



SUBSTANCE

ILLINOIS MECHANICAL & SPECIALTY CONTRACTORS ASSOCIATION

SPRING 2024



IMSCA PRESIDENT



S.J. Peters, IMSCA President

IMSCA is pleased to announce the retention of FrontlineCo to provide management services to IMSCA. FrontlineCo is led by founder and President, Kim Robinson. FrontlineCo is a highly respected, trusted, and proven consulting firm that specializes in association management and government affairs services.

Most importantly, FrontlineCo employee, Ryan Roth will serve as IMSCA's Executive Director. Ryan brings over a decade of experience to IMSCA having worked in both the legislative and executive branches of state government. He has led advocacy efforts at the local, state and federal levels and has worked in the fields of agriculture, business, and transportation. Ryan received his B.A. and M.A. in Political Science from the University of Illinois at Springfield.

IMSCA's membership will continue to be well represented on legislative matters important to signatory contractors in Springfield.

Your IMSCA staff, Ryan and Kim, along with IMSCA's lobbying team, Neil and Daniel Flynn are representing the Illinois sub-contracting industry in Springfield during the upcoming Spring 2024 legislative session. We are confident that by working alongside our members, IMSCA will have another legislatively successful year.

IMSCA WELCOMES FRONTLINECO AND EXECUTIVE DIRECTOR, RYAN ROTH



FrontlineCo President,
Kim Robinson



IMSCA Executive Director,
Ryan Roth

IMSCA LEADERSHIP

PRESIDENT



S.J. Peters has served as Executive Director of the PCA of Greater Chicago (Plumbing Contractors Association) covering 17 counties in and around Chicago since 2006. He is a Trustee on the Plumbers Local 130 UA Pension & Welfare Trust Funds in Northern Illinois. Peters previously spent 15 years as VP/Communications Director for the United Food & Commercial Workers Intl. Union (UFCW Locals 881 & 1546)

in Chicagoland. S.J. is a Board Trustee for the UAC (Union Affiliated Contractors of the National Plumbing-Heating-Cooling Contractors – PHCC); and an Officer (Secretary) for CISCO (Construction Industry Service Corporation). He also spent a decade on the board of the Plumbing Contractors of America – an enhanced service division of the MCAA (Mechanical Contractors Association of America). A graduate of Loyola University and an Illinois native raised in Brookfield, S.J.'s career began in mass communications. After working on-air at major market radio stations, he next served for 2 years as Communications Director for the Central Educational Network (PBS-Midwest Region).

VICE PRESIDENT



Karsten Pawlik is Vice President of Operations at Alpine Demolition Services, LLC (Alpine), a position he has held for the past 20 years. Alpine is a selective, structural and infrastructure demolition company serving primarily the Chicagoland Area. Karsten has degrees in Civil Engineering from the University of Florida and a MBA from Northern Illinois University. Karsten is past president at

ASA Chicago, former board member of Fox Valley AGC and a current board member at the National Demolition Association.

TREASURER



Todd Byxbe is the Vice President of Miller Engineering Company located in Rockford, IL where he has been employed for nearly 30 years. Todd serves on the Board of Directors for the Sheet Metal and Air Conditioning Contractors National Association (SMACNA National). In addition, Todd serves as SMACNA National Midwest Political Liaison where he is responsible for meeting with US Senators and

Representatives to achieve continued growth for the construction industry and the advancement and influence of SMACNA.

SECRETARY



Tammy Rich Stimson loves being a part of a 2nd generation family-owned business. Over her 27-year tenure at G.A. Rich & Sons, Inc., Tammy has been presented with many opportunities to grow both in the business and in leadership roles with the Illinois Plumbing Heating Cooling Contractors (ILPHCC). Tammy started her career as an assistant project manager/estimator and bid runner. Over the years, she has worn many hats

and held various positions such as Safety Director, Lead Estimator, and Chief Financial Officer; currently serving as the President of G.A. Rich & Sons, Inc. Working in a family-owned business has allowed her to be involved in PHCC at the local, state & national levels, including serving as Illinois' first woman president. Her service to the industry earned her the Larry Dore Member of the Year Award in 2011. Tammy also has a passion for serving others and does so through various organizations in her community. Her commitment to community service earned her the 25 Women in Leadership Award in 2013.

SPECIAL COUNSEL



James T. Rohlfing is a partner in the national law firm of Saul Ewing Arnstein & Lehr, and a member of the firm's Construction Practice Group and Litigation Practice Group. Mr. Rohlfing represents subcontractors and other participants in the construction industry. He is editor of Illinois Construction Law Manual, a treatise published by Thomson Reuters. Mr. Rohlfing is the current general

counsel as well as the past president of the Illinois Mechanical & Specialty Contractor's Association (IMSCA), the largest organization for subcontractors in Illinois. He is an active member of the ABA Construction Forum, the Society of Illinois Construction Attorneys (SOICA), the Chicago Bar Association's Construction Law committee, and the Association of Subcontractors and Affiliates in Chicago. He has drafted and assisted in passing Illinois legislation critical to the construction industry and he has testified on numerous occasions on construction law issues before committees of the Illinois Legislature.

EXECUTIVE DIRECTOR



As IMSCA's Executive Director, **Ryan Roth** manages the day to day operations of IMSCA and works closely with IMSCA's lobbying team to represent the interests of the sub-contracting industry at the Illinois State Capitol. Ryan received his Bachelor's and Master's of Arts Degrees in Political Science from the University of Illinois at Springfield. Since 2009 Ryan has worked for the Illinois legislature, state agencies and associations in the

fields of transportation, design, and construction.

LEGISLATIVE
REPRESENTATION
FOR OVER 2,000
CONSTRUCTION
EMPLOYERS

IMSCA STAFF AND OFFICERS:

Ryan Roth, Executive Director
Jim Rohlfing, Special Counsel
S.J. Peters, President
Karsten Pawlik, Vice President
Todd Byxbe, Treasurer
Tammy Rich-Stimson, Secretary

IMSCA

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ILLINOIS GENERAL ASSEMBLY: 2023 FALL VETO SESSION RECAP AND ANTICIPATING THE 2024 SPRING SESSION

- By Neil Flynn and Daniel Flynn

The Illinois General Assembly’s 2023 Fall Veto Session highlighted some of the State’s pressing legislative issues and set the stage for the upcoming 2024 Spring Session.

FALL VETO SESSION RECAP

Following the first week of the Fall Veto Session (October 24-26), and a one week break, the Illinois Legislature returned to Springfield for the second week of Veto Session on November 7th- 9th. This represented the final week of legislative action in 2023. The General Assembly returns on January 16th to formally commence the 2024 legislative session.

During the Veto Session, the General Assembly took action on bills that were vetoed by the Governor following the 2023 Spring Session, and in addition, considered and passed several other legislative matters.

While other issues were considered and passed, the General Assembly devoted the greatest amount of time and attention to three issues during the 2023 Fall Veto Session: the “removal of the State’s nuclear power plant construction moratorium”; the Invest in Kids Scholarship Tax Credit Program; and the Chicago Public School Board plan.

Nuclear Power Plant Construction Moratorium “Lifted”

The “nuclear moratorium”, which was enacted by the General Assembly in 1987, prevented the construction of new nuclear power plant facilities



until a permanent disposal site for high-level nuclear waste was established. HB 2473 (Yednock/Rezin) does not entirely lift the 36-year-old moratorium on nuclear construction in Illinois. Rather, this legislation creates a regulatory structure for the construction of small modular nuclear reactors, or SMRs. HB 2473 directs the Illinois Emergency Management

Agency (IEMA) to be the lead regulatory agency for SMRs. During the Veto Session’s final week, HB 2473 passed both the Senate and House with overwhelming majorities. The Governor’s approval of HB 2473 is widely expected.

Chicago Elected School Board

The Illinois General Assembly left Springfield without adopting a final process for Chicago’s elected school board. Divisions over the city’s elected school board remain — including disagreement over how many members should be appointed versus elected, and disagreement as to the establishment of the school board member district map. These issues will most certainly be considered again when the General Assembly returns to Springfield in January.



Invest in Kids Scholarship Tax Credit Program Extension



HB 4194, which would have extended the Invest in Kids Scholarship Tax Credit Program, did not receive consideration from either chamber prior to adjournment of the 2023 Fall Veto Session. It appears almost certain that this issue will again be considered when the General Assembly returns to Springfield for the 2024 Spring Session.

Public Construction Bond Act — Retainage Reduction

During the 2023 Spring Session, the Illinois Mechanical & Specialty Contractors Association (IMSCA) initiated legislation amending the Public Construction Bond Act. This legislation provides that a local governmental entity may not withhold more than 5% retainage when a contractor has furnished a surety bond or its equivalent. This provision was included in HB 2878, as part of an omnibus bill pertaining to procurement policy changes. At the conclusion of the Spring Session, the Governor issued an amendatory veto of this bill recommending the removal of a provision expanding transportation public-private partnerships to local governments. During the Veto Session, the General Assembly voted overwhelmingly to accept the Governor’s recommendations for change. As a result, the IMSCA initiated retainage provision will become law on January 1, 2024.



ANTICIPATING POTENTIAL 2024 SPRING SESSION ISSUES

Shortly after the General Assembly adjourned the Fall Veto Session, the legislative calendars for the 2024 Spring Session were released. While both chambers will return to Springfield in January to convene the 2024 Spring Session, the chambers are only scheduled to convene for three days that month (i.e. January 16-18), and a total of six days in February (i.e., February 6-8 and 20-22). Beginning in March, the General Assembly will meet on an almost weekly basis until May 24th -- the scheduled adjournment date.

It is important to note that 2024 is an election year with the primary elections happening during the scheduled 2024 Spring Session. Accordingly, and as a practical matter, the 2024 Spring Session will not commence in earnest until after the primary elections -- which will be held on March 19th. With respect to legislative issues that may receive consideration during the 2024 Spring Session, there is considerable speculation that the General Assembly may consider a supplemental appropriations package for the current fiscal year that may include additional State funding for migrant related shelters and services. There is also speculation that the labor organizations will likely continue to propose legislation in 2024 to expand transportation public-private partnerships to also apply to local governments.

It remains to be seen whether the pending trial of former Chicago Alderman Ed Burke or federal racketeering trial of former House Speaker Michael Madigan, scheduled to begin in April, will impact the consideration of additional ethics legislation. Speculation also continues that the General Assembly may vote to propose that a constitutional amendment dealing with reproductive rights be placed on the ballot for ratification at the November 2024 General Election.

Finally, with Governor Pritzker’s recent visibility and continued activity on national issues, and with Chicago hosting the Democratic National Convention next August, the 2024 Session promises to be interesting!

Neil Flynn was admitted to practice law in Illinois in 1980 and served in a variety of staff positions with the Illinois House of Representatives, including Counsel to the Illinois House Speaker. Neil’s areas of concentration include lobbying before the Illinois General Assembly; State government relations; regulatory advocacy before State agencies, departments, boards and commissions; and administrative rule making.



Daniel Flynn has worked abroad at various FIFA (the governing body of international soccer) events and the Illinois House Democratic Staff. Daniel graduated from Saint Louis University School of Law in May 2010 and was officially sworn in as a member of the Illinois Bar later that year. Daniel’s area of expertise is providing lobbying services and advocacy strategies on behalf of the clients of Neil F. Flynn & Associates to the Illinois General Assembly



ILLINOIS SUPREME COURT EXPANDS INSURANCE COVERAGE FOR CONSTRUCTION DEFECTS

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Together, AGC of America and its Illinois Chapters have achieved a major breakthrough as to commercial general liability insurance (CGL) coverage for construction defects under Illinois law. The Illinois Supreme Court issued its opinion in *Acuity v. M/I Homes of Chicago, LLC*, Docket No. 129087 on November 30, 2023. The case involved CGL coverage for construction defects resulting in water damage to a townhome project. In that context, the Supreme Court clarified the law to agree with many state supreme courts that such property damage is an “occurrence” in Illinois. The Supreme Court’s clarification is extremely favorable to the construction industry and was supported by an amicus curiae brief sponsored by AGC of America, National Association of Home Builders, American Subcontractors Association and local chapters in Illinois.

For over twenty years, courts in Illinois had interpreted the definitions of “property damage” and “occurrence” in the standard commercial general liability (“CGL”) policy to deny coverage for property damage arising out of defective construction as to the entire construction project itself. Those courts found coverage only in the unlikely event of damage to other real property, and perhaps to personal property of project owners. In reality, this amounted to little, if any coverage for Illinois insureds, and Illinois has lagged behind numerous other jurisdictions in upholding coverage for unexpected and unintended property damage arising out of faulty workmanship by the insured. The Supreme Court of Illinois

noted that such a narrow view of coverage is unsupported by the policy language, and it joined the majority of jurisdictions in holding that unexpected and unintended physical injury to tangible property arising out of defective work amounts to an occurrence of property damage under a CGL policy.

The court further opined that once an occurrence of property damage is found, resort must be had to the property damage exclusions within the policy to determine ultimate coverage, including exclusions relating to that particular part of property damage upon which work is being performed out of which the property damage arises; that particular part of real property that must be repaired or replaced due to incorrect work by the insured; property damage to the insured’s work after completion (subject to an exception for work performed by the insured contractor’s subcontractors); or impaired property or property that has not been physically injured. In doing so, the Court rejected the notion that property damage arising out of defective workmanship amounts to an uninsurable “business risk,” the cost of which is to be borne by the insured contractor itself. Aligning itself with the majority of jurisdictions, the Court concluded that uninsured business risks are to be sorted out through application of the property damage exclusions. In that regard,

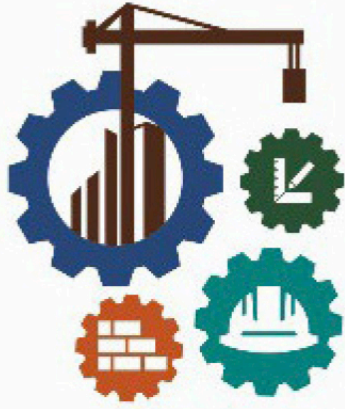
it remanded the case to the trial court to determine issues relating to the applicability of those exclusions to the facts before it.

All in all, AGC, NAHB, and ASA members had a good day before the Illinois Supreme Court. That success is the culmination of nearly twenty years of advocating before numerous state and federal courts throughout the United

States on these issues through the filings of amicus curiae briefs. The brief in *Acuity v. M/I Homes* was primarily authored and filed by Patrick J. Wielinski of Cokinos Young, Dallas, Texas, joined by Clifford Shapiro of Chicago. Patrick and his firm have participated in the filing of such briefs for many years.

The Construction Advocacy Fund of the AGC of America provides the financial resources that the association requires to extend its advocacy into federal and state courtrooms across the country. In conjunction with the association’s legislative, regulatory, and public programs, the association’s litigation program seeks to protect if not enhance the business environment for construction contractors. For more information, please contact AGC’s Leah Pilconis at leah.pilconis@agc.org.

On November 30, AGC of America and its Illinois Chapters achieved a major breakthrough as to commercial general liability insurance (CGL) coverage for construction defects under Illinois law with a favorable decision by the state Supreme Court.



ILLINOIS WORKS Bid Credit Program

- by Rebecca Bailey, Senior Bid Credit Program Manager

THE ILLINOIS
WORKS
BID CREDIT
PROGRAM'S
STRATEGIC
INVESTMENT
IN A MUTUALLY
BENEFICIAL
TALENT
PIPELINE FOR
THE STATE'S
CONSTRUCTION
INDUSTRY AND
THE TRADES.

The Department of Commerce and Economic Opportunity (DCEO) Office of Illinois Works is a new bureau whose creation was mandated by the 2019 Illinois Works Job Program Act resulting from Governor Pritzker's historic \$45 billion capital plan, Rebuild Illinois. The office is focused on bringing about equity and inclusion to construction and the trades by creating a viable and sustainable workforce pipeline targeting

residents have access to the resources and education that will lead to a successful career in construction and the trades. With the support of community partners as well as the building trades and the construction industry, the Office of Illinois Works delivers three key programs to reach its goals.

The Illinois Works Apprenticeship Initiative opens the doors of opportunity into the construction industry and the trades. It applies



underrepresented populations (including women, minorities, and veterans) located throughout the state. By providing grants to pre-apprenticeship program providers, training, and an incentivized hiring process for contractors, the bureau's goal is that all Illinois

to public works projects with an estimated cost of \$500,000 or more, including capital grants and direct capital contracts and awards. For applicable projects, the goal is for DOL-registered apprentices to perform 10% of the total labor hours worked in each prevailing

wage category or 10% of the estimated labor hours in each prevailing wage category, whichever is less. Half of the 10% goal for each wage classification must be performed by apprentices that graduates from Illinois Works or two other approved pre-apprenticeship programs.

The Illinois Works Pre-Apprenticeship Program is a grant program that creates, throughout the state, a qualified talent pipeline to fill job opportunities with diverse candidates. This program delivers pre-apprenticeship skills training through a network of over 35 non-profit, community-based organizations, including community colleges, faith-based organizations, and business associations. In 2024, the Illinois Works Pre-Apprenticeship Program Provider Network will serve over 1,700 community residents interested in entering the construction industry and the trades and making a life-long career in this important sector of the economy. All approved providers serve underrepresented populations (women, minorities, and veterans) and prepare them to enroll in DOL-registered apprenticeship programs of their choice. Participants of the program attend tuition-free and receive a stipend and other supportive services to help overcome systemic barriers to entering the construction industry and the trades.



The third component of the office is the Illinois Works Bid Credit Program. The goal of this initiative is to tie together the other programs that make up Illinois Works by incentivizing contractors to hire and retain from Illinois Works' pool of graduates, resulting in increased diversity in their workforce. Contractors and subcontractors can voluntarily enroll to participate and earn generous amounts of bid credits by hiring Illinois Works Pre-Apprenticeship Program graduates. Bid Credits can be earned for graduates working on any construction project including both public and privately funded projects. Contractors can, in turn, redeem bid credits on any future state-funded construction project.

Aside from helping meet compliance goals and giving contractors an upper hand in the bidding process, the Bid Credit Program can

also assist with locating qualified graduates ready and willing to take advantage employment opportunities throughout the State of Illinois. Each year hundreds of community members successfully complete the Illinois Works Pre-apprenticeship Program at over 30 locations across Illinois. These program graduates were thoroughly vetted for interest in construction and earned nationally- recognized construction and workplace safety certifications including NCCER, MC3, ICCB, OSHA-10, and First Aid/CPR.

To connect Illinois Works graduates with contractors and job opportunities, the Office of Illinois Works created a Career Services team. Contractors may complete the Illinois Works Employer Form to submit job orders to the Career Services team which will trigger a job matching process that produces a list of graduates that meet the criteria specified by the contractor. The list provides contact information, resumes, construction trades interests and experience, and availability status along with earned certifications for each graduate. Contractors can then identify and directly contact graduates who available for employment and sponsorship into a DOL-registered apprenticeship program.

Contractors interested in learning more about Illinois Works can visit the Illinois Works Contractor Resources page which allows for easy navigation to Illinois Works program information. The Pre-Apprenticeship Program tab has information on how to connect with the over 1,000 program graduates across the state while the Bid Credit Program tab will allow them to fill out the Bid Credit Program Interest Form. This tab also includes information on upcoming trainings and other relevant tools and resources. The Apprenticeship Initiative tab contains information about the program's compliance goals and requirements and contact information to communicate directly with the team.

For more information above and beyond the Contractor Resources page, contractors can reach the Bid Credit Program directly via email at CEO.BidCreditProgram@Illinois.gov. ■

Rebecca Bailey joins the Illinois Works team as the Senior Bid Credit Program Manager for the Bid Credit Program. Ms. Bailey brings with her over twenty years of experience supporting the construction trades industry in both the public and private sector. During her career she has been responsible for a variety of roles in multiple construction trades. These positions have allowed her the opportunity to manage and overseeing all financial responsibilities from both sides of the desk. She is excited about utilizing her skills to help launch and manage the Illinois Works Bid Credit program.



SPRING 2024 LEGISLATIVE SESSION IMPORTANT DATES

March 15, 2024 – *Committee Deadline (Senate)*

April 5, 2024 – *Committee Deadline (House)*

April 12, 2024 – *Third Reading Deadline (Senate)*

April 19, 2024 – *Third Reading Deadline (House)*

May 3, 2024 – *Committee Deadline (Senate and House)*

May 17, 2024 – *Third Reading Deadline (Senate and House)*

May 24, 2024 – *Adjournment*

May 25 - May 31, 2024 – *Contingent Budget Hold Dates*