



## Legislative Update: March 10, 2023

There was a tremendous amount of committee action this week in both the House and Senate. The committee deadline for the approval of substantive bills out of the committee in the chamber of origin is today (i.e. March 10). If a bill fails to pass out of committee by today, it is “dead” for the session – unless the bill receives a deadline extension. Going into the week, nearly 2,500 bills had been assigned to committees ahead of today’s committee deadline. By IMSCA’s count, the House advanced 317 while the Senate advanced 291. Many of the bills approved in committees this week were approved with promises to continue working on the bills and amend them on Second Reading.

Although the committee deadline has passed in both chambers, IMSCA will continue to closely monitor all bills on our watch list – including those that weren’t approved in committee prior to the committee deadline. Deadline extensions haven’t been approved yet, but there is always the possibility that extensions will be forthcoming. In addition to monitoring that activity, IMSCA will also be focused on reviewing amendment filings.

IMSCA’s legislative initiative **SB 133 (Assistant Majority Leader Holmes)** seeks a reduction in the amount of retainage that can be withheld on **public construction** projects. **SB 133 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 and the Illinois Association of Counties. Additionally, the Illinois Bankers Association (IBA) also expressed concerns this week. As such, SB 133 was approved by the Senate Judiciary Committee on the condition that the bill be held on Second Reading, pending further discussions with the banking industry. IMSCA is working on scheduling a meeting with IBA representatives in the coming weeks – all IMSCA members will be updated on the status of SB 133 and ways you can assist us in moving our initiative forward.

**SB 1704 (Sen. Villivalam)** was introduced at the request of IMSCA. This legislation amends Section 24 of the Illinois Mechanics Lien Act. **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. **SB 1704 was not released by the Senate Assignments Committee, and therefore was not approved in committee prior to this week’s committee deadline.**

**SB 157 (Sen. Villivalam)** 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 International Union of Operating Engineers Local 150. This proposal is opposed by the surety bond and insurance industries, local governments, construction trade associations and other interested parties. **SB 157 was not approved by the Senate Executive Committee this week.**

**SB 1570 as amended (Sen. Lightford) 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. As a reminder, 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 IMSCA and served as the template for the remaining statutes. SB 1570 as amended was approved by the Senate Local Government Committee and advanced to the Senate floor.

**SB 2368 as amended (Sen. Koehler) creates a baseline statewide 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. This proposal was approved by the Senate Executive Committee this week with a commitment to continue discussions with stakeholders. SB 2368 is being carefully reviewed by IMSCA.

**HB 2492 (Rep. Williams) amends the School Code to allow school districts to issue bonds or certificates to finance guaranteed energy savings contracts.** 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. **The entire energy performance contracting mechanism is designed to finance energy conservation projects with energy savings earned over a specific timeframe – which begs the question – why do these projects need to be financed with bond funds and certificates?** IMSCA has maintained the position that energy performance contracting can be a useful tool, however, many abuses of the use of this alternative funding mechanism have been documented. In addition, energy performance contracts often circumvent the competitive bid process. As such, IMSCA contends that more accountability

and oversight should exist before expanding this method any further. **HB 2492 was approved by the House Executive Committee and advanced to Second Reading.** IMSCA, along with our partners in the design and construction industries, oppose HB 2492.

**HB 2845 (Rep. Dave Vella)** provides 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. **HB 2845 was approved by the House Labor Committee and is on Second Reading on the House floor.**

At this time, IMSCA doesn't expect that **HB 3647 (Rep. Evans, Jr.)** will advance this spring. This proposal is an initiative of IUOE Local 150 to **expand 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.** IMSCA joined our industry partners in opposing HB 3647 and its companion in the Senate (SB 1592). This week, IUOE Local 150 confirmed that they do not plan to advance the bill this spring. However, IMSCA will continue to monitor this bill closely to ensure that it doesn't advance.

**HB 3927 (Rep. Hoffman)** seeks to expand the use of **Public Private Partnerships (P3's) for Illinois infrastructure projects.** IMSCA 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. This bill is concerning due to its proposed expansion to every unit of local government. In addition, as drafted, oversight will be provided by a commission whose members will be appointed by the Governor and legislative leadership. **HB 3927 was approved by the House State Government Administration Committee and advanced to Second Reading.** Upon approval by committee, IMSCA learned that forthcoming amendments and additional work is expected on HB 3927 before it advances further.

Your IMSCA lobbying team is keeping a watchful eye on these issues and more. We will be paying close attention to deadline extensions and newly filed amendments in the coming weeks. Please pay close attention to Calls to Action and ways you can help communicate IMSCA'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 217.523.4361 or by email at [jnewbold@boldnewstrat.com](mailto:jnewbold@boldnewstrat.com)