



Legislative Update: April 7, 2023

Neither the House nor Senate met this week in Springfield due to both chambers being on a two-week spring break. Legislators will return to Springfield on Tuesday, April 18th. The Third Reading deadlines in both chambers have passed. The House deadline was Friday, March 24th – sending over 450 bills to the Senate for consideration. The Senate deadline was Friday, March 31st, with over 200 bills being sent to the House where they will continue moving through the legislative process.

At this point, substantive legislation that passed out of the chamber of origin will begin to be read in the opposite chamber, reviewed by leadership, and will be assigned to the appropriate standing committee for consideration. The next major deadline in both chambers is the Committee Deadline for bills to pass out of committee in the opposite chamber, which is Friday, April 28th.

The focus this week was on the various municipal elections which included some highly contested mayoral races. Some of the most closely watched races and notable results at the mayoral level include the following:

City of Chicago – Brandon Johnson defeated Paul Vallas

Springfield – Misty Buscher defeated Mayor Jim Langfelder

Joliet – Terry D’Arcy defeated Mayor Bob O’Dekirk

Naperville – Scott Wehrli defeated Benny White

Champaign – Mayor Deborah Frank Feinen won re-election

East St. Louis – Charles Powell III defeated Mayor Rober Eastern III

Village of Homer Glen – Christina Neitzke-Troike defeated Rose Reynders

Here is a list of legislation that is of interest to the Illinois construction industry:

As introduced, **SB 133 (Assistant Majority Leader Holmes)** amends the Public Construction Bond Act to provide for a 5% cap on the amount of retainage withheld on public construction projects. SB 133 is opposed by the Illinois Municipal League, Illinois Association of Counties, and the Illinois Bankers Association (IBA). The proponents, along with Leader Holmes, have spent time meeting with the opponents this spring, particularly the IBA. As a result of those discussions, **SB 133 will be amended to provide that retainage may be withheld at a rate of 10% for the first half of a construction project and reduced to 5% once the project is**

50% complete. The forthcoming amendment will mirror the existing law that applies to private construction projects, Public Act 101-0432, that was approved in 2019. **SB 133 received a deadline extension through April 28th and will be acted upon further when the General Assembly returns for session in mid-April.**

ICIC continues to closely monitor **SB 157 (Sen. Villivalam)**. This proposal amends the Public Construction Bond Act by increasing the threshold of requiring bonds on public construction projects from \$50,000 to \$5 million. SB 157 is supported by the Federation of Women Contractors, the Hispanic American Construction Industry Association and the Black Contractors Owners and Executives. The proposal is opposed by the surety bond and insurance industries, local governments, state construction agencies and construction trade associations. **The Senate Democratic leadership team is meeting with stakeholders to work toward a compromise on SB 157.** As such, it is likely that SB 157 will be further debated when legislators return from break.

SB 1570 as amended (Sen. Lightford, Rep. DeLuca) grants municipalities statutory authority 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, evaluation of contracts, and provides that a design-build entity may not replace, remove, or modify any identified member of the proposer's team unless authorized to do so by the municipality. 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 advanced to the House where it awaits a committee assignment.**

SB 2192 (Sen. Villivalam, Rep. Davis) amends the Illinois Procurement to provide that if a bidder has failed to be awarded a contract after 4 consecutive bids to provide the same services to a single agency, the applicable Chief Procurement Officer (CPO) for that agency shall provide in writing why the 4 bids were rejected. The CPO shall submit a certified copy to the bidder the reason(s) for the rejection. Senate Amendment 3 provides that this bill applies to the Department of Transportation, the Capital Development Board, and the State Toll Highway Authority. **SB 2192 received unanimous approval in the Senate and advanced to the House where it awaits a committee assignment.**

SB 2368 as amended (Sen. Koehler, Rep. Johnson) creates a baseline building code for commercial construction. As amended, SB 2368 applies to "non-building code jurisdictions"; which is defined as "any area of the State in a municipality or county having a jurisdiction that: (i) has not adopted a building code; or (ii) is required to but has not identified its adopted building code to the Board under Section 10.18 of the Capital Development Board Act". Amendment 2 also includes language referring to specific existing building codes such as the International Building Code, Energy Efficient Building Code, Illinois Stretch Energy Code,

Illinois Accessibility Code and the Illinois Plumbing Code. **SB 2368 was approved by the Senate (34-18-1) and advanced to the House where it awaits a committee assignment.**

HB 2492 as amended (Rep. Williams, Sen. Gillespie) amends the School Code to allow school districts to issue bonds or certificates to finance guaranteed energy savings contracts. As a reminder, Guaranteed Energy Savings Contracts (also known as Energy Performance Contracting) is a process that bundles the design, construction, financing and continued maintenance of energy efficiency projects for public buildings. By allowing bonds and certificates to fund these projects, “energy performance” will potentially be able to be used for any project – regardless of size, scope and timeframe. ICIC has maintained the position that energy performance contracting can be a useful tool, however, due to the many documented abuses associated with the use of performance contracting – ICIC opposes expanding its use until more accountability and oversight of these projects is put in place. **HB 2492 advanced to the Senate where it awaits a committee assignment.**

HB 3491 (Rep. Hanson, Sen. Preston) amends the Prevailing Wage Act to provide that any laborer, worker, or mechanic who is employed by the contractor or by any lower tier subcontractor and is paid for services in a sum less than the prevailing wage rates for the work performed on a project shall have a right of action for whatever difference there may be between the amount paid and the prevailing wage rates required to be paid. This proposal is opposed by construction industry associations, including ICIC. **HB 3491 advanced to the Senate where it awaits a committee assignment.**

HB 3448 (Rep. Evans, Jr., Sen. Castro) amends the Wage Payment & Collection Act to provide that every prime contractor and subcontractor shall post a notice on the jobsite a summary of specified requirements of the Act and information pertaining to the filing of a complaint. Failure to provide this notice as required shall result in a civil penalty not to exceed \$250. This legislation is an initiative of the Mid-America Carpenters Regional Council. ICIC, along with IMSCA, the Illinois Chamber and the Home Builders Association of Illinois voiced concerns with HB 3448 as drafted. **It is anticipated HB 3448 will be further amended in the Senate to address the concerns raised; forthcoming amendments will be carefully reviewed by ICIC.**

HB 3551 as amended (Rep. Hoffman, Sen. Belt) amends provisions in the Illinois Procurement Code as they relate to the Capital Development Board’s use of the single prime delivery method. Under current law, CDB’s use of the single prime delivery method is limited per following parameters:

“For building construction projects with a total construction cost valued at \$5,000,000 or less, the Capital Development Board shall not use the single prime procurement delivery method for more than 50% of the total number of projects bid for each fiscal year. Any project with a total construction cost valued greater than \$5,000,000 may be bid using single prime at the discretion of the Executive Director of the Capital Development Board”.

HB 3551 removes these limitations and inserts language allowing the CDB to determine whether the single prime delivery method is to be pursued. **HB 3551 as amended provides that prior to using single prime on a project, the CDB must make a written determination that includes the advantages of using single prime for a particular project.** The written determination is to be reviewed by CDB's Chief Procurement Officer who will make the final determination. HB 3551 also maintains the sunset provision and parameters of using the single prime delivery method for institutions of higher education. **HB 3551 advanced to the Senate where it awaits a committee assignment.**

As the spring 2023 legislative session inches closer to the May 19th adjournment, your ICIC lobbying team is keeping a watchful eye on these issues and more. Please continue to pay close attention to Calls to Action and ways you can help communicate ICIC's message on these issues to members of the Illinois General Assembly.

If you have questions regarding information contained in this report, please do not hesitate to contact Jessica Newbold Hoselton by calling 217.891.3675 or by email at jnewbold@boldnewstrat.com