



Legislative Update: March 27, 2023

The House and Senate will return to Springfield this week and the schedule is shaping up to be another full week of committee and floor action in both chambers. The Third Reading Deadline in the House was Friday, March 24th. As such, the House advanced many pieces of legislation to the Senate. The Third Reading Deadline in the Senate is this Friday, March 31st. IMSCA continues to closely monitor all bills on our watch list – paying close attention to newly filed amendments.

IMSCA's top priority remains moving **SB 133 (Assistant Majority Leader Holmes)** through the legislative process. **SB 133 amends the Public Construction Bond Act to provide for a 5% cap on the amount of retainage withheld on public construction projects.** As previously reported, SB 133 is opposed by the Illinois Municipal League, the Illinois Association of Counties and the Illinois Bankers Association (IBA). Due to the opposition of the IBA, 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 met with representatives from the IBA last week to discuss their concerns. Unfortunately, our meeting did not result in the IBA removing their opposition to SB 133. However, IMSCA remains hopeful that we will be able to advance SB 133 this week prior to the Third Reading Deadline. **IMSCA members are encouraged to pay close attention to forthcoming Calls to Action on SB 133.**

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 IMSCA and served as the template for the remaining statutes. **SB 1570 as amended was approved by the Senate (42-11) and advanced to the House.**

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.**

HB 2492 as amended (Rep. Williams) 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. IMSCA 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 – IMSCA opposes expanding its use until more accountability and oversight of these projects is put in place. **HB 2492 was approved by the House (79-25) and advanced to the Senate.**

HB 2816 (Rep. Lilly) amends several existing statutes including the Department of Transportation Law of the Civil Administrative Code and the State Prompt Payment Act. In addition to other proposed changes, HB 2816 seeks to allow small businesses subcontractors to receive direct payments from the Department of Transportation, and requires contractors to pay subcontractors and material suppliers within 7 business days after receiving payment (currently 10 business days or 15 calendar days). **HB 2816 did not receive approval by the House prior to the Third Reading Deadline.**

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. **HB 3491 was approved by the House (75-36) and advanced to the Senate.**

HB 3448 (Rep. Evans, Jr.) amends the Illinois 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. **HB 3448 was approved by the House (68-34).** This legislation is an initiative of the Mid-America Carpenters Regional Council. IMSCA, along with ICIC, the Illinois Chamber and the Home Builders Association of Illinois voiced concerns with HB 3448 as drafted. **As such, it is**

anticipated HB 3448 will be further amended in the Senate to address the concerns raised.

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 was approved by the House (112-0) and advanced to the Senate.**

The House and Senate will be in session this week, March 28 – 30, however, only the Senate will be in session on Friday, March 31st. For reference, here are the schedules and upcoming deadlines for the next few weeks:

April 3rd – 14th: Legislative Spring Break (neither the House nor Senate will be in session)

April 18th – 20th: House and Senate in Session

April 25th – 28th: House and Senate in Session

April 28th: Committee Deadline for bills that originate in the opposite chamber.

As the spring 2023 legislative session inches closer to the May 19th adjournment, your IMSCA 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 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