

PREFERENCE ACT ADVISORY

June 18, 2010

Governor Quinn Signs Bill to Enhance Illinois' Preference Act

On June 16, Gov. Quinn signed **House Bill 6349** (Public Act 96-929) which is aimed at enhancing the Employment of Illinois Workers on Public Works Act, commonly referred to as the Illinois Preference Act, by establishing monetary penalties for violations of the Act, clarifying the law's coverage and adding a private right of action to allow individuals to seek remedies regarding violations of the law. Note: HB 6349 also repeals the first Public Works Preference Act, 30 ILCS 560, which had been previously declared unconstitutional by the courts. These changes are effective **immediately** and the Illinois Department of Labor (IDOL) is actively communicating these changes to affected parties in order to promote greater understanding and compliance with the revised law.

Under HB 6349, sponsored by Rep. Dan Beiser and Sen. John Sullivan, contractors on State public works projects are required to employ a workforce that is comprised of at least 90% Illinois residents during periods of excessive unemployment, which occurs when the level of unemployment in Illinois has exceeded 5% for at least 2 consecutive months. State public works projects include projects **funded or financed in whole or in part with State funds or funds administered by the State of Illinois**. Furthermore, HB 6349 provides a mechanism whereby a party may seek review of a determination made by the Department.

Civil penalties are established for violations of the Act as follows:

- 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;
- not to exceed \$15,000 for each violation found in a third or subsequent investigation; and
- not to exceed \$500 in compensatory damages (plus attorney's fees and costs) for each violation pursued through a private right of action.
- Each violation for each worker and for each day the violation continues is a separate and distinct violation.

Additionally, HB 6349 expands the avenues for seeking relief under the Act by providing for enforcement both through civil court and IDOL.

The Department is seeking to ensure that all interested parties – public bodies, developers and contractors – understand their obligations and responsibilities under the Act. Any questions regarding the Act should be directed to the Illinois Department of Labor's Conciliation and Mediation Division at (217) 782-1710. For further information, please visit our website at: www.state.il.us/agency/idol/.