

STATE OF ILLINOIS – DEPARTMENT OF LABOR
160 N. LASALLE ST., STE. C-1300
CHICAGO, ILLINOIS 60601

IN THE MATTER OF:)
)
WILLIAM HABEL, as a member of the)
INTERNATIONAL BROTHERHOOD OF)
ELECTRICAL WORKERS, LOCAL 701,)
)
PETITIONER(S),) STATE FILE NO. 2018-H-PK08-1961
)
v.) DATE OF NOTICE: 9/1/2017
)
JOSEPH BEYER, ACTING DIRECTOR OF THE) CERT. MAIL/RETURN RECEIPT:
ILLINOIS DEPARTMENT OF LABOR, and)
THE ILLINOIS DEPARTMENT OF LABOR,) 7017 1450 0600 6514 9574
)
RESPONDENTS.)
)

NOTICE OF HEARING

PLEASE TAKE NOTICE that Joseph Beyer, Acting Director of the Illinois Department of Labor, and the Illinois Department of Labor [hereinafter, "Respondents"] have received from William Habel, as member of the International Brotherhood of Electrical Workers, Local 701 [hereinafter, "Petitioner(s)"] written objections to the prevailing wage determinations posted by the Department on its website on August 15, 2017, and a request for hearing on those objections pursuant to Section 9 of the Prevailing Wage Act [hereinafter, "IPWA" or "Act"], 820 ILCS 130/0.01 et seq.

Pursuant to the PWA, Article 10 of the Illinois Administrative Procedure Act, 5 ILCS 100/10-5 et seq., and 56 Ill. Admin. Code 120.100 et seq., Respondents will convene a hearing on:

DATE: OCTOBER 13, 2017
TIME: 10:00 A.M.
PLACE: ILLINOIS DEPARTMENT OF LABOR
160 NORTH LASALLE STREET, SUITE C-1300
CHICAGO, ILLINOIS 60601

ADMINISTRATIVE LAW JUDGE:

CLAUDIA D. MANLEY
CHIEF ADMINISTRATIVE LAW JUDGE
ILLINOIS DEPARTMENT OF LABOR
160 NORTH LASALLE STREET, SUITE C-1300
CHICAGO, ILLINOIS 60601

The hearing involves the written objections and hearing request filed by Petitioner(s), attached hereto and made a part hereof (Exhibit A).

The parties and their respective representatives must be prepared to proceed at the hearing. The parties must present all information, documents, records or witnesses necessary to substantiate their position(s) at the hearing.

Pursuant to 56 Illinois Administrative Code 120.640, the administrative law judge shall issue a Decision and Order. In the event no timely or proper exceptions are filed, the findings, conclusions, recommendations and order of the administrative law judge shall automatically become the decision and order of the Director of Labor.

The proceedings are subject to judicial review in accordance with the provisions of the Administrative Review Law, 735 ILCS 5/3-101 et seq. The Director of Labor's determination on the objections is final and binding unless a party to this proceeding applies for and obtains judicial review of the final administrative decision in accordance with the provisions of the Administrative Review Law.

A handwritten signature in black ink, appearing to read "Joseph Beyer". The signature is written in a cursive style with a large initial "J" and "B".

Joseph Beyer
Acting Director of Labor

STATE OF ILLINOIS- DEPARTMENT OF LABOR
CONCILIATION/MEDIATION DIVISION
160 N. LASALLE ST. STE. C-1300
CHICAGO, IL 60601

IN THE MATTER OF:)
)
WILLIAM HABEL, as a member of the)
INTERNATIONAL BROTHERHOOD)
OF ELECTRICAL WORKERS)
LOCAL 701)
)
 Petitioners,)
)
)
 v.)
)
JOE BEYER, DIRECTOR OF)
THE ILLINOIS DEPARTMENT OF)
LABOR and the ILLINOIS)
DEPARTMENT OF LABOR,)
)
 Respondents.)

RECEIVED

AUG 29 2017

Illinois Department of Labor
CHICAGO OFFICE

OBJECTION AND REQUEST FOR SECTION 9 HEARING

Petitioner, WILLIAM HABEL, as a member of the International Brotherhood of Electrical Workers 701 (known collectively as the "IBEW LOCAL 701"), by and through their attorney, JOHN J. TOOMEY, of the law firm of ARNOLD AND KADJAN, LLP, seek to formally object to the Prevailing Wage determination published by the Illinois Department of Labor ("Department") on its website on August 15, 2017, as required by Illinois HB 3044 signed into law on June 16, 2017, and request a hearing on these objections pursuant to Section 9 of the Illinois Prevailing Wage Act (820 JLCS § 130/9). In support, IBEW LOCAL 701 state further:

1. William Habel ("Habel") is a member of the International Brotherhood of Electrical Workers and its constituent, IBEW Local 701.
2. The IBEW is a national labor organization consisting of the members of Local Electrical and Communication Unions.
3. IBEW Local 701 is a local labor organization and an affiliate of the IBEW which represents electrical and communication workers including the classification of communication technician in DuPage County, Illinois.
4. Section 9 of the Illinois Prevailing Wage Act states: "The Department of Labor shall during the month of June of each calendar year, investigate and ascertain the prevailing rate of wages for each county in the State." 820 ILCS § 130/9.
5. Historically, and as part of the Section 9 Wage determination process, IBEW Local 701 submitted Prevailing Wage Certification Forms to the Department in June, 2017. These materials listed the wage rates and fringe benefits paid to the following Prevailing Wage Classifications: Electrician and Communication Technician in DuPage County, Illinois.
6. Historically, the Department abided by its statutory obligation to ascertain the prevailing rates in the month of June, and would then post the Prevailing Wage rates for each established classification consistent with the materials provided by IBEW Local 701 described above July 15 of each year effective back to the first date of June of the submission year, now August 15, as amended by HB 3044.
7. In 2017 IBEW Local 701 obtained Prevailing Wage Certification Forms from the Department's official website and submitted the appropriate forms on June 26, 2017 (Electrician) and June 29, 2017 (Communication Technician).

8. On August 15, 2017, the Department posted on its website the following regarding the 2017 prevailing wage determinations to be effective September 1, 2017 for the Communication Technician classification. See attached Exhibit 1 as highlighted.

9. The Department published the 2016 prevailing wage rates in May of 2017 only after being ordered to do so as part of several ongoing cases against the Department in the Circuit Court of Cook County, and in St. Clair County, Illinois.

10. The Department published the 2016 prevailing wage rates with an effective date of June 5, 2017.

11. IBEW Local 701 submitted its prevailing rate data for the classification of Communication Technician on June 29, 2017 to be effective July 3, 2017 under the collective bargaining agreement.

12. Under HB 3044 "nothing permits the Department from publishing prevailing rates more than once a year".

13. The Department historically has published the prevailing wage rates with an effective date of June 1 of that corresponding year. However, that effective date has been changed to September 1, 2017.

14. The information provided by IBEW Local 701 for the 2017 prevailing wage rates for Communication Technician was applicable to the time period of July 3, 2017 through June of 2018.

15. The effective date of the 2017 prevailing wage rate set by the Department adopts the previous rate that was in effect for 2016 as the new rate to be effective September 1, 2017.

16. It is IBEW Local 701's position that the published prevailing wage rates that were in effect from roughly July of 2016 through June of 2017 did not reflect the rates that were paid for the classification of Communication Technician as there were interim raises during that period per the collective bargaining agreement, and that a new rate for the classification was established in June, 2017 bargaining and provided the Department of Labor on June 29, 2017.

17. The Department's published rate will result in the loss of wages for IBEW Local 701 members as certain collective bargaining agreements between IBEW Local 701 and various employers provide that IBEW Local 701 members will be paid for the period according to the submitted wage and benefit package which is \$4.03 per hour higher than the rate certified by the Department to be effective September 1, 2017.

22. The rates as submitted to the Department of Labor by IBEW Local 701 compared to the certified rate are:

	Base Wage	Foreman Wage	MFOT	OSA	OSH	H/W	Pension	Vacation	Training	Total
Certified	\$33.00	\$35.40	1.5	1.5	2	10.10	17.19	2.07	.61	\$62.97
Submitted	\$33.38	\$36.18	1.5	1.5	2	12.35	19.21	1.45	.61	<u>\$67.00</u>
									Difference	\$4.03 per hour

WHEREFORE, for the reasons set forth above the Petitioner, William Habel, as a member of the IBEW Local 701, objects to the Prevailing Wage determination posted on the Department's official website on August 15, 2017 and respectfully request a hearing on these objections pursuant to 820 ILCS § 130/9 as it is the rate in effect since July 1, 2017 and is the rate in effect on the effective date September 1, 2017.

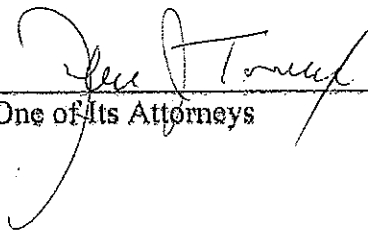
a) Or, alternatively, as HB 3044 permits the Department to publish prevailing rates more than once per year, that the submitted rate as reflected in Paragraph 22 be published October 1, 2017 as the prevailing rate for the classification of Communication Technician in DuPage County, Illinois.

August 29, 2017

Respectfully submitted,

WILLIAM HABEL, as a member of the
INTERNATIONAL BROTHERHOOD
OF ELECTRICAL WORKERS
LOCAL 701

By:


One of Its Attorneys

John J. Toomey
ARNOLD AND KADJAN, LLP
35 E. Wacker Drive, Suite 600
Chicago, Illinois 60601
(312) 236-0415

CERTIFICATE OF SERVICE

The Undersigned certifies that he caused copies of the foregoing Notice of Filing and Objections and Request for Section 9 Hearing to be served upon the following persons, via hand delivery, this 29th day of August, 2017.

Joe Beyer
Director of the Illinois Department of Labor
160 N. LaSalle Street, Suite C-1300
Chicago, Illinois 60601

Illinois Department of Labor
c/o Joe Beyer, Director
160 N. LaSalle Street, Suite C-1300
Chicago, Illinois 60601

and to the following by First Class U.S. Mail, postage prepaid to:

Illinois Department of Labor
900 S. Spring Street
Springfield, Illinois 62704

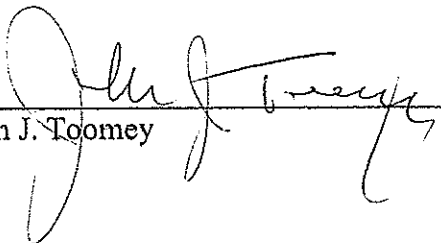

John J. Toomey

EXHIBIT 1

Prevailing Wage rates for DuPage County Effective Sept. 1, 2017												
Trade Title	Region	Type	Class	Base Wage	Fore- man Wage	M-F OT	OSA	OSH	H/W	Pension	Vacation	Training
ASBESTOS ABT-GEN	All	ALL		\$41.20	\$42.20	1.5	1.5	2	\$14.65	\$12.32	\$0.00	\$0.50
ASBESTOS ABT-MEC	All	BLD		\$37.46	\$39.96	1.5	1.5	2	\$11.62	\$11.06	\$0.00	\$0.72
BOILERMAKER	All	BLD		\$48.49	\$52.86	2	2	2	\$6.97	\$19.61	\$0.00	\$0.90
BRICK MASON	All	BLD		\$45.38	\$49.92	1.5	1.5	2	\$10.45	\$16.68	\$0.00	\$0.90
CARPENTER	All	ALL		\$46.35	\$48.35	1.5	1.5	2	\$11.79	\$18.87	\$0.00	\$0.63
CEMENT MASON	All	ALL		\$44.25	\$46.25	2	1.5	2	\$14.00	\$17.16	\$0.00	\$0.92
CERAMIC TILE FNCSHER	All	BLD		\$37.81	\$37.81	1.5	1.5	2	\$10.55	\$10.12	\$0.00	\$0.65
COMMUNICATION TECH	All	BLD		\$33.00	\$35.40	1.5	1.5	2	\$10.10	\$17.19	\$2.07	\$0.61
ELECTRIC PWR EQMT OP	All	All		\$37.89	\$51.48	1.5	1.5	2	\$5.00	\$11.75	\$0.00	\$0.38
ELECTRIC PWR EQMT OP	All	HWY		\$41.45	\$56.38	1.5	1.5	2	\$5.50	\$12.87	\$0.00	\$0.73
ELECTRIC PWR GRNDMAN	All	All		\$29.30	\$51.48	1.5	1.5	2	\$5.00	\$9.09	\$0.00	\$0.29
ELECTRIC PWR GRNDMAN	All	HWY		\$32.00	\$56.38	1.5	1.5	2	\$5.50	\$9.92	\$0.00	\$0.66
ELECTRIC PWR LINEMAN	All	All		\$45.36	\$51.48	1.5	1.5	2	\$5.00	\$14.06	\$0.00	\$0.45
ELECTRIC PWR LINEMAN	All	HWY		\$49.67	\$56.38	1.5	1.5	2	\$5.50	\$15.40	\$0.00	\$0.88
ELECTRIC PWR TRK DRV	All	All		\$30.34	\$51.48	1.5	1.5	2	\$5.00	\$9.40	\$0.00	\$0.30
ELECTRIC PWR TRK DRV	All	HWY		\$33.14	\$56.38	1.5	1.5	2	\$5.50	\$10.29	\$0.00	\$0.59
ELECTRICIAN	All	BLD		\$39.26	\$43.26	1.5	1.5	2	\$12.35	\$22.08	\$4.93	\$0.68
ELEVATOR CONSTRUCTOR	All	BLD		\$51.94	\$58.43	2	2	2	\$14.43	\$14.96	\$4.16	\$0.90
FENCE ERECTOR	NE	ALL		\$39.58	\$41.58	1.5	1.5	2	\$13.40	\$13.90	\$0.00	\$0.40
FENCE ERECTOR	W	ALL		\$45.06	\$48.66	2	2	2	\$10.52	\$20.76	\$0.00	\$0.70
GLAZIER	All	BLD		\$42.45	\$43.95	1.5	1.5	2	\$14.04	\$20.14	\$0.00	\$0.94
HT/FROST INSULATOR	All	BLD		\$50.50	\$53.00	1.5	1.5	2	\$12.12	\$12.96	\$0.00	\$0.72
IRON WORKER	E	ALL		\$47.33	\$49.33	2	2	2	\$14.15	\$22.39	\$0.00	\$0.35
LABORER	All	ALL		\$41.20	\$41.95	1.5	1.5	2	\$14.65	\$12.32	\$0.00	\$0.50
LATHER	All	ALL		\$46.35	\$48.35	1.5	1.5	2	\$11.79	\$18.87	\$0.00	\$0.63

EXHIBIT 2

HB3044 Enrolled

LRB100 10787 JLS 21018 b

1 AN ACT concerning employment.

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

4 Section 5. The Prevailing Wage Act is amended by changing
5 Section 9 as follows:

6 (820 ILCS 130/9) (from Ch. 48, par. 39s-9)

7 Sec. 9. To effectuate the purpose and policy of this Act
8 each public body shall, during the month of June of each
9 calendar year, investigate and ascertain the prevailing rate of
10 wages as defined in this Act and publicly post or keep
11 available for inspection by any interested party in the main
12 office of such public body its determination of such prevailing
13 rate of wage and shall promptly file, no later than July 15 of
14 each year, a certified copy thereof in the office of the
15 Illinois Department of Labor.

16 The Department of Labor shall during the month of June of
17 each calendar year, investigate and ascertain the prevailing
18 rate of wages for each county in the State. If a public body
19 does not investigate and ascertain the prevailing rate of wages
20 during the month of June as required by the previous paragraph,
21 then the prevailing rate of wages for that public body shall be
22 the rate as determined by the Department under this paragraph
23 for the county in which such public body is located. The

HB3044 Enrolled

- 2 -

LRB100 10787 JLS 21018 b

1 Department shall publish on its official website a prevailing
2 wage schedule for each county in the State, no later than
3 August 15 of each year, based on the prevailing rate of wages
4 investigated and ascertained by the Department during the month
5 of June. Nothing prohibits the Department from publishing
6 prevailing wage rates more than once per year.

7 Where the Department of Labor ascertains the prevailing
8

STATE OF ILLINOIS- DEPARTMENT OF LABOR
CONCILIATION/MEDIATION DIVISION
160 N. LASALLE ST. STE. C-1300
CHICAGO, IL 60601

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JOE BEYER, DIRECTOR OF)
THE ILLINOIS DEPARTMENT OF)
LABOR and the ILLINOIS)
DEPARTMENT OF LABOR,)
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Respondents.)

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AUG 29 2017

Illinois Department of Labor
CHICAGO OFFICE

NOTICE OF FILING

To: Joe Beyer
Director of the Illinois Department of Labor
160 N. LaSalle Street, Suite C-1300
Chicago, Illinois 60601

Illinois Department of Labor
c/o Joe Beyer, Director
160 N. LaSalle Street, Suite C-1300
Chicago, Illinois 60601

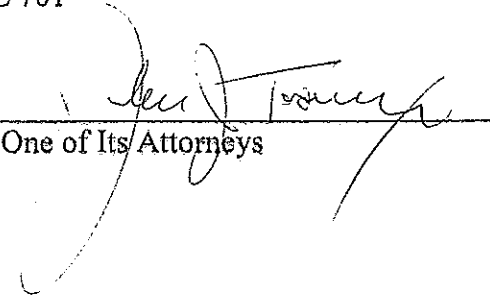
Illinois Department of Labor
900 S. Spring Street
Springfield, Illinois 62704

PLEASE TAKE NOTICE that on this 29th day of August, 2017, the undersigned filed the attached Objections and Request for Section 9 Hearing, a copy of which is herewith served upon you.

Respectfully submitted,

WILLIAM HABEL, as a member of the
INTERNATIONAL BROTHERHOOD
OF ELECTRICAL WORKERS
LOCAL 701

By:


One of Its Attorneys

John J. Toomey
ARNOLD AND KADJAN, LLP
35 E. Wacker Drive, Suite 600
Chicago, Illinois 60601
(312) 236-0415

CERTIFICATE OF SERVICE

Under penalties as provided by law, including pursuant to Section 1-109 of the Code of Civil Procedure, I Ann Harrison, a non-attorney, affirm, certify or on oath state, that I served notice of the attached Notice of Hearing upon all parties to this case, or their agents appointed to receive service of process, by enclosing a copy of the Notice of Hearing in Case No. 2018-H-PK08-1961 and a copy of the Certificate of Service in an envelope addressed to each party or party's agent at the respective address shown on the Certificate of Service, having caused each envelope to be served by U.S. mail certified mail return receipt requested and at 100 W. Randolph Street, Chicago, Illinois on the 1 day of September, 2017 prior to 4:30 p.m. and placed on the Illinois Department of Labor's official website at and placed on the Illinois Department of Labor's official website at www.state.il.us/agency/idol/

Wm. Habel/Int'l. Brotherhood of
Electrical Workers
c/o John J. Toomey
Arnold and Kadjan LLP
35 E. Wacker Dr., Ste. 600
Chicago, IL 60601
jttoomey100@hotmail.com

Via messenger:

Joseph Beyer
Acting Director of Labor
Illinois Department of Labor
160 N. LaSalle St., Ste. C-1300
Chicago, IL 60601

Illinois Department of Labor
c/o Benno Weisberg
General Counsel
Illinois Department of Labor
160 N. LaSalle St., Ste. C-1300
Chicago, IL 60601

Ann Harrison

Subscribed and Sworn to this 1 day of September 2017

Rosemary Echeverry-Vazquez
Notary Public

