Rights, Wages & Welfare of Illinois Workers:

A Labor Day Report



September 2022



State of Illinois Illinois Department of Labor





Illinois Department of Labor Jane R. Flanagan, Acting Director Jason Keller, Assistant Director

This report presents an overview of the Illinois Department of Labor and its divisions, and statistics relating to the work performed by the Department for the workers and employers of the State of Illinois.

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Message from the Director

On Labor Day we celebrate and honor Illinois workers. Labor Day is also an annual reminder of the importance of safeguarding our core labor standards, so that all workers can perform their work safely with the knowledge that they will be fully and fairly compensated for that work.

As Acting Director of the Illinois Department of Labor (IDOL), it is my pleasure to present the Department's first Labor Day report. This report highlights some of the work we do here at IDOL as the State's primary enforcer of more than two dozen State employment laws. Among other things, these laws provide for payment of minimum wage, overtime pay, right to full payment of promised wages, restrictions on child labor, equal pay protections, and payment of local prevailing wage rates on public works projects. IDOL's Illinois Occupational Safety and Health Division (IL OSHA) enforces workplace safety laws in the public sector.



In addition to labor standards enforcement, this report also highlights some of the other critical functions IDOL performs. IDOL engages in community outreach and education for workers and provides compliance assistance to employers, including through IL OSHA's no-cost workplace safety consultation services for small and medium-sized businesses. Last fall, the Department was also selected for a FARE grant from the U.S. Department of Labor Women's Bureau. Through this grant, IDOL is partnering with non-profit community grantees to raise awareness of pay equity protections among low-wage women workers through a multi-faceted media and outreach campaign.

In the coming year, I am looking forward to continuing to grow and strengthen our partnerships with community organizations, employers, unions, and fellow government agencies. By raising public awareness about workplace rights and strongly enforcing those rights, IDOL can perform its critical role in protecting the competitiveness of law-abiding businesses and safeguarding workers' safety and economic security.

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Acting Director Jane R. Flanagan

Mission Statement

The mission of the Illinois Department of Labor is to safeguard the public and to promote and protect the rights, wages, welfare, working conditions, safety, and health of all employees in the State, regardless of race, religion, ethnicity, color, or sexual orientation, by enforcing State labor laws and standards, regulating amusement rides and attractions, and ensuring safe and healthy working conditions in public sector workplaces.

Increasing Pay Transparency

The overarching theme of IDOL's new enforcement initiatives over the past 2 years has been increasing pay transparency in private employment.

These initiatives have increased pay transparency for workers employed by private contractors or subcontractors on public works construction projects in the State; employees of large private employers; and nurses and certified nurse aides employed by nurse staffing agencies.

By publicizing anonymous wage rates for employees in the private sector, IDOL is providing a resource for Illinois employees to compare their wages to employees in similar jobs and industries.

Pay transparency plays a role in shrinking the gender pay gap and is a necessary step on the path to achieving equal pay.

Illinois is on the frontlines of states across the country passing laws to increase pay transparency and requiring fair and equal pay.

I. Summary and Overview

The Illinois Department of Labor is an executive branch State agency under the jurisdiction of the Office of the Illinois Governor. IDOL is responsible for the administration and enforcement of more than two dozen labor and workplace safety laws that protect workers and businesses across the State.

With a team of over 90 employees and an annual operating budget of \$16.5 million per year, IDOL is a medium-sized State agency that manages an extra-large workload and serves thousands of employees and businesses in the State each year. IDOL has offices throughout the State, with main offices in Springfield and Chicago; an office in the State Regional Office Building in Marion; and field staff located throughout the State. Maintaining staff and locations Statewide allows IDOL to be accessible to employees and businesses across Illinois.

IDOL is responsible for enforcing labor standards that protect the economic security of Illinois workers, from child performers and nannies to nurses and construction workers. IDOL staff conduct inspections; investigate complaints of possible violations of law; convene formal administrative hearings to resolve complaints; and recover unpaid wages and monetary penalties from employers who violate laws under IDOL's jurisdiction. IDOL also reviews and issues permits and licenses to staffing and employment agencies to protect workers referred through those agencies. Additionally, IDOL's inspection and enforcement activities protect members of the public, such as amusement park patrons and patients at healthcare facilities.

IDOL consists of five operating divisions: Fair Labor Standards (FLS), Conciliation and Mediation (ConMed), Occupational Safety and Health (IL OSHA), Amusement Ride and Attraction Safety (ARAS), and Legal. In addition to the operating divisions, there is an administration subset that is broken down into Fiscal, Information Technology, Legislative and Rulemaking, Public Information and Communications, Human Resources, and the Director's Office.

IDOL administers and enforces the following Illinois laws and rules:

Fair Labor Standards

Child Labor Law (820 ILCS 205/1-22)

Consumer Coverage Disclosure Act (820 ILCS 46)

Day and Temporary Labor Services Act (820 ILCS 175/1-99)

Illinois Wage Payment and Collection Act (820 ILCS 115/1-16)

Job Opportunities for Qualified Applicants Act ("Ban the Box") (820 ILCS 75/1)

Minimum Wage Law (820 ILCS 105/1-15)

Nurse Agency Licensing Act (225 ILCS 510/1-15)

One Day Rest in Seven Act (820 ILCS 140/1-9)

Private Employment Agencies Act (225 ILCS 515/0.01-15)

School Visitation Rights Act 820 ILCS 147/1-49

Conciliation & Mediation

<u>Child Bereavement Leave Act</u> (820 ILCS 154)

<u>Child Care Act of 1969</u> (Whistleblower provisions) (225 ILCS 10/7.2)

Employee Classification Act (820 ILCS 185/1-999)

Employee Sick Leave Act (820 ILCS 191/1-99)

Employment of Illinois Workers on Public Works Act (IL Preference Act) (30 ILCS 570/1-7)

Environmental Protection Act (Whistleblower provisions) (415 ILCS 5/52)

Equal Pay Act of 2003 (820 ILCS 112/1-90)

<u>Illinois Procurement Code –</u> <u>Prevailing Wage Requirements</u> (30 ILCS 500/25-60)

Personnel Records Review Act (820 ILCS 40/0.01-13)

Prevailing Wage Act (820 ILCS 130/0.01-12)

Right to Privacy in the Workplace Act/E-Verify (820 ILCS 55/1-20)

<u>State Construction Minority and</u> <u>Female Building Trades Act</u> (30 ILCS 577/Art. 35) <u>State Services - Prevailing</u> <u>Wage Requirements</u> (30 ILCS 500/25-60)

Victims' Economic Security and Safety Act (820 ILCS 180/1-999)

Worker Adjustment and Retraining Notification Act (WARN) (820 ILCS 65)

Legal Division

Administrative Hearings Rules (56 III. Adm. Code 120)

<u>Freedom of Information Act</u> (FOIA) 5 ILCS 140)

Amusement Ride & Attraction Safety Division

Amusement Ride & Attraction Safety Act (430 ILCS 85)

Illinois OSHA

Occupational Safety & Health Act (820 ILCS 219)

III. Initiatives and Outreach

1. IDOL in the Community

Community and Government Partnership. IDOL regularly partners with community members and representatives of Federal, State, and local government. Since early 2020, IDOL has held quarterly community round table meetings in order to connect with workers' centers and advocacy groups on a regular basis to hear firsthand about labor and workplace rights issues facing their communities. Throughout 2022, IDOL participated in the Illinois Future of Work Task Force with unions, community groups, employers, and other government agencies. In July 2022, IDOL and the Illinois Department of Commerce and Economic **Opportunity hosted the first Energy Transition** Commission meeting. This Commission will work to understand and address the impact of the transition to clean energy in Illinois communities. IDOL representatives also participated in the Lieutenant Governor's Council on Women and Girls and the Governor's Commission on Workforce Equity and Access.



IDOL Acting Director Flanagan (far right) with Illinois Lt. Gov. Juliana Stratton (fourth from right) USDOL Women's Bureau Director Wendy Chun-Hoon (center) meeting with representatives from Chicago Women in Trades in May 2022 to discuss prioritizing equitable workforce development and improving job quality in the implementation of the Bipartisan Infrastructure Law.



Community Outreach and Education. IDOL regularly conducts outreach in the community to foster knowledge of employment rights. In July 2022, Acting Director Flanagan presented an overview of Illinois employment laws to various community groups at the Bloomington Public Library.

Visiting Small Businesses. In early August 2022, Acting Director Flanagan joined members of IL OSHA at a Wise Plastics Technologies location to recognize the safety achievements of the small business with a national Safety and Health Achievement Recognition Program (SHARP) status designation; this was the second Wise Plastics location to earn SHARP status.

Compliance Assistance. In the spring and summer of 2022, IDOL conducted four webinars attended by nearly 400 participants to educate nurse agency operators about the new reporting and other responsibilities required of nurse staffing agencies under new amendments to the Nurse Agency Licensing Act. IDOL has also conducted several trainings for large businesses on their new obligations to file certain wage and employee demographic records to document Equal Pay Act compliance. In the coming months, IDOL will hold a series of trainings on Prevailing Wage Act compliance for contractors in the clean energy industry to ensure that they understand their compliance obligations under this law for certain projects made possible by public incentives.

2. Internal Initiatives

Fostering Diversity, Equity, and Inclusion. In 2020, IDOL created a Diversity, Equity, and Inclusion Committee, comprised of IDOL employees, to develop and implement strategies within IDOL that align with Governor JB Pritzker's goals for a more equitable Illinois.

Increasing Accessibility. IDOL is in the process of updating its complaint and claim forms and other publicfacing materials to use more inclusive and accessible language, as well as translating these documents into other commonly spoken languages in the State with the goal of increasing language access for all Illinoisians seeking IDOL services.



IL OSHA Industrial Hygienist Joseph Thomas (left) and Marketing/ Outreach Coordinator Hap Hileman (right) staffing the IDOL table at the 2022 Illinois State Fair, August 2022.

3. At the Fair

DOL staff attended all days of the Illinois State Fair and several days of the DuQuoin State Fair as part of IDOL's community outreach to spread awareness about the services and programs provided by IDOL. Amusement Ride and Attraction Safety Division Ride Inspectors were also present daily at both fairs to monitor rides and ensure that all rides and attractions were operating properly.

4. In the Media

DOL employees have appeared on television, radio, and podcasts, and in newspapers and magazines across the State's media markets, including on Spanish-language channels, to discuss safety initiatives, vulnerable worker protections, and IDOL's implementation of new legislation impacting workers across the State.



FLS Division Director Marina Faz-Huppert appeared on Univision Chicago to talk about new workplace rights and protections for domestic workers.



Assistant Director Jason Keller spoke with Chicago Tonight about new requirements for large businesses under the Equal Pay Act.

IV. Legislative and Regulatory Updates

1. Legislative Updates

The Illinois General Assembly, the State's legislative branch comprised of the House and the Senate, continues to pass legislation to modernize and strengthen the robust labor protections that Illinois workers enjoy. The following list highlights some of the major initiatives the General Assembly has undertaken in recent years and that IDOL is charged with implementing and enforcing.

Adequate Rest Time for Employees

The **One Day Rest in Seven Act (ODRISA)** requires most employers to provide their employees with at least one 20-minute meal break for every 7.5-hour shift beginning no later than 5 hours after the start of the shift. However, some employees are required by their employer to work 10- to 12-hour shifts or longer. The General Assembly recognized this reality, and in response added to ODRISA a requirement of an additional 20-minute meal break for every additional 4.5 hours worked after the initial 7.5-hour shift. Employers who violate this law are now subject to increased penalties and employees now have the right to recover damages from their employer for violations of ODRISA. (Source: Public Act 102-828, eff. 1-1-23).





Time Off to Grieve and Care for Family

The General Assembly enacted two recent pieces of legislation acknowledging that employees are people with loved ones and family obligations:

The *Family Bereavement Leave Act*, formerly the Child Bereavement Leave Act, expands employees' right to take unpaid time off from work to grieve and handle arrangements for a close family member who has passed away. Before recent amendments, this right only applied to employees who had experienced the

death of a child. Additionally, the Family Bereavement Leave Act recognizes that if an employee experiences a miscarriage or other loss related to adoption or fertility, that employee may wish to take time off from work for their own well-being and should not lose their job for doing so. The Act goes into effect on January 1, 2023. (Source: Public Act 102-1050, eff. 1-1-23).

The *Employee Sick Leave Act* requires employers who provide sick time to employees to allow those employees to use at least some of that sick time for the medical needs of their family members. The Act was recently amended to clarify that employees must also be allowed to use that sick time to provide personal care to their family members. "Personal care" includes activities to ensure the family member's basic medical, hygiene, nutritional, or safety needs are met, or to provide transportation to medical appointments. Employers of airline employees, previously exempted from the Act, are now required to comply with the Act. (Source: Public Acts 102-4, eff. 4-27-21; 102-678, eff. 12-10-21; 102-817, eff. 1-1-23).

Pay Transparency for Large Employers

In the spirit of pay transparency, considered key to eliminating pay discrimination, private employers in the State with 100 or more employees are now required to report certain employee wage and demographic information to IDOL. These recent changes to the *Illinois Equal Pay Act* are intended to prompt employers to analyze their compensation strategies and ensure that they are equitable. IDOL may use this information to study and publish reports on pay equity trends. The law also now provides that employees of these covered employers may request anonymous pay data in order to assess whether the requesting employee may be underpaid as compared to other employees in the same position. This legislation was part of the Illinois Legislative Black Caucus Economic Access, Equity, and Opportunity Pillar, designed to eliminate the Black community's barriers to economic access, equity, and opportunity. (Source: Public Acts 101-656, eff. 3-23-21; 102-36, eff. 6-25-21; 102-705, eff. 4-22-22).



Disclosure of Health Insurance Coverage

In 2021, the General Assembly enacted the **Consumer Coverage Disclosure Act** to bring transparency to employee health insurance coverage by requiring employers doing business in Illinois who provide group health insurance plans to their employees to inform their employees of the benefits covered by the group health insurance plan. Employers must also provide employees with a list of the health insurance benefits identified by the State of Illinois to be "essential", and a comparison showing which of those essential health benefits are and are not covered by the employer's group health insurance plan. (Source: Public Act 102-630, eff. 8-27-21).



Leveling the Playing Field for Temp Nurses

Due to the COVID-19 pandemic and the changing landscape of the healthcare industry, the General Assembly recently enacted additional statutory requirements under the **Nurse Agency Licensing Act** for nurse staffing agencies that provide nurses and CNAs to staff health care facilities such as hospitals and nursing homes. Among other things, this legislation prohibits non-compete agreements and conversion fees, enabling temporary nurses or nurse aides to more readily switch jobs and accept permanent positions. The legislation also requires nurse staffing agencies to report their labor costs to IDOL, a requirement intended to allow IDOL to study trends and patterns in healthcare employee compensation. (Source: Public Act 102-946, eff. 7-1-22).

IV. Legislative and Regulatory Updates (Legislative Updates)



Protecting Child Actors and Performers

Illinois has a thriving film, television, and theater industry, and child performers, such as actors, models, and musicians, are an important part of that industry. IDOL is charged with ensuring that the well-being of these child performers (defined as age 15 or younger) is protected by providing existing rest, supervision, and school hour requirements. The *Child Labor Law* now requires employers of child performers to receive permission from IDOL before requiring a child to work after midnight. (Source: Public Act 102-832, eff. 1-1-23).

Time Off for Crime Victims

The Victims' Economic Security and Safety Act (VESSA) was originally enacted to ensure that employees who are victims of domestic violence or sexual violence, and employees whose family member or household member is a victim of domestic violence or sexual violence, can take unpaid time off work to address the consequences of that violence without fear of losing their job. Recently, the General Assembly amended VESSA to extend these protections to employees who are victims of any violent crime, or whose family or household member is a victim of violent crime. For example, an employee may take time off work to meet with an attorney, testify in court, seek counseling or accompany a family member who is seeking counseling, or for a number of other activities. VESSA also requires employers to make reasonable accommodations for such employees in a timely manner; these accommodations may include workplace adjustments such as modifying an employee's schedule or implementing a workplace safety plan.

(Source: Public Acts 101-221, eff. 1-1-20; 102-487, eff. 1-1-22).

Just and Equitable Transition for Energy Workers

The General Assembly, with the input of stakeholders including environmentalists, representatives of the energy industries, and labor advocates, enacted the Climate and Equitable Jobs Act (CEJA) in September 2021. CEJA requires the implementation of various programs and standards that will transition Illinois to 100% clean energy by 2050, while ensuring that workers in traditional energy production industries have an opportunity to succeed in the clean energy industry and that clean energy industry jobs and training are available in historically disadvantaged communities.

IDOL is charged with providing compliance assistance to clean energy contractors required to comply with the Prevailing Wage Act; offering input on career pathways and training curriculum for clean energy jobs; compiling and summarizing race, gender, and demographic data on employees working on clean energy sector public works projects; and consulting with the Illinois Power Agency on a study of discrimination against minority businesses and workers in the clean energy sector and the appropriate response to any discrimination found. (Source: Public Acts 102-662, eff. 9-15-21; 102-813, eff. 5-13-22).



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Wage Protections for Construction Workers

In response to reports of wage theft in the construction industry, the General Assembly amended the *Illinois Wage Payment and Collection Act* to establish that certain private sector general contractors whose subcontractors violate the Act by underpaying or failing to pay their workers may be liable for that violation. This new shared liability is meant to prompt general contractors to ensure that the subcontractors they choose to work with are law-abiding and are willing and able to pay their workers as promised.

In the area of public works, the **Prevailing Wage Act** has been amended several times to specify that projects funded with taxpayer dollars are subject to the requirements of the Act. Additionally, the General Assembly amended the Prevailing Wage Act to require that public utility work that is contracted out, not performed by in-house employees of that utility, is subject to the Prevailing Wage Act.

IDOL, pursuant to a recent amendment to the Prevailing Wage Act, now offers an online portal to a searchable database of public works projects and construction worker pay records from such projects to facilitate transparency and compliance with the Prevailing Wage Act.

(Source: Public Acts 102-9, eff. 1-1-22; 102-444, eff. 8-20-21; 102-673, eff. 11-30-21; 102-813, eff. 5-13-22; 102-1094, eff. 6-15-22).



2. Regulatory Actions

In the course of interpreting, implementing, and enforcing legislation passed by the General Assembly and signed by the Governor, IDOL often must draft regulations, also known as "rules", to be adopted as part of the Illinois Administrative Code. Over the last year, IDOL has taken the following major regulatory actions:

Clarifying Employers' Minimum Wage Liability

Sometimes, employees work for two different employers who exercise control over and coordinate with one another to manage that employee. For example, a restaurant employee may work at two different restaurants that have different managers but are owned by the same person. If that employee is underpaid according to the Minimum Wage Law, IDOL must determine whether only one, or both, of the employers are liable for that claim. In response to U.S. Department of Labor action to modify the test to determine whether multiple employers are liable in such situations, IDOL moved to formally adopt the "economic realities" test, the longstanding standard in case law, in its rules. This formalizes that IDOL will consider each situation on a case-by-case basis, using certain factors as guidance, to determine if an employee is jointly employed.

This formalizes the factors that IDOL will consider, on a case-by-case basis, to determine if an employee is jointly employed.

Labor Protections for Domestic Workers

In 2017, the General Assembly enacted major legislation to establish labor protections for domestic workers, such as nannies and housekeepers, under the Domestic Workers' Bill of Rights Act. One main component of the Act was to ensure that domestic workers enjoy the same minimum wage and overtime protections as workers in most other industries. However, due to the nature of domestic work and the fact that some domestic workers may live at their place of employment or be unable to leave for meals, tricky questions are raised about



how to track the time for which workers must be paid. As such, this year IDOL promulgated rules to clarify how domestic workers' work hours should be counted, how benefits such as meals and lodging should be accounted for in terms of wages, and how overtime provisions apply to domestic work. These new rules strengthen the safeguards that ensure the rights of domestic workers are protected, respected, and enforced.

FLS by the Numbers

Child Labor Law Number of approved Child Labor Employment Certificates FY2021 FY2022 14,864 20,278

In FY21, FLS collected a total of **\$2,750** in penalties for violations of the Child Labor Law.

Nurse Agency Licensing Act

1

Nurse agency	licenses issued
FY2021	FY2022
292	431

Day and Temp Labor Law

Number of li	censes issued
FY2021	FY2022
337	363

V. IDOL Divisions

1. Fair Labor Standards

The Fair Labor Standards Division (FLS) administers and enforces State labor laws that set wage and hour requirements, safeguard workplace rights and employee welfare, and regulate employment sectors where employees need protection the most. The Division is charged with enforcing 10 State labor laws, including two of the most common and

critical employee wage protections: the Minimum Wage Law and the Illinois Wage Payment and Collection Act. The central focus of the Division is to ensure that employees are paid at the appropriate rate and in a timely manner and to assist employees in the collection of unpaid or underpaid wages.



In addition to handling the largest volume of wage claims received by IDOL, FLS also has a licensing arm that issues licenses to staffing and employment agencies and monitors thousands of employment certificates issued to child workers. These employment certificates are authorized and issued by issuing officers, who are regional or district superintendents of education or agents of a superintendent.

FLS's compliance enforcement work assists and serves employees in Illinois who are particularly vulnerable to abuses of their labor rights, such as unpaid wages, failure to pay for all hours worked, minimum wage and overtime violations, and unlawful deductions from paychecks. The Division protects the rights and welfare of employees throughout the State; promotes standards for private employment agencies, nurse staffing agencies, and day labor agencies; and protects children in the workforce, including performers and models who are employed by the entertainment industry.



FLS Division Director Marina Faz-Huppert (far left) at the Mexican Consulate's Semana de Derechos Laborales (Labor Rights Week) 2022 in Waukegan, August 2022.

FLS Working for You

In FY2021, IDOL collected **\$24,315 in back wages** for tipped restaurant workers following an FLS investigation that found employer violations of the Illinois Minimum Wage/ Overtime Law involving **10 employees who collected amounts ranging from \$227 to \$4,401 in back wages**.

Following an FLS investigation involving an ambulance service, IDOL recovered **\$66,165 in overtime wages for 21 paramedics** who were owed the wages from the ambulance service.

In FY2021-22, IDOL entered into a settlement agreement on behalf of 51 employees that recovered \$12,425 in wages earned but not recorded due to improper use of clock-in and -out times captured by each employee when entering and leaving work premises. The failure of the time-keeping system and failure by the employer to address these instances impacted employees' paychecks; following an FLS investigation, IDOL was able to recover these lost wages on the employees' behalf.

V. IDOL Divisions (Fair Labor Standards)

Wage Protection

FLS Wage Claim Specialists and Compliance Officers assist Illinois workers in the collection of unpaid wages and final compensation through enforcement of the Minimum Wage Law and the Illinois Wage Payment and Collection Act. Beginning on January 1, 2022, the Minimum Wage Law guarantees an hourly minimum wage of \$12.00 and an hourly tipped minimum wage of \$7.20 for workers 18 years and older.

Minimum Wage Law

Minimum Wage: Minimum wage requirements apply to employers in the State with four or more employees; however, domestic workers are covered by the Law if the employer employs one or more domestic workers. The Law permits some employees to be paid less than minimum wage under limited circumstances.

Tipped Employees: Tipped employees in the State must be paid at least 60% of the applicable minimum wage. If an employee's tips combined with the wages paid by the employer do not equal the minimum wage, the employer must make up the difference.

Overtime: Most hourly, non-exempt employees in the State and some salaried employees are covered by the overtime requirements of the Law and must be compensated at time and one-half of their regular pay for hours worked over 40 in a workweek.

The Illinois minimum wage will increase to \$15 an hour by 2025.

Illinois Wage Payment and Collection Act

The Illinois Wage Payment and Collection Act establishes when, where, and how often wages must be paid and prohibits employers from making deductions from an employee's wages or final compensation without the employee's consent. Under the Act, employees must receive their final compensation, including earned wages, vacation pay, commissions, and bonuses on their next regularly scheduled payday. Unauthorized deductions from employee paychecks are not allowed except as specified by law, and employers must reimburse employees for all necessary expenditures or losses incurred by an employee during the scope of employment and related to services performed for the employer.

Employees who believe they were not paid proper compensation may file a wage claim with IDOL.

To file a complaint, visit: <u>https://www2.illinois.gov/idol/Pages/Complaints.aspx.</u>

FLS Wage Claim Specialists process wage claims and assist employees in the collection of wages and final compensation, including unused vacation pay, commissions and bonuses. In FY 2022, **\$2.35 million** in back wages were recovered and **3,473 wage complaints** were received.

Compliance Section

The FLS Compliance Section enforces laws to ensure employers pay the State minimum wage, protects the rights and welfare of employees, and licenses agencies in temporary staffing industries. The Program enforces the following laws: the Illinois Minimum Wage Law, Child Labor Law, One Day Rest in Seven Act, Day and Temporary Labor Services Act, Nurse Agency Licensing Act, Private Employment Agencies Act, Consumer Coverage Disclosure Act, and Job Opportunities for Qualified Applicants Act.

FLS Wage Claim Specialist Completed Cases FY 2021 FY 2022 2,669 2,687 (Completed cases are sent to an FLS manager for review and determination of next steps).

In FY2021, the FLS Compliance Unit identified an employer who operated two businesses and coordinated schedules for the same employees, but failed to properly compensate those employees over 40 hours by recording the employees' hours as hours worked for separate businesses – a medical company and a law firm. The employer was determined to have violated the Illinois Minimum Wage Law; as a result, **IDOL collected a total of \$189,536 in back wages impacting 35 employees.**

Did You Know?

Joint employment occurs when an individual employee is employed by two or more associated employers



who coordinate with one another to manage that employee. For example: an accounting firm that contracts with a staffing agency to provide administrative staff, which the accounting firm directly controls; if the firm and the agency are joint employers, they are each responsible for employee protections. If the agency violates the Minimum Wage Law by failing to pay minimum wage, the firm is also liable for that violation.

Minor Employment

All children age 15 or younger must apply for and receive a *Minor Employment Certificate* from their school district prior to performing any work in the State, as required by the Child Labor Law. IDOL monitors the issuance of minor employment certificates and may suspend any certificate found to be issued in violation of the Act. Employers of child actors, models, or musicians may obtain a *Night Waiver* to extend a child performer's working hours past 7:00 PM (the waiver does not extend the allowable total work hours per day). *The Child Labor Law was recently amended to further restrict child performers' late-night work; see Section IV for additional details.*

FLS Working for You

In FY 2021-22, IDOL entered into a settlement agreement with a national day and temporary labor staffing agency operating in Illinois for failure to allow an on-site inspection of the premises and for failure to comply with the employment notice requirements of the Act. The settlement included a \$6,000 penalty payment and required actions by the staffing agency to update their employment notices to laborers and to conduct quarterly evaluations with their client company to comply with the Restore Illinois Plan, which ensured health and safety measures related to the COVID-19 pandemic were followed.

During FY 2021-22, IDOL used its authority under the Day and Temporary Labor Services Act to issue violations to unlicensed staffing agencies who did not register with IDOL. **Enforcement actions** were also extended to the agencies' client companies for doing business with unlicensed agencies, which included largely businesses involved in food production, manufacturing, and logistics. The Department recovered \$129,000 in associated penalties.

V. IDOL Divisions (Fair Labor Standards)

The Compliance Section is responsible for the issuance of:

One Day Rest in Seven Permits: The One Day Rest in Seven Act (ODRISA) requires employees to be provided with at least 24 consecutive hours of rest every calendar week and a meal period of at least 20 minutes for every 7.5-hour shift beginning no later than 5 hours after the start of the shift. Employers can obtain ODRISA permits from IDOL to allow employees to work a 7th day in a calendar week, provided that the employee has voluntarily chosen to work. New amendments to ODRISA take effect January 1, 2023; see Section IV for additional details.

Nurse Agency Licenses: Under the Nurse Agency Licensing Act, nurse staffing agencies that supply nurses and certified nurse aides to health care facilities in the State must register with and obtain a license from IDOL before operating in the State. Registered nurse agencies must renew their licenses every year.

Day and Temporary Labor Services Agency Licenses: Under the Day and Temporary Labor Services Act, day labor services agencies and temporary labor services agencies must register with and obtain a license from IDOL before operating in the State. Registered agencies must renew their licenses every year.

Private Employment Agency and Private Employment Counselor

Licenses: Under the Private Employment Agency Act, private employment agencies and private employment counselors must register with and obtain a license from IDOL before operating in the State; registered agencies and counselors must renew their licenses every year. An "employment agency" is any person in the business of securing or attempting to secure employment for individuals seeking employment or finding employees for employers. An "employment counselor" is any employee of an employment agency who interviews, counsels, or advises applicants or employers or both on employment problems, or who makes or arranges contracts or contacts between employers and employees.

In FY 2021-22, FLS updated its private employment agency application filing forms; improved the collection process for required private employment agency application documents; and incorporated a background check process into the license approval process for new private employment agency license applicants.

2. Conciliation and Mediation (ConMed)

The Conciliation and Mediation Division (ConMed) administers and enforces State labor laws that set forth and protect important employee rights, including the Prevailing Wage Act, the Equal Pay Act of 2003, the Victims' Economic Security and Safety Act, and the Child Bereavement Leave Act (soon to be the "Family Bereavement Leave Act"; see Section IV for additional information).

What is a prevailing wage rate?

A prevailing wage rate is the required minimum hourly wage and fringe benefits that must be paid to employees performing similar work in a geographic area. In Illinois, prevailing wage rates are determined by county and by trade classification. The Prevailing Wage Act requires that employees working on public works construction projects are compensated at wage rates that prevail in that specific trade and in the county where the work is being performed. *For example, there are prevailing wage rates for painters in Cook County, plumbers in Carroll County, and electricians in Will County.*

Prevailing wage rates in Illinois are covered under two separate laws:

The Prevailing Wage Act: The Prevailing Wage Act requires IDOL to set the annual prevailing wage rates for all 102 counties in the State. Each year, ConMed conducts the prevailing wage survey in June and publishes the prevailing wage rates by July 15. ConMed is responsible for investigating violations of the Act's prevailing wage requirements.

The Illinois Procurement Code: The Illinois Procurement Code requires prevailing wage payments for service employees performing work on State contracts; ConMed sets the prevailing wage rates for services covered by the Code: janitorial cleaning services, window cleaning services, food services, security services, and printing services. The State's Chief Procurement Officer, not ConMed, is responsible for investigating violations of the Code's prevailing wage requirements.

The Prevailing Wage Act

The Prevailing Wage Act governs wage and record keeping requirements for contractors on State and locally funded public works projects of any size in the State. Contractors subject to the Act must pay at least the prevailing wage rate to employees working on such projects and must file **certified transcripts of payroll (CTPs)** with the Department each month for all public works projects that were ongoing the previous month. CTPs contain hourly wage and fringe benefit information for each employee working on a public works construction project.



ConMed Conciliators investigate complaints of possible violations of the Prevailing Wage Act, such as paying less than prevailing wage or not filing CTPs as required by the Act. Prevailing wage complaint investigations often include detailed audits of a large number of CTPs. For example, one investigation may require an audit of all CTPs filed for a large project that lasted more than two years.

Contractors who are found to have violated the Act must pay employees the difference between the wage paid and the prevailing wage, and are subject to penalties and punitive damages. A contractor who is found to have violated the Act on two or more occasions in a 5-year period may be debarred from public works projects for 4 years. Contractors are required to post prevailing wage rates at job sites.



Did You Know?

Prevailing wage requirements are a benefit to Illinois businesses because wages paid by *all* contractors on public works projects must reflect the local market standards for compensation and skilled trade; thus, out-of-state contractors or contractors from outside a county cannot

undercut local contractors by paying lower wages on such projects. Prevailing wage requirements level the playing field for contractors across the State and allow local contractors to remain competitive with contractors from outside the area.

Prevailing Wage Cases Completed FY 2021 and FY 2022



ConMed Working for You in FY 21-22

A carpentry contractor, with multiple prevailing wage complaints, was investigated by ConMed Conciliators. After concluding the investigation, IDOL recovered a total of **\$568,828 in back wages and penalties** from the contractor. A major dredging contractor, with multiple prevailing wage complaints, was investigated by ConMed Conciliators. After concluding the investigation, IDOL recovered a total of **\$454,362 in back wages and penalties** from the contractor.

V. IDOL Divisions (Conciliation and Mediation)



Equal Pay Act of 2003

The Equal Pay Act of 2003 ("Equal Pay Act") prohibits employers from discriminating between employees on the basis of sex by paying an employee of one sex a lower wage than an employee of a different sex for the same or substantially similar work on jobs that require substantially similar skill, effort, and responsibility, and that are performed under similar working conditions, with specific exceptions. The Act also prohibits employees from paying African American employees less than other employees who are not African American for the same or substantially similar work.



Equal Pay Registration Certificates. Beginning in the spring of 2022, large (100 employees or more) private employers in the State are now required to obtain an Equal Pay Registration Certificate from IDOL every 2 years by submitting employee wage and demographic data to IDOL. (*See Section III for additional details*).

IDOL worked with Statewide business associations to implement these new Equal Pay Act provisions. To manage the flow of data coming into the Department, deadlines are randomly staggered over the 2-year period. IDOL has been holding 4 trainings per quarter to assist businesses with their filings and answer any questions. IDOL continues to work with partners Statewide, as well as nationwide, to improve enforcement of this Act.

ConMed also enforces several other workplace laws centered around safeguarding employee welfare:

Victims' Economic Security and Safety Act (VESSA)

The Victims' Economic Security and Safety Act (VESSA) allows up to 12 weeks of unpaid leave per any 12-month period for employees who are victims of domestic violence, sexual violence, gender violence, or any other crime of violence or who have family or household members who are victims of such violence to seek medical help, legal assistance, counseling, safety planning, and other assistance, and prohibits discrimination against any such employees.

Child Bereavement Leave Act

Illinois is one of only a small number of states with a law or rule on the books that requires employers to provide bereavement leave to employees. The Child Bereavement Leave Act entitles employees of public and private employers with more than 50 employees to a maximum of 2 weeks (10 work days) of unpaid bereavement leave time following the death of a child, and up to 6 weeks of bereavement leave time in the event of the death of more than one child in a 12-month period.

Personnel Records Review Act

The Personnel Records Review Act allows employees to seek review of their personnel records two times per year; former employees may request their personnel records up to 1 year after separation from an employer. With the exception of certain documents that are exempt from review, employees must be provided an opportunity to inspect their personnel records.

Right to Privacy in the Workplace Act

The Right to Privacy in the Workplace Act prohibits employers from requesting or requiring an employee or prospective employee to provide any password or other account information to gain access to the employee's or prospective employee's social networking account or profile; and prohibits employers from demanding access in any manner to an employee's or prospective employee's social networking account or profile.



The Act also prohibits employers from refusing to hire, terminating the employment of, or otherwise disadvantaging any individual because the individual uses alcohol or tobacco

away from the job site during non-working time. Cannabis was added to this list in 2020 when recreational cannabis use became legal in Illinois; however, the use of cannabis during non-work time is subject to exceptions and limitations under the Cannabis Regulation and Tax Act.

Employee Sick Leave Act

The Employee Sick Leave Act requires employees to use at least a portion of the sick leave time that is already available to them, under certain existing employer policies, to care for certain relatives, and prohibits employers from denying an employee the right to use personal sick leave benefits in accordance with the Act.

3. Occupational Safety and Health Division, Illinois (OSHA)

The Division of Occupational Safety and Health (IL OSHA) protects the safety and health of public sector employees in Illinois through the inspection, investigation, and evaluation of public facilities and working conditions to ensure compliance with State and Federal safety and health standards. The Division operates under and enforces the Occupational Safety and Health Act.

It is the mission of the IL OSHA to ensure safe and healthy working conditions by setting and enforcing standards and providing training, outreach, education, and assistance to employers and employees throughout Illinois. The Division pursues its mission through two avenues:

- 1. enforcement, which covers only public sector employers; and
- **2.** a consultation program that works with all employers in the State, public and private.

Enforcement

IL OSHA's enforcement responsibilities cover all State and local public

sector workplaces. The Occupational Safety and Health Act and the safety and health rules developed and enforced by the Division are required by Federal law to be at least as effective as Federal OSHA occupational safety and health standards. Federal OSHA, an Administration under the U.S. Department of Labor, covers all private sector and Federal workplaces in the State.

IL OSHA responds to complaints and investigates serious workplace accidents, including fatalities and other significant employee injuries; IL OSHA also inspects State and local public sector workplaces and issues citations when violations of standards are identified. Inspections may be conducted due to regular scheduling or in response to imminent danger reports, fatalities, employee complaints, or referrals.

ACTIVITY/YEAR	2019	2020	2021
UNPROGRAMMED INSPECTIO)NS*		
Complaint	42	12	17
Fatality	4	3	27
Follow-up	7	3	16
Monitoring	0	1	5
Non-Fatal Accident (amputations, hospitalizations, non-hospitalization)	26	21	6
Referral	2	4	6
PROGRAMMED INSPECTIONS*			
Planned	208	199	354
Totals	289	243	431

Table 1.0 – Totals by Enforcement Inspection Activity

*Unprogrammed Inspection: scheduled in response to alleged hazardous working conditions identified at a specific worksite. Prioritized by imminent danger, fatality, non-fatal accident, complaints, referrals, follow-up, then monitoring.

*Programmed Inspection: scheduled inspections based on a plan developed to direct enforcement on State and local government operations that: (1)incur a high percentage of reportable incidents; and (2) perform activities that can be regulated through standards and rules adopted under the Occupational Safety and Health Act.



IL OSHA by the Numbers

IL OSHA's jurisdiction covers over **8,500 public** entities and over **560,000** State and local employees.

Total number of employees at businesses where hazardous or unsafe conditions were remediated under the consultation program:

FY2021	FY2022
10,610	16,193

V. IDOL Divisions (IL OSHA)

Programmed Planned Inspection (PPI) Program. The PPI Program is IL OSHA's strategy for improving workplace safety and health for all State and local government employees through programmed inspections at various State and local workplaces. IL OSHA Inspectors could not possibly inspect every establishment under IL OSHA jurisdiction every year. As a result, IL OSHA developed the PPI Site-Specific Targeting (SST) Plan, which directs enforcement resources to employment sectors that have the greatest impact on the overall rates of workplace safety and health incidents in the State. The current SST Plan focuses on:

- Road Maintenance/Construction
- Local Fire Protection
- Departments of Public Works
- Water and Sewage Treatment Facilities

IL OSHA performs comprehensive inspections at locations identified on SST Inspection Lists; these locations are State and local government operations where the most serious workplace injuries are likely to occur. The success of the PPI Program is evidenced by fewer hazards; reduced exposures; and fewer employee injuries, illnesses, and deaths at State and local workplaces across the State.

Penalties Issued

If, at the conclusion of an investigation or inspection, IL OSHA issues an employer a citation, a notification of proposed penalty assessment, or a notification of failure to correct a violation by a certain date, the employer may request a hearing before an IDOL Administrative Law Judge (ALJ) to appeal the citation order, penalty notice, or violation correction period notice. An employee or representative of an employee may also request a hearing before an ALJ to appeal a citation or notice if the employee believes that the time period allowed to correct the violation is unreasonable.

All public sector employees (except for Federal employees) have the right to file a hazardous working conditions complaint with IL OSHA.

To file a complaint, visit the IL OSHA webpage: https://www2.illinois.gov/idol/Laws-Rules/safety/Pages/ Hazards.aspx.

OSHA Case Study: Multiple Firefighter Injuries

Inspection # 1531592

In 2021, IL OSHA investigated the circumstances that led to 3 firefighters becoming lost on the second floor of an apartment building, declaring a mayday, and exiting the structure from a window resulting in a fall of approximately 21 feet. The building did not have a fire alarm or sprinkler system and had limited, battery-powered, standalone smoke detectors. A crew of 3 firefighters assembled and made entry into the structure to rescue a victim on the second floor. They entered without a hose line and soon became disoriented. The crew declared a mayday and attempted to find a way out of the building for several minutes. Low on breathing air, the interior



crew experienced increased heat and deterioration of conditions along with a "roaring" sound overhead. One firefighter located a window and yelled out for a ladder, as he did not have a radio. Due to heavy smoke conditions, the firefighters could not see the ground and could not be seen from outside the building. All 3 firefighters exited through the second-story window and suffered multiple bone fractures.

IL OSHA investigated the circumstances surrounding the firefighters' injuries because the firefighters were local government employees. As a result of the investigation, IL OSHA identified 15 indirect causes of the multiple injury incident and issued 8 citations and provided 19 non-binding recommendations to the fire department. IL OSHA shares these findings in the hopes that other fire districts will learn from them and continue to strengthen their safety practices.

Consultation

IL OSHA's On-Site Safety and Health Consultation Program helps Illinois businesses meet State safety and health regulations. The consultation program is voluntary, free, and confidential. Consultation program activities include working with employers to remediate hazardous conditions, conducting educational and advisory activities to ensure employers are meeting Federal OSHA safety and health standards, and reviewing and analyzing injury and illness records. The consultation program prevents workplace accidents and reduces employee injury and illness rates.

ACTIVITY/YEAR	2019	2020	2021
Initial Visits	217	129	205
Training and Assistance Visits	4	1	1
Follow-up Visits	58	23	31
Totals	279	153	237

Table 1.1 – Consultation Visit Activity	ties
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SHARP Certification

The consultation program evaluates participants' workplace safety and health programs to determine if the employer meets the criteria to be certified as a Safety and Health Achievement Recognition Program (SHARP) site. Businesses who complete the consultation program, identify any hazards, and implement a best practice safety and health management system, can be certified by IL OSHA as a SHARP site and recognized with a SHARP certificate.

The SHARP process can be months long, but when successfully completed, puts small businesses in an elite national group committed to the safety and health of their workers.

OSHA Case Study: Wise Plastics

In August 2022, Wise Plastics Technologies – West Chicago received the national Safety and Health Achievement Recognition Program (SHARP) designation and was honored by IDOL and IL OSHA. SHARP recognizes small business employers who operate an exemplary injury and illness prevention program. Acceptance of a worksite into SHARP is a status achievement that singles out a worksite among its peers as a model for worksite safety and health.

The company, which manufactures custom plastic through injection molding, earned the elite SHARP status after completing a thorough safety and health evaluation by IL OSHA's On-Site Consultation Program from January 2022 through May 2022.



Acting Director Flanagan and IL OSHA Safety Consultation Supervisor Zoya Sotirova present Wise Plastics with a SHARP Certificate in May 2022.

4. Amusement Ride and Attraction Safety Division (ARAS)

The Amusement Ride and Attraction Safety Division (ARAS) enforces the Amusement Ride and Attraction Safety Act and is responsible for the annual inspection of amusement rides and attractions that are open to the public. Each year, the Division inspects approximately 4,200 amusement rides and attractions to ensure all safety standards are met. The Division also enforces restrictions on employment by requiring that owners and operators perform criminal history checks and sex offender registry checks on carnival employees working in the State.

Every amusement ride and attraction open to the public and operating in Illinois must be inspected prior to initial operation and annually thereafter. ARAS ride inspectors work diligently year-round conducting annual inspections and investigating locations when a possible violation of the Act is reported or when a member of the public or an employee is injured.

In addition to carnival rides and carousels, the Division also inspects ski lifts, go-kart tracks, zip lines, bounce houses and moonwalks, and haunted houses, among several other amusement rides and attractions.



Beginning in 2022, trampoline parks are now under IDOL jurisdiction and must now be inspected annually.

5. Legal / Hearings Division

The Legal Division provides legal advice to the Director on matters impacting the Department and oversees all active litigation. The Legal Division also advises the Director and all divisions on enforcement matters, policy matters, and rule making. Finally, the Legal Division oversees the Hearings Division, which conducts formal and informal hearings as required by the laws enforced by the Department. The Legal Division is comprised of a Technical Advisor and two Deputy General Counsels who work under IDOL's Chief Legal Counsel.

The Hearings Division is comprised of five Administrative Law Judges (ALJs) and three assistants who are tasked with conducting administrative hearings as required by numerous laws enforced by IDOL.

The largest volume of hearings conducted by the Hearings Division are heard under the Illinois Wage Payment Collection Act (IWPCA). In addition to IWPCA hearings, the Hearings Division hears cases under VESSA, the Equal Pay Act, the Minimum Wage Law, the Prevailing Wage Act, and several other laws.

For hearings involving employers and employees, the Department does not provide an attorney for either party. However, the Department may present its findings, if required by an ALJ. For hearings where the Department is a named party, the Department is represented by an attorney.

ALJs issue written administrative decisions and orders, which a party can choose to appeal. If a party does not appeal or comply with an administrative order, the matter will be referred to the Illinois Attorney General's Office for enforcement.



VI. FY2022-2023 Focusing on Implementation

IDOL staff is hard at work preparing for the next year of implementing and enforcing laws under its jurisdiction. The Department is particularly focusing its attention on the following:

✓ Nurse Agency Licensing implementation

The Nurse Agency Licensing Act was recently overhauled by the General Assembly. (See Section IV for additional details). The Act requires nurse agencies to meet certain requirements by the time they renew their license or whenever a new contract term begins. This means that IDOL will be carefully monitoring nurse agency licensure renewals to ensure that the applicant is aware of and in compliance with the new requirements of the Act. IDOL held four webinars in the summer of 2022 to educate nurse agencies on the new requirements.

With these changes came a dramatic increase in IDOL's data and document collection duties, as well as a responsibility to produce annual reports on the compensation of nurses and certified nurse aides who are placed at health care facilities by nurse agencies. These reports are expected to reveal trends in the compensation of nurses of varying degrees of licensure (such as registered nurses, licensed practical nurses, and advanced practice registered nurses) and certified nurse aides, as well as compensation by facility type and by county where the work is performed.

✔ Complaints under the Family Bereavement Leave Act

Due to the expansion of protections in the Act to include unpaid time off following the death of a family member other than a child, as well as a miscarriage or other loss related to adoption or fertility, the Department is preparing for a potential increase in complaints under the Act, as well as the need to educate employers on the new protections.

✔ Anonymized reports of wage data submitted under the Equal Pay Act

Keeping with the theme of pay transparency and data collection, the Department is preparing to analyze the wage data collected under Section 11 of the Equal Pay Act, the Equal Pay Registration Certificate program. Due to the quantity of data collected from large employers identifying compensation information by race, ethnicity, gender, and education or experience level, it may be possible to identify trends or irregularities on the basis of industry or profession. Importantly, any information analyzed or published by the Department will be anonymous on the part of both the employer and the employee.

www.Labor.Illinois.Gov

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Chicago Office

160 N. LaSalle St., 13th Floor Chicago, Illinois 60601 312-793-2800

Marion Office

2309 W. Main St. Marion, Illinois 62959 618-993-7090

Contact IDOL via Email

Dol.Questions@illinois.gov

IDOL Telephone Hotlines (Toll-Free Numbers)

Minimum Wage/Overtime	800-478-3998
Child Labor Law	800-645-5784
Day Labor Services	877-314-7052
Equal Pay	866-372-4365
Amusement Ride and Attraction Safety	217-299-5512

IL OSHA Contact Information:

Enforcement	217-782-9386
Consultation	800-972-4216

> Illinois Department of LIABOR