



*Legislative Representation for Over 2000 Construction Employers*

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## **VOTE YES ON SB 133 (Senate Asst. Majority Leader Holmes) Public Construction Bond Act – Retainage Reduction**

Illinois construction contractors are required by law to provide surety bonds when performing work for local governments to ensure their work is completed well and on time, and to make sure their subcontractors are fully paid. On top of the bond requirement, those same local governments typically withhold 10% retainage from contractors after payment is due for completed and approved work. In fact, some contractors wait for more than a year after completing work until retainage is finally paid. The combined detrimental effects on contractors of: i) paying the bond premium; ii) providing security to the insurance company to issue the bond; and iii) the prolonged delay before payment of 10% retainage on work completed – negatively impacts profitability and cash flow for all Illinois contractors performing public work. Some local Illinois governments, such as the City of Chicago and Cook County, have already reduced or eliminated the withholding of retainage on their projects. In addition, some state agencies, including the Illinois Capital Development Board, have voluntarily reduced retainage. Many other states restrict the amount of retainage that can be withheld on public projects, but Illinois is not among them. Historically, retainage of 10% was withheld because that was the expected profit for a contractor, a percentage that is now closer to 3%.

### **Issue:**

It is the combination of withholding a high percentage of retainage plus requiring a surety bond that is excessive and creates unnecessary cashflow burdens and profit drain. A barrier to entry into the construction industry is the inability to acquire sufficient operating capital. Illinois has well-intentioned laws to promote the awarding of public construction contracts to minority and women owned businesses, but when newer and smaller companies lack sufficient operating capital to bid on public projects, they cannot participate in those opportunities. This duplication not only negatively impacts contractors, but local governments also pay a higher price as contractors may pass on the added costs to the government and when the bidding pool is reduced due to contractors' reluctance to bid on projects when their capital is doubly burdened.

### **Solution:**

IMSCA is asking for your support and a “yes” vote on **SB 133**. **This bill amends the Public Construction Bond Act to provide that a local government entity may not withhold more than 5% retainage when a contractor has furnished a surety bond or its equivalent.** SB 133 will ensure local governments are still protected with a surety bond and 5% retainage, while easing contractors' cash flow burdens and encouraging participation in the competitive bidding process for local government construction projects.

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