



End of Session Legislative Update – April 11, 2022

As the sun was beginning to rise on Saturday, April 9th, the Illinois General Assembly adjourned to the call of the Speaker of the House and the Senate President, thereby concluding the 2022 Spring Session. Although the spring legislative session was condensed and adjourned over a month earlier than usual – lawmakers tackled many important issues including approval of the FY 23 spending plan, crime, and tax relief for working families. Other legislative priorities, such as the Unemployment Trust Fund Deficit, and comprehensive ethics reform were left unresolved.

Lead budget negotiators for the Democrats describe the FY 23 spending plan as a fiscally responsible plan that utilizes extra revenue to support working families, addresses pension shortfalls, and sets the state on a responsible path for the future. House and Senate Republicans responded to the spending plan with skepticism and criticized the plan as an “election year gimmick”. Republicans in both chambers were advocating for permanent tax property tax relief and other structural changes, which weren’t included in the final plan. Despite objections from their Republican colleagues, the super-majority holding Democrats approved **HB 900 (FY 23 budget)** and **HB 4700 (FY 23 budget implementation bill)** which will soon head to Governor Pritzker’s desk for his approval.

The \$46.5 billion budget plan includes \$1.8 billion in temporary tax relief, a \$1 billion deposit into the state’s “rainy day” fund, \$1.2 billion toward debt payments, and \$200 million toward public safety measures.

The \$1.8 billion tax relief package includes the following measures:

- Suspends the state’s 1% sales tax on groceries for one year.
- Freezes the Motor Fuel Tax (MFT) at a rate of \$.39 per gallon for six months. The MFT was scheduled to increase to \$.41 per gallon on July 1st. The MFT freeze was made possible by diverting incoming revenue to the road fund; ensuring the road fund will not lose revenue because of the delayed MFT increase.
- Doubles the property tax rebate.

- Permanently expands the earned income tax credit for low-income workers 18-24 years old without children, adults 65 years and older, and undocumented immigrants.
- Provides direct checks to working families; \$50 per individual and \$100 per child (up to three children per family). Checks will be sent to single-filers earning less than \$200,000 and joint-filers earning up to \$400,000.
- Provides a tax credit to families and teachers for the purchase of school supplies.

\$1.2 billion toward the state’s debt includes the following payments:

- \$1 billion for the Budget Stabilization fund.
- An additional \$200 million to the required \$500 million pension payment.
- These debt payments are in addition to the debt payments outlined in SB 2803, which included \$230 million for College Illinois, \$898 million for the Group Health Insurance bill backlog and \$2.7 billion toward the UI Trust Fund deficit. These payments were appropriated using the state’s remaining American Rescue Plan funds.

The \$200 million in public safety appropriations is allocated for the investment in tools needed by law enforcement to prevent crimes, and additional funding for crime prevention programs.

In addition to approving the FY 23 spending plan, lawmakers also addressed other important issues, including:

Retail Theft Prevention: HB 1091

The Illinois Retail Merchants Association worked in partnership with Illinois Attorney General, Kwame Raoul, in crafting a comprehensive proposal aimed at combatting organized retail theft. HB 1091 includes dedicating state funds to investigate and prosecute criminal rings who carry out these thefts, requires more oversight of third-party marketplaces where stolen goods are sold, creates a statewide intelligence gathering platform to facilitate better coordination between retailers and law enforcement. HB 1091 builds upon the existing Organized Retail Crime Task Force, which is housed within the Office of the Attorney General.

“Ghost Gun” Prohibition: HB 4383 Senate Amendment #2

If approved by Governor Pritzker, Illinois is poised to become the twelfth state to enact a law intended to protect residents from ghost guns. HB 4383 as amended includes the following protections: prohibits the sale of un-serialized gun parts that can be turned into guns, requires serial numbers on guns manufactured with a 3D printer, creates

standards for serialization for existing un-serialized firearms at federally licensed firearms dealers and other federal licenses authorized to imprint serial numbers.

Broadband and Energy: SB 3866 House Amendment #4

SB 3866 as amended is a trailer bill to the Clean Energy Jobs Act that was approved by the Illinois General Assembly last fall. Among other items, this legislation extends the prohibition of electric utilities from providing broadband services to its retail customers.

Additional issues that were debated by the Illinois General Assembly that are of particular interest to the construction industry include:

In the weeks leading up to the spring session adjournment date, IMSCA heard rumors that the Senate Democrats planned to unveil a procurement reform package before legislators adjourned for the summer. **HB 2770 Senate Amendments #2 and #3 (Sen. Tony Munoz/Rep. Katie Stuart)** was introduced on Friday, April 8th. The bill includes previously introduced legislation and placed together in a larger package. HB 2770 makes the following changes to the procurement code including:

- **Requires the Capital Development Board (CDB) and the Illinois Department of Transportation (IDOT) to prepare quarterly reports on the status of change order requests that have not been acted upon within 45 days.** The reports must be published on the CDB and IDOT websites. The first report is scheduled to be published on or before January 15, 2023. This portion of the procurement changes were included in HB 4384, which was in initiative of the Federation of Women Contractors, the Hispanic American Construction Industry Association, and the Black Contractors Owners and Executives. **The goal of this provision is to create more transparency in the change order process.**
- Provides that a lease of property owned by a public institution of higher education may exceed 10 years under specified circumstances (SB 3828 and SB 3829).
- **Requires construction agencies procuring construction and construction-related professional services to make reasonable efforts to contract with Illinois businesses.** Projects with a total construction cost of more than \$100,000 will be provided a bid preference to a responsible bidder that is an Illinois business.
- **Provides that it is the public policy of the State of Illinois for each purchasing agency to maximize the use of goods, products and materials that are produced in the United States.** In addition, HB 2770 as amended provides if there is a tie between two bidders or offerors who have certified that they will provide products manufactured in the United States, the bidder or offeror

that certifies it will provide products manufactured in Illinois shall be given bid preference.

- **Creates the State Procurement Task Force and provides the task force shall survey State procurement processes and make recommendations** to (i) ensure that the process is equitable and efficient; (ii) provide departments with the flexibility needed to be successful; (iii) change the current structure of the procurement process; (iv) update the process to reflect modern procurement methods; (v) increase women-owned and minority-owned business participation; (vi) increase participation by State vendors; and (vii) reduce costs and increase efficiency of State procurements.
- **Amends the Business Enterprise for Minorities, Women, and Persons with Disabilities Act.** Provides that the Business Enterprise Council shall have the authority and responsibility to adopt a procedure to grant automatic certification to businesses holding a certification from specified entities and to develop and maintain a repository for specified non-certified vendors.

HB 2770 as amended was unanimously approved by both chambers. The bill will soon head to Governor Pritzker for his approval.

Although IMSCA removed our opposition to **HB 5412 (Leader Marcus Evans, Jr./Sen. Cristina Castro)** with the adoption of Amendment 3, which included language exempting signatories of collective bargaining agreements, IMSCA continued to pay close attention to the movement of the legislation. In a procedural move aimed at demonstrating negotiations with the remaining opponents were continuing in good faith, a trailer bill, **HB 4600 Senate Amendments #2 and #3 (Sen. Castro/Leader Marcus Evans, Jr.)** was introduced and moved through the legislative process in conjunction with HB 5412. HB 4600 Senate Amendment #2 provides that if and only if HB 5412 becomes law, then the Illinois Wage Payment and Collection Act is amended as follows:

Provides that for all contracts entered into on or after July 1, 2022, a primary contractor making or taking a contract in the State for the erection, construction, alteration, or repair of a building, structure, or other private work in the State where the aggregate costs of the project exceed \$20,000 shall assume, and is liable for, any debt owed to a claimant by a subcontractor at any tier acting under, by, or for the primary contractor for the wage claimant's performance of labor included in the subject of the contract between the primary contractor and the owner.

HB 4600 Amendment #2 also provides the following exemptions from liability: (i) primary contractors who are parties to a collective bargaining agreement on the project where the work is being performed; and (ii) primary contractors making or

taking a contract in the State for the alteration or repair of an existing single-family dwelling or to a single residential unit in an existing multi-unit structure.

HB 4600 as amended also creates the Bond Reform in the Construction Industry Task Force. **The Task Force shall study innovative ways to reduce the cost of insurance in the private and public construction industry while protecting owners from risk of nonperformance.** The Task Force shall report its findings and recommendations to the General Assembly no later than March 1, 2023. **HB 5412 was approved by the Senate with a vote of 38-18, while HB 4600 as amended was approved 39-18. The House concurred with HB 4600 as amended with a vote of 74-40.** These bills will soon head to Governor Pritzker for his approval.

HB 5035 (Rep. Will Davis/Sen. Ram Villivalam) amends the Public Construction Bond Act to provide that the **Department of Transportation may implement a 5-year pilot program to allow a contractor to provide a non-diminishing irrevocable bank letter of credit in lieu of specified bond requirements on contracts under \$500,000.** The projects selected by the Department of Transportation for this pilot program must be classified by the Department as low-risk scope of work contracts. **HB 5035 received bi-partisan support and was approved by both chambers.**

HB 4772 as amended (Rep. McLaughlin/Senate Republican Leader Dan McConchie) creates the county Design-Build Authorization Division in the Counties Code, thereby allowing county governments to utilize the design-build delivery method. HB 4772 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, requirements of reports and evaluation of contracts and provides that nothing shall prevent a county from using a qualification-based selection process for design professionals or construction managers for design-build projects. **HB 4772 received bi-partisan support and was approved by both chambers.**

SB 3625 (Sen. Melinda Bush/Rep. Kathleen Willis) extends the sunset for the Capital Development Board's statutory authority to use the design-build delivery method through 2027. SB 3625 do not make any other changes to the statute. **SB 3625 was approved by both chambers.**

SB 2981 (Sen. Ram Villivalam/House Asst. Majority Leader Marcus Evans, Jr.) allows the Illinois Department of Transportation (IDOT) and the Tollway to utilize "Progressive Design Build" (PDB). Proponents of SB 2981 report that PDB facilitates involvement of the design-build team during the earliest stages of the owner's project

development, and PDB is becoming the preferred model for many states. This legislation is drafted similarly to existing design build statutes. **SB 2981 received bi-partisan support and was approved by both chambers.**

Additional measures that didn't make it over the finish line before adjournment include:

HB 3220 (Rep. Curtis Tarver, II/Sen. Kim Lightford) amends the Business Enterprise for Minorities, Women and Persons with Disabilities Act. HB 3220 was introduced in 2021 and originally included a return of funds provision that was concerning to vendors who participate in public construction projects. HB 3220 was amended this spring to remove the return of funds provision. However, the amendment created additional areas of concern. HB 3220 as amended was approved by the House but failed to advance in the Senate.

HB 4116 as amended (Rep. Bob Morgan/Sen. Robert Peters) amends the Right to Privacy in the Workplace Act to provide that an employer may not take adverse action against an employee for using lawful products, which includes marijuana. HB 4116 as amended includes a definition of "safety sensitive" position. The employer industry was concerned that the definition of "safety sensitive" didn't go far enough to protect employers from potential litigation. **The sponsors of HB 4116 were reluctant to modify the definition of "safety sensitive". HB 4116 was approved by the House but failed to advance in the Senate.**

HB 5262 (Rep. Marty Moylan) creates the Infrastructure Delivery and Program Transparency Act. This bill seeks to create the position of "Infrastructure Implementation Coordinator" within the Office of the Secretary of Transportation. HB 5262 requires the coordinator to track budgets and construction schedules of projects funded by the Rebuild Illinois capital plan and to make this information publicly available. **This legislation received overwhelming bi-partisan support in the House with 109 votes in the affirmative. However, HB 5262 languished in the Senate Assignments Committee and didn't advance prior to adjournment.**

Lawmakers covered a lot of ground and approved many important measures this spring. However, an important issue still in need of a legislative fix is the Unemployment Trust Fund deficit. Negotiators on behalf of organized labor recently announced an agreement had been reached to delay employer tax increases and worker benefit reductions, but they are at an impasse in finding solutions to eliminate the remaining deficit. **SB 157 (Sen. Michael Hastings/Rep. Michael Zalewski)** was approved before lawmakers left town last week. SB 157 is a stop-gap plan aimed at delaying triggers in state law that will increase taxes on employers and decrease worker benefits. This action is delayed until January 1, 2023. **Although SB 157 provides stakeholders and lawmakers with more time to address the issue, all parties should return to the**

negotiating table to craft solutions to address the chronic underfunding of the UI Trust Fund.

Now that the Illinois General Assembly has adjourned for the summer, the political focus in the coming months will turn to the Primary Elections which are scheduled for June 28th. While it's possible the General Assembly will return to Springfield prior to the June Primary Election to take up any unresolved issues, it seems unlikely. IMSCA will continue to monitor for any announcements of additional session days. A calendar for the 2022 Fall Veto Session dates has not been released.

The spring 2022 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 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.