



Legislative Update February 21, 2020

Governor JB Pritzker delivered his second annual Budget Address on Wednesday, February 19th. In his opening remarks, Governor Pritzker referred to himself as an “irresponsible optimist” and closed his speech with encouraging Illinoisans that our fiscal issues are not insurmountable. Not surprising to many, Governor Pritzker used his budget address as a marketing tool for his marquee policy initiative – a constitutional amendment to move Illinois from a “flat” income tax rate to a “graduated” income tax rate. The constitutional amendment will be on the November ballot for voter approval.

Governor Pritzker proposed two budgets: one prepared for the event the graduated income tax initiative fails and the other if the tax initiative succeeds. Republicans lauded this tactic as a mere “sales pitch” for his tax initiative, while Democrats stated they believe the Governor outlined the hard work and choices lawmakers will have to make in the coming months.

The budget plan presented this week includes \$45 million in revenue from the legalization of recreational cannabis, \$225 million in savings through government efficiencies, \$25 million in late payment interest savings, \$25 million in spending reductions at the Department of Corrections and \$15 million in enhanced revenue collections from the Department of Revenue. Republicans stated even more cost savings can be found if Governor Pritzker commits to negotiating the budget in a bi-partisan manner.

The proposed budget includes the full \$8.6 billion contribution to the state’s pension fund as mandated by law, a \$147 million increase in funding to the Department of Children and Family Services, and an additional \$50 million to Monetary Award Program grants and added investments in early childhood education and other social service programs. All of these proposed expenditures will be met with or without approval of the graduated income tax plan.

If the graduated income tax plan fails in November, Governor Pritzker outlined spending reductions that would have to be made. Areas in the budget that would be impacted by the Governor’s proposed spending cuts include school districts, Medicaid provider rates, senior-based community programs and local governments. In addition, a state law passed in 2017 sets a target goal for additional K-12 education funding at \$350 million. If the graduated income tax succeeds, this level of funding would be met – but if it fails, the level of added funding for K-12 would be reduced to \$200 million.

The budget address was met with mixed reviews from both Democrats and Republicans. Democrats weren't happy to see the areas of proposed cuts if the graduated income tax fails; while Republicans accused the Governor of taking a "my way or the highway" approach.

The bill introduction deadline was February 14th. IMSCA staff combed over hundreds of proposed bills – paying close attention to those that have the biggest impact on the Illinois construction industry. Those bills include:

SB 3427 (Sen. Crowe) is an IMSCA legislative initiative. SB 3427 amends Sections 7 and 24 of the Mechanics Lien Act. These sections describe the requirements for contractors and subcontractors to perfect their mechanic liens for work performed on Illinois real property. Subcontractors, but not contractors, must serve a notice on the property owner within 90 days of the subcontractors' last date of furnishing labor or materials. SB 3427 seeks to permit the notice to be served within 90 days of the completion of the contractor's contract with the owner. This change will essentially place subcontractors and general contractors on the same schedule for perfecting their liens.

SB 3496 (Villivalam) is also an IMSCA legislative initiative. SB 3496 seeks to renew a sunset provision in current law (P.A. 97-966) that extends the time a commercial construction project may last and still permit the filing of a mechanics lien from 3 to 5 years. The current law contains a sunset provision that is set to expire this year. SB 3496 proposes another 5 year extension to this law.

SB 2975 (Ellman) and **HB 4605 (Connor)** are companion bills proposing to mandate groundwater monitoring at Clean Fill (CCDD/USFO) sites. IMSCA, along with many other construction industry associations oppose these bills. CCDD sites are limited by law to only accept clean soil, broken up concrete (without protruding rebar), rock, stone, bricks and reclaimed asphalt pavement. The overwhelming majority of material going into CCDD sites is uncontaminated soil. The costs of mandated groundwater monitoring would force many clean fill operators to close. This action would force clean material to be hauled to landfills where tipping fees are several times higher and often much farther distances; which would in turn increase construction costs.

SB 3185 (Munoz) and **HB 5345 (Kifowit)** propose to remove the parameters in current law that protect multiple prime bidding with the Capital Development Board. The Capital Development Board's current statutory authority to use the single prime delivery method states "the CDB shall not use the single prime delivery method for more than 50% of the total number of projects bid for each fiscal year". This protective language is removed in SB 3185 and HB 5345. In addition, both of these bills create a pilot program to allow institutions of higher education to use the single prime delivery method. Representative Kifowit is interested in meeting with contractors who deal with single and multiple prime contracts. Her goal is to work toward clearly defining the parameters of using single vs. multiple prime and attempt to create standards of use for both procurement methods. Representative Kifowit's ultimate goal is to work toward

negotiated language and amend HB 5345. IMSCA will provide updates as these negotiations move forward.

SB 3330 (Rose) and **SB 3331 (Rose)** seeks to repeal all current statutes that provide the state the authority to enter in to energy performance contracts, and creates the Energy Performance Contracting Act. These bills would allow any governmental unit to enter into these contracts. The bill also seeks to designate the Smart Energy Design Assistance Center (SEDAC) as the lead agency for the development and promotion of performance contracts in government units throughout the state. IMSCA along with our design and construction industry partners are skeptical of the concept of “performance contracting”. Performance contracting has been around for some time, and is essentially an alternate means of procuring public construction projects under the guise of “energy savings”. Many abuses of performance contracting have been documented – including performing work that goes above and beyond the original intent of the law. If the state continues to pursue alternative funding mechanisms, it’s important to IMSCA that Illinois contractors know how to access these opportunities and the competitive bid process remains intact.

Please mark your calendars and plan to attend **IMSCA’s 2020 Lobby Day on Tuesday March 24th at The Inn at 835 in Springfield**. IMSCA staff encourages you to invite your colleagues to attend this important event. We will discuss the above mentioned issues and more that are important to the Illinois construction industry and your business. Full event details can be found on IMSCA’s website at www.imsca.org. IMSCA’s Lobby Day is generously sponsored by the ***Finishing Contractors Association of Illinois, Underground Contractors Association of Illinois*** and ***ASA Chicago – Association of Subcontractors and Affiliates***. Thank you to our sponsors for your generous support!

IMSCA staff looks forward to representing the Illinois sub-contracting industry in Springfield this legislative session. We are confident that by working alongside our members IMSCA will have another legislatively successful year.

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