



End of Session Legislative Update – May 31, 2023

The Illinois General Assembly concluded the spring 2023 legislative session on Saturday, May 27th. They worked past the scheduled adjournment date of May 19th but wrapped up before the traditional May 31st deadline. The fall veto session will convene on October 24-26 and November 7-9. In total, more than 6,500 bills were introduced this year, 4,498 House bills and 2,985 Senate bills – 565 bills were approved by both chambers that will be sent to Governor Pritzker for approval. The legislature has 30 days to present a bill to the Governor, and the Governor has 60 days after receiving the bill to sign, veto or issue an amendatory veto.

The Illinois General Assembly approved a budget for FY 24 that appropriates \$50.6 billion in general revenue funds and \$4 billion in new capital appropriations. In addition, lawmakers voted to expand the state’s bonding authority. The additional bonding will cover capital projects and infrastructure investments. Lead budget negotiators for the super-majority Democrats describe the FY 24 spending plan as balanced and fiscally responsible; while Republicans in both chambers were critical of the plan and did not vote in favor of it. Despite objections from their Republican colleagues, the super-majority Democrats approved **SB 250 (FY 24 budget)** and **HB 3817 (FY 24 budget implementation bill)** which will soon head to Governor Pritzker’s desk for approval.

The FY 24 spending plan includes a \$250 million investment into early childhood education, provides additional MAP grant funding for community college students, invests in business development, and makes full payments to the state’s required debt obligations, including pensions and the remaining back logged bills.

Additional budget highlights include:

Higher Education

- \$100 million in additional MAP grant funding, ensuring everyone at or below the median income can go to community college for free.
- \$100 million increase for public universities (\$80.5 million) and community colleges (\$19.4 million).

K-12

- \$350 million for K-12 evidence-based funding formula.
- \$45 million for the first year of a three-year pilot program to fill teacher vacancies.

- \$3 million to expand access to computer science coursework.
- \$1.6 million to launch Dolly Parton’s Imagination Library statewide.

Fighting Poverty

- HOME ILLINOIS received an \$85 million increase, bringing state funding to over \$450 million. HOME ILLINOIS supports homelessness prevention programs, affordable housing, and other programs.
- \$20 million investment in a new Illinois Grocery Initiative to expand grocery access to underserved communities and “food deserts”.

Economic Development

- \$400 million to close major economic development deals and attract businesses and jobs to the state.
- Expanded workforce development programs to build a pipeline of employees prepared to work in data centers, electric vehicles, and the clean energy industries.
- \$20 million to Rebuild Illinois Downtowns and Main Streets Capital Program.
- \$40 million for forgivable loans to launch more social equity cannabis businesses.
- \$10 million to fund a “one-stop business portal” to foster entrepreneurship.

Health and Human Services

- Nearly \$75 million increase for DCFS to hire 192 staff, expand training and protection, increase scholarships for youth in care, and improve facilities.
- \$22.8 million in funding to begin implementing the new Children’s Behavioral Health Transformation Initiative.
- \$18 million increase to support reproductive health initiatives.
- \$24 million for a rate increase for home workers who assist the elderly, increased outreach to the elderly, and an increase for Adult Day Service.
- Continued funding for the \$250 million Reimagine Public Safety Act to prevent gun violence and expanded funding for youth employment programs.
- \$53.5 million to overhaul IDPH disease monitoring IT and prepare for future public health emergencies.
- Over \$200 million increase to better serve Illinoisans with developmental disabilities.

In addition to approving the FY 24 spending plan, lawmakers also addressed other important issues, including:

In the weeks leading up to the spring session adjournment date, IMSCA heard rumors that a comprehensive procurement omnibus bill would be unveiled before legislators adjourned for the summer. **HB 2878 Senate Amendments 2 and 3 (Rep. Hoffman/Sen. Castro)** was introduced on May 19th. The bill includes previously introduced stand-alone legislation and makes significant changes to the Illinois Procurement Code, Public Construction Bond Act and other statutes that are important to contractors. HB 2878 as amended includes the following provisions:

- **IMSCA’s proposed retainage reduction language (IMSCA’s 2023 top legislative priority).** The provision amends the Public Construction Bond Act to provide that **retainage may be withheld at a rate of 10% for the first half of a public construction project but reduced to 5% upon 50% completion.** This provision will apply to every county, township, municipality, municipal corporation, school district, school board, forest preserve district, park district, fire protection district, sanitary district, and all other local governmental units.
- **Single Prime Procurement.** Beginning January 1, 2024, the Capital Development Board (CDB) can determine if the single prime delivery method is to be pursued; includes language allowing CDB to use single prime procurement and establishes factors to be considered by CDB. Parameters of use for institutions of higher education to use the single prime delivery method remain intact through January 1, 2026.
- **Veterans Preferences.** Amends the definition of “small business”. Changes the definition to a business with gross sales of less than \$150 million.
- **Creates the Reimagining Hotel Florence Act.** Allows the Illinois Department of Natural Resources to enter a public/private partnership that will allow Hotel Florence to be reactivated.
- **Contractor Diversity.** Requires corporations that contract with the State to include as part of its annual report to the Commission on Diversity, Equity and Inclusion a list of its professional services suppliers (legal, accounting, consulting, etc.) by category; corporations who submit supplier diversity reports to the Illinois Commerce Commission are exempted from this requirement. This provision sunsets on July 1, 2028.
- **Requests for Waiver of Aspiration Goals – BEP.** Requests for waivers will be evaluated as to whether or not “good faith” can be established.
- **Public Institutions of Higher Education - Exemptions.** Provides that the following expenditures made by institutions of higher education are exempt from the Procurement Code: (i) procurement expenditures for contracts entered into under the Public University Energy Conservation Act; and (ii) procurement expenditures for advertising or for the distribution of advertising.

- **Public Private Partnership for Transportation Act.** Amends the Act to remove the term “transportation agency” and replaces it with “responsible public entities”. Responsible public entity means “the means the Department of Transportation, the Illinois State Toll Highway Authority, and any county, municipality, or other unit of local government”.
- **Public Construction Bond Act.** Amends the Public Construction Bond Act to increase the bond threshold from \$50,000 to \$150,000 for all public construction projects; allows local governments to require a bond for projects under \$150,000 by approval of an ordinance or resolution; increases the bond threshold for all Illinois Department of Transportation and Illinois State Tollway projects to \$500,000. These provisions sunset on January 1, 2029.
- **Vendor Political Contribution Limits.** Makes various changes to current provisions; provides that each business entity whose aggregate pending bids and proposals on State contracts total more than \$50,000 shall register with the State Board of Elections and are prohibited from providing political contributions to constitutional office holders (Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller and Treasurer).

HB 2878 as amended received bi-partisan support in both chambers. The bill will soon head to Governor Pritzker for his approval.

SB 1570 as amended (Sen. Lightford, Rep. DeLuca) grants municipalities and school districts 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. 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 both chambers.**

SB 2192 (Sen. Villivalam, Rep. Davis) amends the Illinois Procurement Code 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 the reasons why the 4 bids were rejected. The CPO shall submit a certified copy to the bidder the reason(s) for the rejection. As amended, this bill applies to the Department of Transportation, the Capital Development Board, and the State Toll Highway Authority. **SB 2192 was approved by both chambers.**

SB 2368 as amended (Sen. Koehler, Rep. Johnson) creates a baseline 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”. SB 2368 as amended 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. **SB 2368 was approved by both chambers.**

HB 2300 (Rep. Nichols/Sen. Castro) amends the Illinois Works Apprenticeship initiative. The Illinois Works program allows contractors to earn bid credits toward future projects for employing apprentices on public projects who have completed the Illinois Works Pre-apprenticeship program. Some provisions of the Act became effective on June 28, 2019, and others became effective on December 10, 2019. The enabling legislation (SB 534) was approved in conjunction with the Rebuild Illinois capital program to ensure minorities had access to apprenticeship programs and the opportunity to participate in the impending influx of public construction projects. The program is administered by the Department of Commerce and Economic Opportunity (DCEO) and includes projects managed by state agencies including IDOT and CDB. HB 2300 as amended adds graduates of two additional pre-apprenticeship programs to meet the goals established by the program (Illinois Climate Works and the Highway Construction Careers Training Program), changes penalties for “failure to comply” with the program to “intentional failure to comply”, and contractors and union locals will be provided a list of program graduates to they can be contacted for employment opportunities. **HB 2300 was approved by both chambers.**

HB 2492 as amended (Rep. Williams, Sen. Gillespie) 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. 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 but did not advance in the Senate.**

HB 2845 (Rep. Vella/Sen. Loughran Cappel) amends the Prevailing Wage Act to provide that the definition of “public works” also includes the removal, hauling, and transportation of biosolids, lime sludge, and lime residue from a water treatment plant or facility and the disposal of biosolids, lime sludge, and lime residue removed from a water treatment plant or facility at a landfill. **Despite opposition from various stakeholders, HB 2845 was approved by both chambers.**

HB 3448 as amended (Rep. Evans, Jr., Sen. Castro) amends the Wage Payment & Collection Act to provide that a notice shall be posted in one or more places accessible to all laborers, workers, and mechanics on the job site a summary of specified requirements of the Act and information pertaining to the filing of a complaint. HB 3448 as amended further provides that one copy of the notice at a job site shall satisfy the notice requirement for the primary contractor and all subcontractors. **HB 3448 was approved by both chambers.**

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. It is important to read the entire Act regarding the changes proposed by HB 3491 as sections (h), (i), and (j) provide clarity to what party is responsible for failure to provide notice and pay the prevailing wage. **Despite opposition from the construction and business industries, including IMSCA, HB 3491 was approved by both chambers.**

HB 3792 (Rep. Walsh, Jr./Sen. Stadelman) amends the Prevailing Wage Act to provide that the definition of “public works” includes all construction projects involving fixtures or permanent attachments affixed to light poles that are owned by a public body, including street light poles, traffic light poles, and other lighting fixtures paid for wholly or in part with public funds. **HB 3792 was approved by both chambers.**

House Joint Resolution 23 (Rep. Stava-Murray/Sen. Cunningham) is an initiative of the International Union of Operating Engineers Local 150. The resolution received bipartisan support in both chambers and allows the Illinois Department of Transportation to pursue a Public Private Partnership to fund a construction project expanding I-55. The proposed expansion includes the I-55 corridor from I-355 to I-90/I-94. In addition, the proposed expansion includes the use of “managed lanes”; which is a type of highway lane that is administered via a management scheme such as lane use restrictions and variable tolling. HJR 23 was strongly opposed by environmental groups who argued that this expansion will lead to increased air pollution and cause further harm to environmental justice communities. Environmental justice organizations also opposed HB 2878 due to the expansion of the Public Private Partnership for Transportation Act to include other public entities.

The spring 2023 legislative session was a busy one for IMSCA. All in all, it was a successful one for our association. **Thank you to everyone who participated in discussions on these issues and others that required IMSCA’s attention.**

If you have questions regarding this information, please don’t hesitate to contact Jessica Newbold Hoselton by calling 217.523.4361 or by email at jnewbold@boldnewstrat.com.