



Legislative Update: January 13, 2023

The 102nd General Assembly was in session on Monday (1/9) and Tuesday (1/10). On Tuesday, the 102nd General Assembly adjourned *sine die* – permanently ending consideration of any bills that were not approved prior to adjournment and concluding all legislative activity of the 102nd General Assembly.

Members of the 103rd General Assembly were inaugurated on Tuesday (1/11) – officially marking the start of the 103rd General Assembly. The Illinois House will consist of 78 Democrats and 40 Republicans, while the Senate will consist of 40 Democrats and 19 Republicans. House Speaker Chris Welch will remain in his role as will Senate President Don Harmon. The Republican Minority Leaders in both chambers will be new to the role. House Minority Leader Tony McCombie will lead the House Republicans – making history as the first female to hold the position. The Senate Republicans will be led by Minority Leader John Curran. On a side note, former House Republican Minority Leader Jim Durkin officially resigned from his seat earlier this week. The process to fill the vacancy is underway.

Prior to the adjournment of the 102nd General Assembly, lawmakers approved many important pieces of legislation in relatively short order. Legislative measures aimed at addressing **gun control, budgetary items, employment, and tax incentives** reached the final approval stage on the last day of the 102nd General Assembly.

Gun Control

Illinois became the 9th state in the nation to pass an assault weapons ban. **HB 5471 creates the “Protect Illinois Communities Act”** by amending the Illinois State Police Law of the Civil Administrative Code of Illinois. This legislation **bans the sale and distribution of assault weapons, caps sales of high-capacity ammunition magazines, bans “switches” that convert legal handguns into assault weapons, extends the ability of courts to prevent dangerous individuals from possessing a gun through firearm restraining orders.** In addition, the new law also **requires existing owners of semi-automatic rifles to register their ownership, ensuring that law enforcement knows the location of these weapons and who can be held accountable if they fall into the wrong hands.** HB 5471 was approved by both chambers and signed into law on January 10, 2023 – Public Act 102-1116.

Gun rights supporters are immensely critical of the new law and contend it violates the 2nd Amendment. In response to Governor Pritzker signing the bill into law this week, many county sheriffs publicly announced they will not enforce the Act or make arrests based on violations of the Act. Additionally, gun rights advocates plan to challenge the law’s constitutionality in court.

Budget

IMSCA members may recall that lawmakers approved legislation during the fall veto session that outlined a plan to address the Unemployment Insurance Trust Fund deficit. The approved plan was a two part package; SB 1698 provided the substantive details of the plan and was signed into law on December 8, 2022. **SB 2801 was the appropriation piece which directs nearly \$1.7 billion from the general revenue fund to the Department of Employment Security and another \$450 million from the general revenue fund to the Unemployment Insurance Trust Fund.** SB 2801 received unanimous approval this week and will soon head to Governor Pritzker for his approval.

Another budget-related bill that received approval this week is **SB 1720**. This legislation contains various changes to enact the FY 23 budget: including pay increases for all Executive Branch constitutional officers, agency directors and all legislators. **IMSCA members took particular interest in SB 1720 because it also served as a “trailer” bill to HB 4285.** HB 4285 proposed many changes to the Illinois Procurement Code; including a provision seeking to increase the small purchase threshold from \$100,000 to \$250,000; which triggered IMSCA’s opposition. Our opposition efforts resulted in an agreement with the proponents of HB 4285 to remove the proposed changes to the small purchase threshold. **The details of the agreement reached provided that a forthcoming trailer bill would include language restoring the small purchase threshold to the current level of \$100,000, which was included in SB 1720 House Floor Amendment 3.** This legislation passed both chambers and was signed into law on January 9, 2023 – Public Act 102-1115.

Employment

SB 208 creates the “Paid Leave for All Workers Act” which sets forth minimum standards for paid leave for all Illinois workers. This bill requires all employers, regardless of size, to provide their employees with a minimum of 40 hours (or 5 days) of paid leave per year to be used for any reason. **SB 208 includes exemptions for signatories of collective bargaining agreements.** Additional key components of the Paid Leave for All Workers Act include:

- Workers begin to earn paid leave on their first day of employment at a rate of one hour of leave for every 40 hours worked.
- Employees may use their paid leave starting on the 90th day of employment, however, employers have the discretion to allow employees to use their paid leave earlier.
- Workplaces can require employees to provide notice before taking paid time off. If the use of leave is unforeseeable, an employee is directed to provide notice as soon as practicable.
- Unused paid leave will carry over annually, up to 40 hours. However, employers are not required to cash out the balance of an outgoing employee’s paid leave.
- Employers that violate the act would be subject to penalties, including fines and compensatory damages for the affected employee.

SB 208 was approved by both chambers and will soon head to Governor Pritzker for his approval. Once signed by the Governor, this legislation will become law on January 1, 2024.

Tax Incentives

SB 2951 creates the “Invest in Illinois Act” and includes tax incentives aimed at increasing business development in Illinois. This legislation builds upon the state’s previous efforts to encourage in-state production of electric vehicles and related components. Among other provisions, SB 2951 creates the “Large Business Attraction Fund” that is intended to be used to incentivize businesses to invest in Illinois. There are high hopes that Governor Pritzker can utilize this fund to persuade Stellantis to transform its soon-to-be closed Belvidere plant to one that manufactures electric vehicles. SB 2951 was approved by both chambers and will soon head to Governor Pritzker for approval.

Additional measures that received the approval of both chambers this week that are of particular importance to the Illinois construction industry include:

HB 4285 as amended is an initiative of the higher education community and includes many changes to the Illinois Procurement Code. While SB 1720 removed provisions seeking to increase the small purchase threshold, the additional proposed changes to the procurement code remained intact. HB 4285 as amended makes the following changes:

- **Permits the Capital Development Board (CDB) and public institutions of higher education** to use the **single prime and design build delivery methods**. The CDB already has this authority, but HB 4285 expands the authority to use these delivery methods to public institutions of higher education.
- HB 4285 as amended maintains the CDB’s statutory authority to use the single prime delivery method and maintains the existing parameters of use.
- HB 4285 outlines the parameters of which institutions of higher education can utilize the single prime delivery method. The parameters provide that for 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 who may award in each fiscal year single prime contracts with an aggregate total of no more than \$300 million.

HB 4285 was approved by both chambers and will soon head to Governor Pritzker for his approval.

HB 2870 is an initiative of the City of Joliet on behalf of the communities who are actively pursuing the creation of the Grand Prairie Water Commission (Crest Hill, Joliet, Channahon, Minooka, Shorewood and Romeoville). The purpose of the regional water commission is the construction of the necessary infrastructure to provide residents with a source of water supply from Lake Michigan. As such, **HB 2870 provides the water commission the authority to use “alternative delivery**

methods” including design build and construction manager at risk for the construction of the anticipated joint waterworks system. HB 2870 was approved by both chambers with bi-partisan support and will soon head to the Governor for approval.

103rd General Assembly

IMSCA plans to introduce two legislative initiatives this year. Our top legislative priority will be a continuation of our previous work on retainage reform by focusing our efforts on seeking 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. **IMSCA will seek an amendment to the Public Construction Bond Act to provide for a 5% cap on the amount of retainage withheld on public construction projects.** Our legislative initiative will be sponsored by Assistant Senate Majority Leader Linda Holmes.

IMSCA also plans to introduce legislation amending 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. This presents practical problems for subcontractors and their attorneys or lien services. These problems include the post office doesn't always return the green card, service can be refused, and the post office does not restrict delivery to addressee. **Many laws that require serving a notice have been updated to also permit service by overnight delivery companies such as Federal Express, UPS or by any means that provides written, third-party verification of delivery.** IMSCA's goal in updating Section 24 is to ensure lien rights are not lost because someone refused to sign a green card, or the post office failed to return it to the sender.

In addition to introducing our own legislative initiatives – IMSCA is actively reviewing bill introductions and placing extreme focus on identifying those that are of particular importance to contractors. **The 103rd General Assembly has been underway for only a couple of days and nearly 1,000 bills have already been introduced.** As the spring 2023 legislative session moves forward, you are encouraged to pay close attention to Calls to Action and ways you can help communicate IMSCA's message on important issues to members of the Illinois General Assembly.

Your IMSCA staff and lobbying team looks forward to representing the Illinois sub-contracting industry in Springfield this session. We are confident that by working alongside our members, IMSCA 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 calling 217.523.4361 or by email at jnewbold@boldnewstrat.com