

Illinois Prevailing Wage Update: Failure to Timely File a Certified Payroll Means Individual Liability, Debarment, and Financial Penalties

Labor & Employment Law Update

By Jeffrey Risch on July 18, 2025

The Illinois Prevailing Wage Act (IPWA) is a union-backed law that places enormous burdens on construction contractors, developers, property owners, and public bodies throughout Illinois. It's extraordinarily confusing, having been amended numerous times over the years, while being enforced by the Illinois Department of Labor (IL DOL).

The primary obligations upon contractors who engage workers to perform covered work on an Illinois prevailing wage project *generally* encompass the following:

1. Pay the prevailing wage (hourly base plus annualized fringe benefits);
2. Post prevailing wage rates at the job site;
3. Serve written notice of prevailing wage obligations on subcontractors and lower tiered contractors;
4. Maintain, preserve, and submit accurate time and payroll records; and
5. Submit certified payrolls to the IL DOL.

The main **recordkeeping and reporting obligations** contractors must ensure to strictly comply with include:

- **Maintaining records of all workers employed by them on a prevailing wage project.** These records must include: (i) the worker's name, (ii) the worker's address, (iii) the worker's telephone number when available, (iv) the last four digits of the worker's Social Security number, (v) the worker's gender, (vi) the worker's race, (vii) the worker's ethnicity, (viii) the worker's veteran status, (ix) the worker's classification or classifications, (x) the worker's skill level, such as apprentice or journeyman, (xi) the worker's gross and net wages paid in each pay period, (xii) the worker's number of hours worked each day,

(xiii) the worker's starting and ending times of work each day, (xiv) the worker's hourly wage rate, (xv) the worker's hourly overtime wage rate, (xvi) the worker's hourly fringe benefit rates, (xvii) the name and address of each fringe benefit fund, (xviii) the plan sponsor of each fringe benefit, if applicable, and (xix) the plan administrator of each fringe benefit, if applicable; and

- **Submitting a certified payroll for work performed by their employees for the immediately preceding month through the IL DOL's online portal.** The certified payroll shall consist of a complete copy of the records identified above, but may exclude the starting and ending times of work each day.

Critically, the certified payroll shall be accompanied by a statement signed by the employer or an officer, employee, or agent of the employer, which confirms that:

- He or she has examined the certified payroll records required to be submitted and such records are true and accurate;
- The hourly rate paid to each worker is not less than the general prevailing rate of hourly wages required; and
- The contractor or subcontractor is aware that filing a certified payroll that he or she knows to be false is a Class A misdemeanor.

New Liabilities, Fines and Penalties Effective June 2025

Effective June 30, 2025, thanks to SB1344, any contracting employer subject to the IPWA—or any officer, employee, or agent of the contracting employer whose duty as the officer, employee, or agent is to file the certified payroll—that fails to file the certified payroll for any public works project as required, is now subject to a civil penalty, payable to the IL DOL, of up to \$1,000 for a first offense and up to \$2,000 for a second or subsequent offense no more than five years after the first offense. A second or subsequent offense that occurs more than five years after the first offense shall be considered a first offense. *Each month in which a violation of the certified payroll submission occurs shall constitute a separate offense.*

A finding of an offense by the IL DOL may be challenged if a request for administrative hearing is received no later than 10 business days after receipt of the notice of the offense. The IL DOL has the burden of establishing good cause for its action. However, good cause exists if the contracting employer fails to timely submit its certified payroll as outline above. Ignorance is no excuse.

Of course, the ultimate question is whether the IL DOL will rely on the certified payroll submission offense to justify issuing a formal NOTICE OF VIOLATION. As a reminder, two separate violations occurring within a five-year period of time can result in DEBARMENT from Illinois prevailing wage projects for up to 4 years.

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The Takeaway

The cards are stacked against contractors doing prevailing wage work in Illinois—period. The IPWA continues to become more complex and complicated by the day. Construction contractors (including developers, owners, and public bodies) need to have an intimate understanding of all substantive and technical requirements of the law. Otherwise, they are inviting a host of legal controversies and potential financial liabilities.

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