



## Legislative Update: February 10, 2023

The Illinois General Assembly reconvened in Springfield this week – although there was extremely limited floor and committee action on legislation. Both chambers are scheduled to return to Springfield on Tuesday (February 14<sup>th</sup>). Like the past few weeks, the main legislative activity this week was the introduction of new bills. The bill introduction deadline in the Senate is today, February 10<sup>th</sup>. Accordingly, it is anticipated that many more bills will be filed in the Senate throughout the day. The corresponding House deadline is February 17<sup>th</sup>. As of the writing of this report, over 2,200 new House bills and over 2,000 new Senate bills have been filed for the 103<sup>rd</sup> General Assembly – over 100 of those new bills have been identified as being of interest to the Illinois construction industry.

In the last couple of weeks, many legislative proposals have been introduced that are aimed at providing new tax credits or free programs such as a state-level child tax credit for low and middle-income families, expanded food assistance for foster families and proposals aimed at providing additional paid leave for employees. In addition, it is anticipated that Governor Pritzker will outline plans for free college tuition, universal preschool, and free childcare for working families. These various expanded tax credits and free programs will cost money. So far, little to no details have emerged outlining the revenue streams that will be used to pay for the proposed additional spending. Governor Pritzker is scheduled to present the State of the State and Budget Address next week (February 15<sup>th</sup>) to a Joint Session of the House and Senate – and many political insiders hope answers to these questions will be provided.

ICIC has identified bills of interest to the Illinois construction industry that pertain to **retainage reduction, prevailing wage and the expanded use of the design build delivery method and Public Private Partnerships (P3's)** – among others. Bills of interest to ICIC's members include:

**SB 133 (Assistant Majority Leader Holmes)** seeks a reduction in the amount of retainage that can be withheld on **public construction** projects. Some local governments, such as the City of Chicago and Cook County, have voluntarily reduced or eliminated the withholding of retainage on their projects. Other state agencies, like the Illinois Capital Development Board have voluntarily reduced retainage to five percent for the second half of their projects. Most other states restrict the amount of

retainage that may be withheld on public projects, but Illinois is not one of them. **SB 133 amends the Public Construction Bond Act to provide for a 5% cap on the amount of retainage withheld on public construction projects.** The language included in this legislation is the result of negotiations between ICIC and the Illinois Mechanical & Specialty Contractors Association (IMSCA). **SB 133 is assigned to the Senate Judiciary Committee and is supported by ICIC.**

**SB 1704 (Sen. Villivalam)** amends Section 24 of the Illinois Mechanics Lien Act. Currently, this Section provides that a notice of lien must be served by a subcontractor on the owner by certified mail return receipt requested, with delivery limited to addressee only, or by personal service. **SB 1704 updates this Section to also permit service by overnight delivery companies such as Federal Express, UPS or by any means that provides a written third-party verification of delivery.** This bill also removes the requirement that delivery is limited to the addressee only. The goal of SB 1704 is to ensure contractors don't lose their lien rights because someone refused to sign a green card, or the post office failed to return it to the sender. **This proposal will be carefully reviewed by ICIC.** SB 1704 is in Senate Assignments awaiting committee assignment.

**SB 157 (Sen. Villivalam)** amends the **Public Construction Bond Act by raising the current bond threshold from \$50,000 to \$5,000,000 and creates a "self-insured risk pool" to pay claims or damages arising under a public works construction contract valued at \$5,000,000 or less.** SB 157 is supported by the Federation of Women Contractors, the Hispanic American Construction Industry Association and the International Union of Operating Engineers Local 150. It is anticipated that this proposal will be opposed by the surety bond and insurance industries, among other interested parties. **This proposal will be carefully reviewed by ICIC.** SB 157 is assigned to the Senate Executive Committee.

**SB 1570 (Sen. Lightford) / HB 1504 (Rep. Ford)** are companion bills seeking to **allow municipalities to utilize the design build delivery method.** This bill 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 statutes include the Capital Development Board, Public Building Commission, Chicago Park District, Park Districts, Forest Preserve Districts and most recently, county governments. The Capital Development Board law was approved as part of a broad industry coalition; including ICIC and served as the template for the remaining statutes. **SB 1570 / HB 1504, as currently drafted, largely mirrors the existing statutes. ICIC will work with our design industry partners to ensure these proposals contain language that is the same, or better, as the existing statutes.** These bills are awaiting committee assignments by Senate Assignments and the House Rules Committee.

**SB 1592 (Assistant Majority Leader Holmes)** expands the Prevailing Wage Act to provide that regardless of location, all laborers, workers, and mechanics who

**produce or process aggregate material that is incorporated, directly or indirectly, into public works shall be deemed to be employed upon a public works project.**

This proposal is similar to previous initiatives supported by the Teamsters Union and IUOE Local 150; that ICIC previously opposed. ICIC maintains the position that these proposals conflict with the federal prevailing wage statute (Davis-Bacon Act) and would circumvent the collective bargaining process currently used in negotiations. In addition, it is anticipated that this would lead to increased construction costs in Illinois. **For these reasons, ICIC will oppose SB 1592.**

Similarly, **SB 1609 (Sen. Cappel)**, also amends the **Prevailing Wage Act to provide that the definition of “public works” also includes the removal, hauling, transportation, and disposal of biosolids, lime sludge, and lime residue from a water treatment plant or facility at a landfill.** SB 1592 and SB 1609 remain in Senate Assignments awaiting committee assignment.

**Senate Republican Leader John Curran** re-introduced his legislative initiative, **SB 1919, which seeks to expand the use of Public Private Partnerships (P3’s) for Illinois infrastructure projects.** ICIC maintains the position that P3’s can be helpful as an additional funding mechanism for necessary infrastructure projects, but safeguards must be included in enabling legislation to ensure protections are provided to all parties who engage in a P3 project. **SB 1919 is in Senate Assignments awaiting committee assignment and will be carefully reviewed by ICIC.**

As the spring 2023 legislative session gets underway, you are encouraged to pay close attention to Calls to Action and ways you can help communicate ICIC’s message on important issues to members of the Illinois General Assembly. Your ICIC staff and lobbying team looks forward to representing the Illinois construction industry in Springfield this session. We are confident that by working alongside our members, ICIC will have another legislatively successful year.

If you have questions regarding information contained in this report, please do not hesitate to contact Jessica Newbold Hoselton by email at [jnewbold@boldnewstrat.com](mailto:jnewbold@boldnewstrat.com)