

Illinois Prevailing Wage Pay Data Now Online for Anyone to View and “Complain”

Labor & Employment Law Update

By Jeffrey Risch on December 13, 2021



If you have frequented the Amundsen Davis Labor & Employment Blog, you may recall that we previously reported on one of the very first actions taken by Governor Pritzker immediately following his inauguration in January 2019. Gov. Pritzker signed into law additional amendments to the Illinois Prevailing Wage Act (IPWA). Amongst the

changes made to one of the most onerous prevailing wage laws in the United States, was a new mandate that required all contractors to submit their monthly certified transcript of payroll via the Illinois Department of Labor's (IDOL) electronic database through an online portal. To be clear, the Certified Transcript of Payroll submission under Illinois' prevailing wage law is purely electronic and must be utilized by all contractors. The process for submission is complicated and makes performing any construction work in Illinois falling under the IPWA even more burdensome.

The IDOL shall keep and maintain these records. Of course, these records are public records and subject to review by anyone under the Freedom of Information Act.

But, that's not all... recently the State of Illinois tweaked the IPWA yet again and effective January 1, 2022 all data submitted to the IDOL will now be open to anyone to review at any time. In other words, a worker's job classification, skill level (apprentice or journeyman), gross wages, hours worked, hourly and any overtime rate of pay, and hourly fringe benefits will be readily available to anyone to see. The IDOL's database will allow anyone (including labor unions) to search a contractor by name, project, location of work and public body at issue. In short, anyone performing prevailing wage work in Illinois should know and understand that all pay data compiled and summarized for each employee on

any project will become readily exposed to the world virtually instantaneously.

The effect of this is pretty obvious. Illinois' system makes it practically seamless for any third party (and particularly labor unions targeting non-union contractors or union contractors that they have a dispute with) to immediately obtain information that ties a contractor to a prevailing wage project. Upon discovery of this information, the third party (almost always labor unions) can turn the contractor "in" to the IDOL for audit. **There is no filter or pre-complaint intake process at the IDOL concerning prevailing wage complaints. The IDOL must investigate each and every complaint filed. And, there's no requirement that a complaining party demonstrate an actual violation of law has occurred or submit the complaint under penalty of perjury or simply attest that the complaint is truthful.** *NOTE: Remarkably, at the time of this blog entry, the author is defending a contractor under the IPWA where the underlying complaint is completely BLANK concerning an actual alleged violation of the law.*

BOTTOM LINE: Contractors of all sizes and shapes (union and non-union) need to be on guard as we will undoubtedly see many more IDOL audits as more and more third parties turn in contractors and use the IDOL to make life more difficult for construction contractors in Illinois. In fact, contractors should assume that each and every Illinois prevailing wage project it performs any work on will be audited by the IDOL. Buckle up.

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