



ICIC Legislative Update – February 11, 2022

This week, and as scheduled, only the Illinois Senate convened in Springfield for legislative session. However, both chambers held numerous virtual committee hearings this week. At this time, both chambers are scheduled to return to Springfield next week (i.e. February 15-18). As of the writing of this report, neither chamber has changed any of the previously established session deadlines. The new bill introduction deadlines have now passed in both chambers. **As such, the present “deadline of importance” is the committee deadline for substantive bills. The deadline for the Senate was yesterday (i.e. Thursday, February 10th), and Friday, February 18th in the House.**

At this time, ICIC is most concerned about HB 5412 (Rep. Marcus Evans, Jr.). This legislation is an initiative of the Mid-American Carpenters Regional Council. HB 5412 seeks to hold general contractors liable for wage claims at any tier on a private construction project. **ICIC remains vehemently opposed to this legislation.** ICIC representatives met with the sponsor and the proponents of HB 5412 yesterday (i.e. Thursday, February 10th). We maintained our position that existing remedies are in place to address wage theft – particularly for union contractors.

ICIC pressed the proponents to provide examples of victims of wage theft being left with no legal recourse to seek wages owed. The response we received was an example of wage theft at the Rivian automotive plant in Normal, IL. In that case, the wage theft was investigated by Illinois Attorney General Kwame Raoul and the Illinois Department of Labor; which resulted in a settlement requiring companies based in China, Spain and Mexico to pay overtime wages and civil penalties totaling nearly \$400,000.00 to 54 workers who were denied overtime wages they earned. The proponents added the current remedies are expensive, time consuming and ultimately, many wage theft victims are unaware of how to utilize these existing remedies. ICIC will remain engaged with stakeholders on this issue, and will continue working as hard as we can to seek protections for our members as negotiations on HB 5412 continue. At this time, **HB 5412 is assigned to House Labor &**

Commerce Committee and is scheduled for a hearing on Wednesday, February 16th. In the event the sponsor of HB 5412 decides to call the legislation for debate – **ICIC will mobilize our members and ask for your assistance in contacting legislators to urge a “no” vote on HB 5412.**

HB 5088 (Rep. Will Davis) also seeks to prevent wage theft by creating the Wage Theft Act. Some highlights of HB 5088 are:

- Adds “wage theft” under the Criminal Code
- Establishes fines for employers who violate the Wage Payment & Collection Act to be deposited into the Wage Theft Reimbursement Fund
- Allows aggrieved employees to recover unpaid wages from insolvent employers out of the Wage Theft Reimbursement Fund

In addition to creating the Wage Theft Act, HB 5088 also amends existing statutes including the Wage Payment & Collection Act, the Counties Code and the Municipal Code. This language was promoted by the Chicago Roofing Contractors Association, the Associated Builders and Contractors, among others. ICIC learned this week the proponents of HB 5412 do not view HB 5088 as a viable alternative to their initiative because they don’t believe it addresses the problem they are seeking to fix. **HB 5088 is also assigned to the House Labor & Commerce Committee, but ICIC does not anticipate HB 5088 will be called for a hearing next week.**

HB 2538 Amendment #1 (Rep. Denyse Stoneback) sets forth requirements for the licensure of Illinois contractors. As currently drafted, this proposal provides that no person may call themselves “general contractor” without a license from the Illinois Department of Financial & Professional Regulation. Although the legislation uses the term “general contractor”, the bill specifically states application to various construction activities. ICIC is opposed to HB 2538. **HB 2538 is assigned to the House Executive Committee and is currently scheduled for a hearing Wednesday, February 16th.**

HB 4432 (Rep. Dave Vella) amends the Prevailing Wage Act to expand the definition of “public works” to include construction projects in a designated redevelopment project area as defined in the Tax Increment Allocation Redevelopment Act and construction projects in a River Edge Redevelopment Zone. Amendment #1 provides prevailing wage applies to projects in these zones with an aggregate cost of at least \$25,000.00. ICIC is opposed to HB 4432. **HB 4432 is assigned to the House Labor & Commerce Committee and is currently scheduled for a hearing Wednesday, February 16th.**

HB 5504 (Rep. Tim Butler) requires the Department of Transportation and the Capital Development Board to develop policies regarding maximum acceptable global warming potential for specified eligible materials used in public projects. ICIC is opposed to HB 5504. **HB 5504 is assigned to the House Energy & Environment Committee and is currently scheduled for a hearing on Tuesday, February 15th.**

HB 5564 (Rep. Larry Walsh, Jr.) amends the Illinois Procurement Code to provide that when a state contract is awarded to the lowest responsible bidder, an otherwise qualified bidder who will fulfill the contract through the use of low embodied carbon concrete may be given preference over other bidders unable to do so. ICIC is opposed to HB 5564. **HB 5564 is assigned to the House State Government Administration Committee and is currently scheduled for a hearing on Wednesday, February 16th.**

HB 5550 (Rep. Justin Slaughter) would bring anyone who transports construction materials and other aggregates to or from a public works project under the requirements of the Prevailing Wage Act. HB 5550 conflicts with the federal prevailing wage statute (Davis-Bacon Act) and would circumvent the collective bargaining process currently used in negotiations. In addition, this proposal will likely lead to increased construction costs in Illinois. For these reasons, ICIC opposes HB 5550. **HB 5550 is assigned to the House Labor & Commerce Committee and is currently scheduled for a hearing on Wednesday, February 16th.**

SB 3795 (Sen. Julie Morrison) / HB 4772 (Rep. Martin McLaughlin) are companion bills that allow county governments to enter into design-build contracts. This legislation includes scope and performance criteria for design build contracts, a two-phase procedure for selection of contracts, requirements for submission of proposals, procedures for awarding contracts, and requirements of reports and evaluation of contracts. Existing design-build laws in statute include the Capital Development Board, Public Building Commission, Chicago Park District, Park Districts, and most recently, the Forest Preserve District and Conservation District Design-Build Authorization Act. SB 3795 Amendment #2 was adopted this week and includes language ensuring the legislation is the same as existing statutes. **ICIC supports SB 3795 as amended. This bill advanced to Second Reading in the Senate.**

Additional design-build related legislation includes **SB 3625 (Sen. Melinda Bush)** and **HB 4750 (Rep. Joyce Mason)**. These are companion bills that extend the sunset for the Capital Development Board's statutory authority to use the design-build delivery method through 2027. These proposals do not make any other changes to the statute, and ICIC supports these proposals. **SB 3625 advanced to Second Reading in the Senate.**

SB 2981 (Sen. Ram Villivalam) allows the Illinois Department of Transportation and the Tollway to utilize "Progressive Design Build" (PDB). Proponents of SB 2981 report that PDB facilitates involvement of the design-build team during the earliest stages of the owner's project development, and PDB is becoming the preferred model for many states. **SB 2981 is assigned to the Senate Transportation Committee and is scheduled for a hearing on February 15th.** There have been previous attempts to expand the use of design build for infrastructure projects. However, previous proposals have not received legislative approval. **ICIC is reviewing the details of SB 2981 to ensure protections for contractors are included, similar to existing design build statutes.**

SB 1900 (Sen. John Curran) seeks to broadly expand the use of Public Private Partnerships (P3) for Illinois infrastructure projects. As expected, Amendment #1 was introduced this week. ICIC is reviewing the new language to ensure protections are provided to all parties who engage in a P3 project; including ICIC members. P3's can be helpful as an additional funding mechanism for necessary infrastructure projects, but safeguards must be included in enabling legislation. **SB 1900 was not approved prior to the Senate Committee deadline, and is re-referred to Senate Assignments.** However, ICIC has learned that Senator Curran plans to continue working on this legislation throughout the spring legislative session, and we will continue to closely monitor this issue.

In addition to legislation outlined in this report, ICIC is also reviewing other measures that may have an impact on our membership including environmental justice proposals, amendments to the procurement code, and other employer related issues. Next week, ICIC will be particularly focused on legislation assigned to the House Labor & Commerce Committee as many bills important to the construction industry are scheduled to be debated.

If you have any questions regarding this information, please do not hesitate to contact Jessica Newbold Hoselton by calling 217.523.4361 or by email at jnewbold@boldnewstrat.com.