

1 AN ACT concerning labor.

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

4 Section 5. The State Finance Act is amended by changing  
5 Section 5.306 as follows:

6 (30 ILCS 105/5.306) (from Ch. 127, par. 141.306)

7 Sec. 5.306. The Child Labor and Day and Temporary Labor  
8 Services Enforcement Fund.

9 (Source: P.A. 87-139; 87-895.)

10 Section 7. The Prevailing Wage Act is amended by  
11 changing Sections 4 and 5 as follows:

12 (820 ILCS 130/4) (from Ch. 48, par. 39s-4)

13 Sec. 4. The public body awarding any contract for public  
14 work or otherwise undertaking any public works, shall  
15 ascertain the general prevailing rate of hourly wages in the  
16 locality in which the work is to be performed, for each craft  
17 or type of worker or mechanic needed to execute the contract,  
18 and where the public body performs the work without letting a  
19 contract therefor, shall ascertain the prevailing rate of  
20 wages on a per hour basis in the locality, and such public  
21 body shall specify in the resolution or ordinance and in the  
22 call for bids for the contract, that the general prevailing  
23 rate of wages in the locality for each craft or type of  
24 worker or mechanic needed to execute the contract or perform  
25 such work, also the general prevailing rate for legal holiday  
26 and overtime work, as ascertained by the public body or by  
27 the Department of Labor shall be paid for each craft or type  
28 of worker needed to execute the contract or to perform such  
29 work, and it shall be mandatory upon the contractor to whom

1 the contract is awarded and upon any subcontractor under him,  
2 and where the public body performs the work, upon the public  
3 body, to pay not less than the specified rates to all  
4 laborers, workers and mechanics employed by them in the  
5 execution of the contract or such work; provided, however,  
6 that if the public body desires that the Department of Labor  
7 ascertain the prevailing rate of wages, it shall notify the  
8 Department of Labor to ascertain the general prevailing rate  
9 of hourly wages for work under contract, or for work  
10 performed by a public body without letting a contract as  
11 required in the locality in which the work is to be  
12 performed, for each craft or type of worker or mechanic  
13 needed to execute the contract or project or work to be  
14 performed. Upon such notification the Department of Labor  
15 shall ascertain such general prevailing rate of wages, and  
16 certify the prevailing wage to such public body. The public  
17 body awarding the contract shall cause to be inserted in the  
18 contract a stipulation to the effect that not less than the  
19 prevailing rate of wages as found by the public body or  
20 Department of Labor or determined by the court on review  
21 shall be paid to all laborers, workers and mechanics  
22 performing work under the contract. It shall also require in  
23 all such contractor's bonds that the contractor include such  
24 provision as will guarantee the faithful performance of such  
25 prevailing wage clause as provided by contract. All bid  
26 specifications shall list the specified rates to all  
27 laborers, workers and mechanics in the locality for each  
28 craft or type of worker or mechanic needed to execute the  
29 contract. If the Department of Labor revises the prevailing  
30 rate of hourly wages to be paid by the public body, the  
31 revised rate shall apply to such contract, and the public  
32 body shall be responsible to notify the contractor and each  
33 subcontractor, of the revised rate. Two or more investigatory  
34 hearings under this Section on the issue of establishing a

1 new prevailing wage classification for a particular craft or  
 2 type of worker shall be consolidated in a single hearing  
 3 before the Department. Such consolidation shall occur  
 4 whether each separate investigatory hearing is conducted by a  
 5 public body or the Department. The party requesting a  
 6 consolidated investigatory hearing shall have the burden of  
 7 establishing that there is no existing prevailing wage  
 8 classification for the particular craft or type of worker in  
 9 any of the localities under consideration.

10 (Source: P.A. 86-799.)

11 (820 ILCS 130/5) (from Ch. 48, par. 39s-5)

12 Sec. 5. The contractor and each subcontractor or the  
 13 officer of the public body in charge of the project shall  
 14 keep or cause to be kept, an accurate record showing the  
 15 names and occupation of all laborers, workers and mechanics  
 16 employed by them, in connection with said public work, and  
 17 showing also the actual hourly wages paid to each of such  
 18 persons, which record shall be open at all reasonable hours  
 19 to the inspection of the public body awarding the contract,  
 20 its officers and agents, and to the Director of Labor and his  
 21 deputies and agents. Any contractor or subcontractor that  
 22 maintains its principal place of business outside of this  
 23 State shall make the required records or accurate copies of  
 24 those records available within this State at all reasonable  
 25 hours for inspection.

26 (Source: P.A. 81-992.)

27 Section 10. The Day Labor Services Act is amended by  
 28 changing the title of the Act and Sections 1, 5, 10, 15, 20,  
 29 25, 30, 35, 40, 45, and 50 and by adding Sections 55, 60, 65,  
 30 70, 75, and 80 as follows:

31 (820 ILCS 175/Act title)

1 AN ACT in relation to day and temporary labor services.

2 (820 ILCS 175/1)

3 Sec. 1. Short Title. This Act may be cited as the Day  
4 and Temporary Labor Services Act.

5 (Source: P.A. 91-579, eff. 1-1-00.)

6 (820 ILCS 175/5)

7 Sec. 5. Definitions. As used in this Act:

8 "Day or temporary laborer" means a natural person who  
9 contracts for employment with a day and temporary labor  
10 service agency.

11 "Day and temporary labor" means labor or employment that  
12 is occasional or irregular at which a person is employed for  
13 not longer than the time period required to complete the  
14 assignment for which the person was hired and where wage  
15 payments are made directly or indirectly by the day and  
16 temporary labor service agency or the third party employer  
17 for work undertaken by day or temporary laborers pursuant to  
18 a contract between the day and temporary labor service agency  
19 with the third party employer. "Day and temporary labor" does  
20 not include labor or employment of a professional or clerical  
21 nature.

22 "Day and temporary labor service agency" means any person  
23 or entity engaged in the business of employing day or  
24 temporary laborers to provide services to or for any third  
25 party employer pursuant to a contract with the day and  
26 temporary labor service and the third party employer.

27 "Department" means the Department of Labor.

28 "Third party employer" means any person that contracts  
29 with a day and temporary labor service agency for the  
30 employment of day or temporary laborers.

31 (Source: P.A. 91-579, eff. 1-1-00.)

1 (820 ILCS 175/10)

2 Sec. 10. Statement.

3 (a) Whenever a day and temporary labor service agency  
4 agrees to send one or more persons to work as day or  
5 temporary laborers, the day and temporary labor service  
6 agency shall, upon request by a day or temporary laborer,  
7 provide to the day or temporary laborer a statement  
8 containing the following items: "Name and nature of the work  
9 to be performed", "wages offered", "destination of the person  
10 employed", "terms of transportation", and whether a meal and  
11 equipment is provided, either by the day and temporary labor  
12 service or the third party employer, and the cost of the meal  
13 and equipment, if any.

14 (b) No day and temporary labor service agency may send  
15 any day or temporary laborer to any place where a strike, a  
16 lockout, or other labor trouble exists without first  
17 notifying the day or temporary laborer of the conditions.

18 (c) The Department shall recommend to day and temporary  
19 labor service agencies that those agencies employ personnel  
20 who can effectively communicate information required in  
21 subsections (a) and (b) to day or temporary laborers in  
22 Spanish, Polish, or any other language that is generally used  
23 in the locale of the day and temporary labor agency.

24 (Source: P.A. 91-579, eff. 1-1-00.)

25 (820 ILCS 175/15)

26 Sec. 15. Meals. A day and temporary labor service  
27 agency or a third party employer shall not charge a day or  
28 temporary laborer more than the actual cost of a meal. In no  
29 case shall the purchase of a meal be a condition of  
30 employment for a day or temporary laborer.

31 (Source: P.A. 91-579, eff. 1-1-00.)

32 (820 ILCS 175/20)

1           Sec. 20. Transportation. A day and temporary labor  
2 service agency or a third party employer shall charge no more  
3 than the actual cost to transport a day or temporary laborer  
4 to or from the designated work site; however, the total cost  
5 to each day or temporary laborer shall not exceed 3% of the  
6 day or temporary laborer's daily wages. Any motor vehicle  
7 that is owned or operated by the day and temporary labor  
8 service agency or a third party employer, or a contractor of  
9 either, which is used for the transportation of day or  
10 temporary laborers shall have proof of financial  
11 responsibility as provided for in Chapter 8 of the Illinois  
12 Vehicle Code.

13 (Source: P.A. 91-579, eff. 1-1-00.)

14 (820 ILCS 175/25)

15           Sec. 25. Day or temporary laborer equipment. For any  
16 safety equipment, clothing, accessories, or any other items  
17 required by the nature of the work, either by law, custom, or  
18 as a requirement of the third party employer, the day and  
19 temporary labor service agency or the third party employer  
20 may charge the day or temporary laborer the market value of  
21 the item temporarily provided to the day or temporary laborer  
22 by the third party employer if the day or temporary laborer  
23 fails to return such items to the third party employer or the  
24 day and temporary labor service agency. For any other  
25 equipment, clothing, accessories, or any other items the day  
26 and temporary labor service agency makes available for  
27 purchase, the day or temporary laborer shall not be charged  
28 more than the actual market value for the item.

29 (Source: P.A. 91-579, eff. 1-1-00.)

30 (820 ILCS 175/30)

31           Sec. 30. Wage Payment.

32           (a) At the time of the payment of wages, a day and

1 temporary labor service agency shall provide each day or  
2 temporary laborer with an itemized statement showing in  
3 detail each deduction made from the wages.

4 (b) A day and temporary labor service agency shall  
5 provide each worker an annual earnings summary within a  
6 reasonable time after the preceding calendar year, but in no  
7 case later than February 1. A day and temporary labor  
8 service agency shall, at the time of each wage payment, give  
9 notice to day or temporary laborers of the availability of  
10 the annual earnings summary or post such a notice in a  
11 conspicuous place in the public reception area.

12 (c) At the request of a day or temporary laborer, a day  
13 and temporary labor service agency shall hold the daily wages  
14 of the day or temporary laborer and make either weekly or  
15 semi-monthly payments. The wages shall be paid in a single  
16 check representing the wages earned during the period, either  
17 weekly or semi-monthly, designated by the day or temporary  
18 laborer in accordance with the Illinois Wage Payment and  
19 Collection Act. Day and temporary labor service agencies  
20 that make daily wage payments shall provide written  
21 notification to all day or temporary laborers of the right to  
22 request weekly or semi-monthly checks. The day and temporary  
23 labor service agency may provide this notice by conspicuously  
24 posting the notice at the location where the wages are  
25 received by the day or temporary laborers.

26 (d) No day and temporary labor service agency shall  
27 charge any day or temporary laborer for cashing a check  
28 issued by the agency for wages earned by a day or temporary  
29 laborer who performed work through that agency.

30 (e) Day or temporary laborers shall be paid no less than  
31 the wage rate stated in the notice as provided in Section 10  
32 of this Act for all the work performed on behalf of the third  
33 party employer in addition to the work listed in the written  
34 description.

1 (Source: P.A. 91-579, eff. 1-1-00.)

2 (820 ILCS 175/35)

3 Sec. 35. Public Access Area. Each day and temporary  
4 labor service agency shall provide adequate seating in the  
5 public access area of the offices of the agency. The public  
6 access area shall be the location for the employment and wage  
7 notices required by Section 10 of this Act. The public  
8 access area shall allow for access to restrooms and water.

9 (Source: P.A. 91-579, eff. 1-1-00.)

10 (820 ILCS 175/40)

11 Sec. 40. Work Restriction. No day and temporary labor  
12 service agency shall restrict the right of a day or temporary  
13 laborer to accept a permanent position with a third party  
14 employer to whom the day or temporary laborer has been  
15 referred for work or restrict the right of such third party  
16 employer to offer such employment to a day or temporary  
17 laborer. Nothing in this Section shall restrict a day and  
18 temporary labor service agency from receiving a placement fee  
19 from the third party employer for employing a day or  
20 temporary laborer for whom a contract for work was effected  
21 by the day and temporary labor service agency.

22 (Source: P.A. 91-579, eff. 1-1-00.)

23 (820 ILCS 175/45)

24 Sec. 45. Registration; Department of Labor. A day and  
25 temporary labor service agency shall register with the  
26 Department of Labor in accordance with rules adopted by the  
27 Department for day and temporary labor service agencies that  
28 operate within the State. The Department may assess each  
29 agency a non-refundable registration fee not exceeding \$250  
30 per year. The fee may be paid by check or money order and  
31 the Department may not refuse to accept a check on the basis



1 that it is not a certified check or a cashier's check. The  
2 Department may charge an additional fee to be paid by an  
3 agency if the agency, or any person on the agency's behalf,  
4 issues or delivers a check to the Department that is not  
5 honored by the financial institution upon which it is drawn.  
6 The Department shall also adopt rules for violation hearings  
7 and penalties for violations of this Act or the Department's  
8 rules in conjunction with the fines and penalties set forth  
9 in this Act. The Department shall cause to be posted in each  
10 agency a notice which informs the public of a toll-free  
11 telephone number for day or temporary laborers and the public  
12 to file wage dispute complaints and other alleged violations  
13 by day and temporary labor service agencies.

14 (Source: P.A. 91-579, eff. 1-1-00.)

15 (820 ILCS 175/50)

16 Sec. 50. Violations. The Department shall have the  
17 authority to suspend or revoke the registration of a day and  
18 temporary labor service agency if warranted by public health  
19 and safety concerns or violations of this Act.

20 (Source: P.A. 91-579, eff. 1-1-00.)

21 (820 ILCS 175/55 new)

22 Sec. 55. Enforcement. It shall be the duty of the  
23 Department to enforce the provisions of this Act. The  
24 Department shall have the power to conduct investigations in  
25 connection with the administration and enforcement of this  
26 Act and any investigator with the Department shall be  
27 authorized to visit and inspect, at all reasonable times, any  
28 places covered by this Act. The Department shall conduct  
29 hearings in accordance with the Illinois Administrative  
30 Procedure Act upon written complaint by an investigator of  
31 the Department or any interested person of a violation of the  
32 Act. After the hearing, if supported by the evidence, the

1 Department may (i) issue and cause to be served on any party  
 2 an order to cease and desist from further violation of the  
 3 Act, (ii) take affirmative or other action as deemed  
 4 reasonable to eliminate the effect of the violation, (iii)  
 5 deny, suspend, or revoke any registration under this Act, and  
 6 (iv) determine the amount of any civil penalty allowed by the  
 7 Act. The Director of Labor or his or her representative may  
 8 compel, by subpoena, the attendance and testimony of  
 9 witnesses and the production of books, payrolls, records,  
 10 papers, and other evidence in any investigation or hearing  
 11 and may administer oaths to witnesses. Nothing in this Act  
 12 applies to labor or employment of a clerical or professional  
 13 nature.

14 (820 ILCS 175/60 new)

15 Sec. 60. Review under Administrative Review Law. Any  
 16 party to a proceeding under this Act may apply for and obtain  
 17 judicial review of an order of the Department entered under  
 18 this Act in accordance with the provisions of the  
 19 Administrative Review Law, and the Department in proceedings  
 20 under the Act may obtain an order from the court for the  
 21 enforcement of its order.

22 (820 ILCS 175/65 new)

23 Sec. 65. Contempt. Whenever it appears that any day and  
 24 temporary labor service agency has violated a valid order of  
 25 the Department issued under this Act, the Director of Labor  
 26 may commence an action and obtain from the court an order  
 27 commanding the day and temporary labor service agency to obey  
 28 the order of the Department or be adjudged guilty of contempt  
 29 of court and punished accordingly.

30 (820 ILCS 175/70 new)

31 Sec. 70. Penalties. A day and temporary labor service

1 agency that violates any of the provisions of this Act  
 2 concerning registration, transportation, equipment, meals,  
 3 wages, or waiting rooms shall be subject to a civil penalty  
 4 not to exceed \$500 for any violations found in the first  
 5 audit by the Department and not to exceed \$5,000 for any  
 6 violations found in the second audit by the Department. For  
 7 any violations that are found in a third audit by the  
 8 Department that are within 7 years of the earlier violations,  
 9 the Department may revoke the registration of the violator.  
 10 In determining the amount of a penalty, the Director shall  
 11 consider the appropriateness of the penalty to the day and  
 12 temporary labor service agency charged, upon the  
 13 determination of the gravity of the violations. The amount of  
 14 the penalty, when finally determined, may be:

15 (1) Recovered in a civil action brought by the  
 16 Director of Labor in any circuit court. In this  
 17 litigation, the Director of Labor shall be represented by  
 18 the Attorney General.

19 (2) Ordered by the court, in an action brought by  
 20 any party for a violation under this Act, to be paid to  
 21 the Director of Labor.

22 Any administrative determination by the Department as to  
 23 the amount of each penalty shall be final unless reviewed as  
 24 provided in Section 60 of this Act.

25 (820 ILCS 175/75 new)

26 Sec. 75. Willful violations. Whoever willfully violates  
 27 any of the provisions of this Act or any rule adopted under  
 28 this Act, or whoever obstructs the Department of Labor, its  
 29 inspectors or deputies, or any other person authorized to  
 30 inspect places of employment under this Act shall be guilty  
 31 of a Class A misdemeanor. Each day during which a violation  
 32 of this Act continues shall constitute a separate and  
 33 distinct offense, and the employment of any person in

1 violation of the Act shall, with respect to each person so  
 2 employed, constitute a separate and distinct offense.  
 3 Whenever, in the opinion of the Department, a violation of  
 4 the Act has occurred, the Department shall report the  
 5 violation to the Attorney General of this State who shall  
 6 have authority to prosecute all reported violations.

7 (820 ILCS 175/80 new)

8 Sec. 80. Child Labor and Day and Temporary Labor  
 9 Enforcement Fund. All moneys received as fees and civil  
 10 penalties under this Act shall be deposited into the Child  
 11 Labor and Day and Temporary Labor Enforcement Fund and may be  
 12 used for the purposes set forth in Section 17.3 of the Child  
 13 Labor Law.

14 Section 15. The Child Labor Law is amended by changing  
 15 Section 17.3 as follows:

16 (820 ILCS 205/17.3) (from Ch. 48, par. 31.17-3)

17 Sec. 17.3. Any employer who violates any of the  
 18 provisions of this Act or any rule or regulation issued under  
 19 the Act shall be subject to a civil penalty of not to exceed  
 20 \$5,000 for each such violation. In determining the amount of  
 21 such penalty, the appropriateness of such penalty to the size  
 22 of the business of the employer charged and the gravity of  
 23 the violation shall be considered. The amount of such  
 24 penalty, when finally determined, may be

25 (1) recovered in a civil action brought by the  
 26 Director of Labor in any circuit court, in which  
 27 litigation the Director of Labor shall be represented by  
 28 the Attorney General;

29 (2) ordered by the court, in an action brought for  
 30 violation under Section 19, to be paid to the Director of  
 31 Labor.

1 Any administrative determination by the Department of  
2 Labor of the amount of each penalty shall be final unless  
3 reviewed as provided in Section 17.1 of this Act.

4 Civil penalties recovered under this Section shall be  
5 paid into the Child Labor and Day and Temporary Labor  
6 Enforcement Fund, a special fund which is hereby created in  
7 the State treasury. Moneys ~~Monies~~ in the Fund may ~~shall~~ be  
8 used, subject to appropriation, for exemplary programs,  
9 demonstration projects, and other activities or purposes  
10 related to the enforcement of this Act or for the activities  
11 or purposes related to the enforcement of the Day and  
12 Temporary Labor Services Act.

13 (Source: P.A. 87-139; 88-365.)

14 Section 99. Effective date. This Act takes effect upon  
15 becoming law, except that the provisions amending the State  
16 Finance Act, the Day Labor Services Act, and the Child Labor  
17 Law take effect on January 1, 2003.