IMSCA
Illinois Mechanical & Specialty Contractors Association

Fall Veto Session Update: December 2, 2022

The Illinois General Assembly convened in Springfield this week for the second and final week of the Fall Veto Session. Both chambers are scheduled to return to Springfield on January 4, 2023 for “lame duck” session (i.e. final session days of the 102nd General Assembly, January 4-10). The 103rd General Assembly will begin on January 11, 2023.

Legislators were primarily focused on approving changes to the **Safety, Accountability, Fairness and Equity-Today Act (SAFE-T Act)** and approval of legislation that addresses the remaining $1.4 billion **Unemployment Trust Fund deficit.**

The SAFE-T Act is a controversial law that was approved in early 2021. The Act made sweeping changes to the criminal justice system and includes a provision ending cash bail which goes into effect January 1, 2023. Interested parties urged lawmakers to clarify the legislative intent of the underlying law. After many hours of negotiations and debate, **HB 1095** as amended **(Sen. Robert Peters/Rep. Justin Slaughter)** was approved by both chambers along partisan lines. This legislation clarifies five key areas of the statute which include: transition to the new system on January 1st, trespassing, the danger to society standard, detention-able offenses, and clarification of the use of judicial arrest warrants.

Many employers throughout the state have been waiting for the legislature to act on legislation to address the Unemployment Insurance Trust Fund deficit. This week, Governor Pritzker, legislative leaders, organized labor, and business industry representatives finally reached an agreement to pay off the remaining $1.4 billion unemployment insurance trust fund deficit. The agreement reached this week is a two-part package: SB 1698 as amended **(Sen. Linda Holmes/Rep. Jay Hoffman)** contains the substantive agreement language, while **SB 2801 (Sen. Linda Holmes/House Speaker Welch)** is the appropriations piece of the agreement.

As a reminder, the state borrowed nearly $4.5 billion from the federal government to provide unemployment insurance payments to unemployed workers during the height of the COVID-19 pandemic. The pandemic created challenges for unemployment insurance systems across the nation. Without legislative action by the Illinois General Assembly – employers would have faced tax increases while employees would have received benefit reductions.

The UI Trust Fund agreement was reached using the long-standing “agreed bill” process. This process is unique to Illinois and has been in place since 1984. The goal of the agreed bill process is to bring employers and labor together to solve problems on issues that impact both business and labor, such as workers compensation and unemployment insurance. The system was created to prevent wild swings such as benefit increases and tax increases or benefit cuts and tax decreases, depending on which party was in control. Once an agreement has been reached between business and labor, the four legislative leaders and the Governor also agree to enact the agreement via legislation.

SB 1698 as amended was approved by both chambers. SB 1698 provides that the state will pay $1.8 billion in state funds to pay off the remaining $1.36 billion in loans from the federal government. In addition, the agreement provides for a $450 million interest-free cash infusion into the trust fund. As the Illinois Department of Employment Security (IDES) pays off the loan, the money will be deposited into the state’s rainy-day fund. Organized labor and business leaders stated that the approval of SB 1698 will provide stability for Illinois’ unemployment insurance system and will save employers nearly $900 million in taxes over the next five years.

SB 2801 (Sen. Linda Holmes/House Speaker Welch) is the Unemployment Trust Fund appropriations bill. This piece of the UI Trust Fund agreement was approved by the Senate this week. The House plans to approve the measure when the chamber returns for the January lame duck session.

Also of importance to the Illinois construction industry is **HB 4285 Senate Amendment 2 (Sen. Cristina Castro/Rep. Katie Stuart).** This legislation is an initiative of the higher education community, particularly the University of Illinois. HB 4285 was amended on Wednesday afternoon and subsequently assigned to the Senate Executive Committee where it received unanimous support from committee members. A short time later, the bill was approved by the full Senate and sent to the House for a concurrence vote. The bill proposes several changes to the Illinois Procurement Code, including:

- Allows the Capital Development Board and public institutions of higher education to use the single prime and design build delivery methods. These provisions are operative through December 31, 2025.

- While the bill doesn’t make any changes to the Capital Development Board’s statutory authority to use the single prime delivery method, it does include parameters of use by institutions of higher education. The parameters for use of single prime by institutions of higher education includes:

    - Projects valued at $20 million or less, institutions of higher education shall not use the single prime delivery method for more than 50% of the total number of projects bid for each fiscal year. In each fiscal year, institutions of higher education may only award single prime projects with an aggregate value of no more than $100 million, except for the University of Illinois which may award in each fiscal year single prime contracts with an aggregate total of no more than $300 million.

- Outlines provisions allowing the "state construction agency" to use the design-build delivery method and defines "state construction agency" as the Capital Development Board or institutions of higher education. This section of the bill makes no other changes to the design build statute.

These provisions have been introduced by the higher education community in previous years. As such, IMSCA has previously reviewed these provisions and maintains a "neutral" position. However, an area of concern that is included in HB 4285 as amended includes increasing the small purchase threshold from $100,000 to $250,000. The language included in the proposed legislation states the following:

"Sec. 20-20. Small purchases. (a) Amount. Any individual procurement of supplies or services not exceeding $100,000 and any **procurement of construction not exceeding <u>$250,000</u>** ~~$100,000~~, or any individual procurement of professional or artistic services not exceeding $100,000 **may be made without competitive source selection.** Procurements shall not be artificially divided so as to constitute a small purchase under this Section. **Any procurement of construction not exceeding <u>$250,000</u>** ~~$100,000~~ **may be made by an alternative competitive source selection.** The construction agency shall establish rules for an alternative competitive source selection process. This Section does not apply to construction-related professional services contracts awarded in accordance with the provisions of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act."

IMSCA **opposes** this proposed change. Our concern with this level of increase is that it will potentially dilute the competitive bid process and prevent smaller construction companies from participating in public construction projects. Due to IMSCA's opposition, HB 4285 as amended was not approved by the Illinois House prior to the chamber's adjournment. IMSCA plans to work with the proponents of this legislation and seek an alternative during the lame duck session in January.

It is possible that when the Illinois General Assembly returns to Springfield in January, lawmakers may consider legislative matters such as the budget, reproductive health, and gun control – but that remains to be seen. In the meantime, your IMSCA lobbying team will continue to monitor issues that are of particular importance to Illinois subcontractors.

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