found in any subsequent investigation by the Department. ~~Any person who knowingly fails to use Illinois laborers as required in Article 2 of this Act, shall be guilty of a Class C misdemeanor.~~ Each violation of this Act for each worker and for each day the violation continues constitutes separate case of failure to use Illinois laborers on such public works projects or improvements or for the clean-up and on-site disposal of hazardous waste shall constitute a separate and distinct violation offense. In determining the amount of the penalty, the Department shall consider the appropriateness of the penalty to the person or entity charged, upon determination of the gravity of the violations. The collection of these penalties shall be enforced in a civil action brought by the Attorney General on behalf of the Department.

(Source: P.A. 86-1015.)

(30 ILCS 570/7) (from Ch. 48, par. 2207)

Sec. 7. Enforcement. It is the duty of the Department of Labor to enforce the provisions of this Act. The Department has the power to conduct investigations in connection with the administration and enforcement of this Act, and any

investigator with the Department is authorized to visit and inspect, at all reasonable times, any places covered by this Act and is authorized to inspect, at all reasonable times, documents related to the determination of whether a violation of the Act exists. The Department may compel, by subpoena, the attendance and testimony of witnesses and the production of books, payrolls, records, papers, and other evidence in any investigation and may administer oaths to witnesses. The
~~Article 2 of this Act shall be enforced by the~~ Department of Labor, ~~which,~~ as represented by the Attorney General, is empowered to: (i) issue and cause to be served on any person or entity an order to cease and desist from further violation of this Act, (ii) take affirmative or other action as deemed reasonable to eliminate the effect of the violation, (iii) collect any civil penalties assessed by the Department pursuant to Section 6 of this Act, and (iv) sue for injunctive relief against the awarding of any contract or the continuation of any work under any contract for public works or improvements or for the clean-up and on-site disposal of hazardous waste at a time when the provisions of ~~Article 2 of~~ this Act are not being met.
(Source: P.A. 86-1015.)

(30 ILCS 570/7.05 new)

Sec. 7.05. Review. Any party seeking review of the Department's determination may file a written request for an informal conference. The request must be received by the

Department within 15 calendar days after the date of issuance of the Department's determination. During the conference, the party seeking review may present written or oral information and arguments as to why the Department's determination should be amended or vacated. The Department shall consider the information and arguments presented and issue a written decision advising all parties of the outcome of the conference.

(30 ILCS 570/7.10 new)

Sec. 7.10. Employment of Illinois Workers on Public Works Projects Fund. All moneys received by the Department as civil penalties under this Act shall be deposited into the Employment of Illinois Workers on Public Works Projects Fund and shall be used, subject to appropriation by the General Assembly, by the Department for administration, investigation, and other expenses incurred in carrying out its powers and duties under this Act. The Department shall hire as many investigators and other personnel as may be necessary to carry out the purposes of this Act. Any moneys in the Fund at the end of a fiscal year in excess of those moneys necessary for the Department to carry out its powers and duties under this Act shall be available for appropriation to the Department for the next fiscal year for any of the Department's duties.

(30 ILCS 570/7.15 new)

Sec. 7.15. Private right of action.

(a) Any interested party or person aggrieved by a violation of this Act or any rule adopted under this Act may file suit in circuit court, in the county where the alleged offense occurred or where any party to the action resides, without regard to exhaustion of any alternative administrative remedies provided in this Act. Actions may only be brought (i) 30 days or more after a complaint has been filed with the Department of Labor by any interested party or person aggrieved by a violation of this Act or (ii) any time after the filing of a complaint if the Department of Labor notifies any interested party or person aggrieved by a violation of this Act that the Department will not proceed with the complaint. Actions may be brought by one or more persons or entities for and on behalf of themselves and other persons or entities similarly situated. A person or entity whose rights have been violated under this Act is entitled to collect:

(1) attorney's fees and costs; and

(2) compensatory damages in an amount not to exceed \$500 for each violation of this Act or any rule adopted under this Act. Each violation of this Act for each worker and for each day the violation continues constitutes a separate and distinct violation.

(b) The right of an interested party or aggrieved person to bring an action under this Section terminates upon the passing of 3 years from the date of completion and acceptance of the public works project in question.

(30 ILCS 570/7.20 new)

Sec. 7.20. Rulemaking. The Department may adopt reasonable rules to implement and administer this Act. For purposes of this Act, the General Assembly finds that the adoption of rules to implement this Act is deemed an emergency and necessary for the public interest and welfare.

(30 ILCS 560/Act rep.)

Section 10. The Public Works Preference Act is repealed.

Section 15. The State Finance Act is amended by adding Section 5.755 as follows:

(30 ILCS 105/5.755 new)

Sec. 5.755. The Employment of Illinois Workers on Public Works Projects Fund.

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