

STATE OF ILLINOIS
98th GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES
TRANSCRIPTION DEBATE

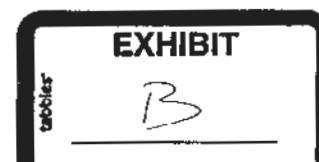
67th Legislative Day

5/30/2013

Clerk Hollman: "House Perfunctory Session will come to order. Committee Reports. Representative Barbara Flynn Currie, Chairperson from the Committee on Rules reports the following committee action taken on May 30, 2013: recommends be adopted is the Motion to Concur with Senate Amendments 1 and 2 to House Bill 2623."

Speaker Lang: "The House will be in order. Members will be in their chairs. We shall be led in prayer today by Pastor Stephen Epting who is with Hope Community Church in Chicago. Pastor Epting is the guest of Representative Lilly. Members and guests are asked to refrain from starting their laptops, turn off cell phones and rise for the invocation and Pledge of Allegiance. Pastor Epting."

Pastor Epting: "Let us bow. God of all, blessed is the nation whose God is the Lord and the people You choose for Your inheritance. From Heaven, Lord, You look down and see all mankind from Your dwelling place and watch all who live on earth. You formed the hearts of all and consider everything we do. We pray for our state and those elected to lead at every level that we will work for Your people. We pray that we will humble ourselves to the sacred task of governing for the people of Illinois. We pray for our Legislators who will care of about jobs for the unemployed and underemployed, education and the opportunity for children and health care for all, especially for those most vulnerable among us. We pray for the laws that will protect and respect the earth, this planet that has been created to be the home of all humanity. We pray for wisdom, not rhetoric, generosity, not indifference and justice, not



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last few days... the last few hours of session. And there's a lot of things in here that I think you will probably, notwithstanding the good, a lot of things in here you're probably going to regret voting for later on. I do urge a 'no' vote."

Speaker Turner: "Representative Bellock."

Bellock: "Thank you very much, Mr. Speaker. Will the Sponsor yield?"

Speaker Turner: "The Sponsor will yield."

Bellock: "I wanted to ask under #3, McPier Expansion, if there was any money in there for a Chicago casino?"

Bradley: "No, Ma'am."

Bellock: "I'm sorry. I didn't hear?"

Bradley: "No, Ma'am. I wouldn't be sponsoring it if it was."

Bellock: "Okay. Thank you very much."

Speaker Turner: "Representative Davidsmeyer."

Davidsmeyer: "Thank you, Mr. Speaker. Will the Sponsor yield?"

Speaker Turner: "The Sponsor will yield."

Davidsmeyer: "I... I know there's a number of good things in this Bill, as we've discussed and there's a number of bad things in this Bill, it's kind a lump of I don't know what. You... you said this is... economic development is the common subject in here. I... I don't understand how adding prevailing wage and PLA's to the LUST Fund applies to economic development?"

Bradley: "Well, if you read carefully in the LUST Fund portion, we're going to make sure that the LUST Fund is sufficiently supported and funded. And it's not solely going to be a result of the fee and tax structure,

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previously. If necessary, there'll be a diversion of state sales tax to make sure that there's proper money in there. Which I think was in response to maybe a question you may have had or some others may have had in making sure that there's sufficient funds in the LUST Fund to actually do these projects."

Davidsmeyer: "So... so, where... where are those other funds coming from?"

Bradley: "The... the diversion of state sales tax with regards to motor fuels."

Davidsmeyer: "Okay. So, it'll be... it'll take revenues away from the General Revenue Fund?"

Bradley: "Yeah. It won't take revenue out of sales tax unless... if it doesn't need it. But if it's needed, it's a backstop."

Davidsmeyer: "It... have... have we had sufficient funds in... in past years to cover all these LUST Fund projects?"

Bradley: "The last couple of years we've been okay. There have been situations in the past where it wasn't. There's concern by the Petroleum Marketers as to the cost of PLA associated with having to hire an attorney to do the PLA for them. And when the process of... of... we've had discussions and I hope that that issue can be worked through beyond the general policy concerns over extending PLA's to the LUST Fund."

Davidsmeyer: "Okay. On... on the previous Bill that this was included with there was something about poultry. Is there anything about poultry in this Bill?"

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Bradley: "No. I've had enough of that with the LUST Fund. I think that's coming back to us, so we can debate that maybe later today or tomorrow."

Davidsmeyer: "Okay. As I said.. to the Bill. As I said, I think there's a number of good things in this Bill. I think it's incredibly unnecessary to lump it with these horrible other ideas. I.. I appreciate your efforts on this, but I.. I encourage a 'no' vote."

Speaker Turner: "Representative Riley."

Riley: "Thank you, Mr. Speaker. To the Bill. I.. I would hope that certainly a lot of the measures in this Bill that benefit my area aren't deemed to be horrible. They're tremendous parts of a big economic development package and they're all important. I remember when I came down here in 2007 there was a Gentleman, good friend on the other side of the aisle, that was lobbying me for some development that was.. that was going on in their district. And I told that person that I would always be.. it would be a very rare time that I'd ever be against anyone's economic development efforts anywhere in this state. I spoke before a few months ago when we were talking about some of the facility closings that were going on all over the state and how I railed against them. It was important to me as I went all over this state talking to residents to be sure that economic development took place all over the state and especially in central and southern Illinois to the greatest extent possible. I support all of these measures cause I believe that economic development anywhere benefits us all, all over the state, certainly with regard to the Peotone

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Airport. And I've worked on airport issues as a planner for 30 years. This is going to do a lot just, you know, for economic development in that area, but it's going to do a lot for safety of the skies above the south suburbs... well, really above the entire flight path in Chicago, Illinois. This is a good Bill. You know, we never have a Bill that... that's perfect. But this is an extremely good Bill that touches a lot of people. And I would hope that you would join me in voting 'aye'. Thank you."

Speaker Turner: "Representative Mautino."

Mautino: "Thank you, Mr. Speaker, Ladies and Gentlemen of the House. I rise in support of the Gentleman's legislation. There are two items which are very important to a lot of us downstate and I'd like to just quickly highlight the farmland assessment side. As the way that we properly assess farmland gets farther and farther apart, some of you in this room, whether you knew it or not, were facing 2000 percent increases in the assessment structure and there was just a great disparity between upstate and downstate. So, as that grew further apart, there was a risk of that failing, so it's a very important piece for all of us downstate. This gives us a little bit of breathing room; we can work out the solution for it. So, we have the next three years to get through that without having an adverse impact on your farmland properties in both the north... northern part of Illinois as well as the southern. Another part, that in my region, we've been very fortunate in Grundy County, it has been a great economic engine, there has been great growth. And because of a decision made about

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40 years ago on the amity tax structure, they have become at a... they've come to a competitive disadvantage for the areas around them, not only locally but on a state level. This language will allow them to continue their economic development district and be competitive. They have a number of very large-, small- and medium-size projects that are interested and this will greatly help them. So I commend the Sponsor and support the legislation. I ask for an 'aye' vote."

Speaker Turner: "Representative Rosenthal."

Rosenthal: "Thank you, Mr. Speaker. Will the Sponsor yield?"

Speaker Turner: "The Sponsor will yield."

Rosenthal: "First of all, I'd like to rise in support of the Bill... overall Bill. And especially the Tuscola fertilizer plant, which we will be producing value out of products that are utilized in our resources. And I think that that's one of the things that we definitely need in Illinois. The other thing I'd like to address is the LUST Fund. And you know, for those that don't know it's for the underground leaking storage tanks. And these projects currently are between private contractors; it's an agreement between the owner of the tanks and the Office of the State Fire Marshal's approved contractor. And the remediation work may or may not be reimbursed from the LUST Fund and that... the distribution of the fund qualification for that remediation is evaluated by the Illinois EPA at the end of the remediation. The other thing is that the moneys for the reimbursement program are paid for by the tank owner distributors and there are no tax dollars in that fund. The

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wage rates for the LUST projects are set by... currently set by the Pollution Control Board not by the prevailing wage scale schedule from the Illinois Department of Labor. So, with this PLA what are the... what are the rates going to be? Are they going to be determined by the PLA? Are they going to be determined by prevailing wage or are they going to be determined by the Pollution Control Board?"

Bradley: "Well, again, we had a meeting earlier with Petroleum Marketers and we'll try to... try to get a quick determination in terms of making sure that those prevailing wage rates are updated so that there's proper reimbursement on this fund."

Rosenthal: "Does that mean that the Pollution Control Board is going to be overridden or are they still going to be..."

Bradley: "I... I think the way that it's going to be... try to be worked and I don't want to make a complete commitment because I don't believe that I have the expertise on this that you do, Representative Rosenthal..."

Rosenthal: "Okay."

Bradley: "But the Pollution Control Board needs to update their numbers. And so, that's the route that's going to be looked at to try to do expeditiously."

Rosenthal: "Okay. The... the other question, do you know who's going to bear the cost of the PLA and whether that cost is going to be reimbursable?"

Bradley: "Again, that's an issue that's come up and an issue that I believe would be reimbursable. There's a question about attorneys' fees and that's something, again, that we hopefully can work through in an expeditious manner."

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Rosenthal: "Well, currently, right now..."

Bradley: "I think that can be..."

Rosenthal: "Well..."

Bradley: "I think that can be handled by Rules and by a process that doesn't require legislation or we're going to try to... to work through that."

Rosenthal: "Okay. Well, currently, when there's a release of petroleum products right now, there's a rapid response in controlling the damage and that's very important. So what's going to happen in emergencies? Are you going to have to wait for PLA to be in place or can they respond to it without that?"

Bradley: "Well, my understanding is that the Environmental Protection Agency will use the same process that the Capital Development Board uses for project labor agreements that it oversees."

Rosenthal: "Okay. Thank you very much. And I... I encourage an 'aye' vote on this Bill. Thanks."

Speaker Turner: "Representative Walsh."

Walsh: "Thank you, Mr. Speaker. To the Bill. I've been here for about one year and a lot of my colleagues have told me to watch what goes on, learn what's happening here and listen. For the last year, I've been listening to jobs. We need jobs. We need economic development. We put a Bill here today that is going to address those concerns. We're going to create jobs in Illinois. The south suburban airport alone, construction jobs 11,400. After its construction in its first year, 4500 jobs. After 15 years, 14,000 jobs. This is to go along with the Illiana Expressway that's

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Sponsor indicates he {sic} will yield.

SENATOR MURPHY:

Senator -- who am I talking to? Hold the clock...

PRESIDING OFFICER: (SENATOR MUÑOZ)

Senator Hutchinson.

SENATOR MURPHY:

Hold the clock on that. Senator, thank you. You know, I second the comments from Senator Althoff. There are a lot of good things in here, but this is a pretty blatant logroll. I've got a couple of questions on the LUST Fund. You know, the -- the -- the emergency circumstance issue - we discussed this a little bit in committee - you've got a leaking tank going into a storm drain at two in the morning. With the PLA requirement, you're potentially going to slow this process down. You got to go call the EPA; you have to go get a -- a -- a contract with the PLA. Some of these jobs are smaller and -- and -- and -- and, frankly, getting a lawyer and doing the PLA will cost more than the job. The EPA had indicated an -- a desire and a willingness to limit the application of this and I just want to confirm that you share that intent legislatively, that this will be limited in its scope and that -- in that we will not be -- we will not be impeding emergency circumstances where there are environmental risks trying to track down the EPA and get a PLA agreement, or in smaller cases, that a contractor can be hired without having to go to a PLA that makes it more expensive. Is that your intent, Senator?

PRESIDING OFFICER: (SENATOR MUÑOZ)

Senator Hutchinson.

SENATOR HUTCHINSON:

Thank you, Senator Murphy. It absolutely is the intent and

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I know...

PRESIDING OFFICER: (SENATOR MUÑOZ)

Could you just keep the noise down a little bit.

SENATOR HUTCHINSON:

And I do know that the Director -- the EPA does not want to make emergency situations worse. The whole point of a PLA is to go to cost-efficiency, quality, safety and timeliness. In a situation like you just mentioned, the first person that you would call is IEMA, and in those situations, there are ways to get around a PLA agreement. So, I -- yes, I do share that legislative intent.

PRESIDING OFFICER: (SENATOR MUÑOZ)

Senator Murphy.

SENATOR MURPHY:

Now, Senator, who will pay the costs of the PLAs? Are the PLA costs reimbursable from the LUST Fund proceeds? And also, are the legal costs to get the PLA in place also reimbursable from the LUST Fund?

PRESIDING OFFICER: (SENATOR MUÑOZ)

Senator Hutchinson.

SENATOR HUTCHINSON:

Yes, it is reimbursable.

PRESIDING OFFICER: (SENATOR MUÑOZ)

Senator Murphy.

SENATOR MURPHY:

Can you show me where in the bill it says that expressly?

PRESIDING OFFICER: (SENATOR MUÑOZ)

Senator Hutchinson.

SENATOR HUTCHINSON:

It doesn't state that expressly. It is part of what you

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certify to in order to be reimbursed.

PRESIDING OFFICER: (SENATOR MUÑOZ)

Senator Murphy.

SENATOR MURPHY:

And, finally, Senator, under current law, the labor costs are set by the Pollution Control Board on these projects. But your bill will mandate that the prevailing wage will apply. How do you intend -- or what is your intention on the resolution of that inherent conflict?

PRESIDING OFFICER: (SENATOR MUÑOZ)

Senator Hutchinson.

SENATOR HUTCHINSON:

It is standing policy of the State that on public -- on public works projects, we pay prevailing wage.

PRESIDING OFFICER: (SENATOR MUÑOZ)

Senator Murphy.

SENATOR MURPHY:

So will -- does this preempt, then, the Pollution Control Board going forward from setting it? Is that your understanding?

PRESIDING OFFICER: (SENATOR MUÑOZ)

Senator Hutchinson.

SENATOR HUTCHINSON:

They would have to pay prevailing wage.

PRESIDING OFFICER: (SENATOR MUÑOZ)

Senator Murphy.

SENATOR MURPHY:

To the bill. You know, again...

PRESIDING OFFICER: (SENATOR MUÑOZ)

...bill, Senator.

Fact Sheet

Project Labor Agreement Requirement (Senate Bill 20/Public Act 98-109) Leaking Underground Storage Tank Program

What is Senate Bill 20?

Senate Bill 20 (which was signed into law as Public Act 98-109) created the Economic Development Act of 2013 and, in part, amended the Environmental Protection Act at 415 ILCS 5/57.7, 57.8, and 57.11, generally, as follows:

- In approving any site investigation or corrective action plan budget, the Illinois EPA shall determine, pursuant to the Project Labor Agreements Act, whether the corrective action shall include a project labor agreement (PLA) if payment from the UST Fund is to be requested.
- If the Illinois EPA determined that the corrective action must include a PLA, a complete application for payment from the UST Fund must include, in part, a PLA certification from the UST owner or operator that the corrective action was (1) performed under a PLA that meets the requirements of Section 25 of the Project Labor Agreements Act and (2) implemented in a manner consistent with the terms and conditions of the Project Labor Agreements Act and in full compliance with all statutes, regulations, and executive orders as required under the Project Labor Agreements Act and the Prevailing Wage Act.

How does Senate Bill 20 affect me?

UST owners and operators who seek payment from the UST Fund must have a PLA for certain corrective action activities. Subsequent applications for payment from the UST Fund must include a PLA certification signed by the UST owner or operator. This applies to work that requires a PLA and that was approved or modified by the Illinois EPA on or after July 25, 2013.

What is a PLA?

According to the Project Labor Agreements Act (30 ILCS 571), a PLA is a form of pre-hire collective bargaining agreement covering all terms and conditions of employment on a specific project. The PLA, in part, sets forth procedures for resolving disputes and grievances; contains guarantees against strikes, lockouts, or similar actions; ensures a reliable source of skilled and experienced labor; sets forth goals for hours to be performed by underrepresented minorities and females; permits the selection of the lowest qualified responsible bidder; and binds all contractors and subcontractors on the public works project.

What corrective action activities require a PLA?

Corrective action activities that require a PLA include, but are not limited to, the excavation, transportation, and disposal of contaminated soil, and backfilling of the excavation; installation/replacement of concrete or asphalt; installation of potable water supply wells; and hookup to municipal water supply. Please contact Leaking UST Program staff if you have questions about whether the PLA requirement applies to the corrective action activities at your site.



Is there guidance on how to prepare a PLA?

For questions about preparation of a PLA, please contact the Leaking UST Program staff.

Does a PLA apply to early action activities?

No. The amendments to the Environmental Protection Act apply to Section 57.7(a) and (b) for site investigation and corrective action.

Does a PLA apply to emergency situations?

No.

If a PLA was required but my application for payment from the UST Fund does not include a signed PLA certification, will my application for payment be approved?

No. For corrective action that must include a PLA, a complete application for payment must contain the PLA certification from the UST owner or operator in order for payment from the UST Fund to be approved.

Am I required to comply with prevailing wage provisions?

Yes. Senate Bill 20 expanded the definition of "public works" at Section 2 of the Prevailing Wage Act (820 ILCS 130) to include any corrective action performed pursuant to Title XVI of the Environmental Protection Act for which payment from the UST Fund is requested. Prevailing wage requirements are overseen and enforced by the Illinois Department of Labor. If you have questions about prevailing wage, please visit the Illinois Department of Labor Web site at www.illinois.gov/ido or dial (217) 782-1710.

When did the law become effective?

The law became effective July 25, 2013.

Who should I contact if I have questions?

You may contact the project manager on-call for the Leaking UST Section at 217-524-3300.

This fact sheet is for general information only and is not intended to replace, interpret, or modify laws, rules, or regulations.

July 2013