



ICIC Legislative Update – February 18, 2022

This week, and as scheduled, the Illinois General Assembly convened in Springfield for legislative session. Floor action in the House and Senate was conducted in person, while the committee hearings in both chambers were conducted virtually. The Senate has adjourned for the week, but the House is scheduled to be in session today (February 18).

With respect to next week, neither chamber will be in session on Monday due the Presidents' Day holiday, but both chambers are scheduled to return to Springfield for session on Tuesday through Friday (i.e. February 22-25). Currently, the "deadline of importance" in the House is the committee deadline for the approval of substantive House bills, which is today (i.e. Friday, February 18th). The "deadline of importance" in the Senate is the third reading (final passage) deadline for substantive Senate Bills, which is Friday, February 25th.

ICIC remains laser focused on opposing **HB 5412 (Rep. Marcus Evans, Jr.)**. This legislation amends the Wage Payment & Collection Act and seeks to hold general contractors and subcontractors liable for wage claims at any tier on a private construction project. The proponents of HB 5412 (Mid-American Carpenters Regional Council) introduced Amendment #1 this week. The amendment that emerged this week was reported to be an effort to compromise with opponents by creating an exemption for union contractors. The amendment adds two additional Sections to the underlying bill, and states the following:

(g) Nothing in this Section shall supersede or modify the express terms contained in any collective bargaining agreement relating to the primary contractor's liability to pay the wages of its subcontractor's employees.

(h) Prior to the commencement of any civil action, a claimant or a representative of a claimant shall provide written notice to the employer and to the primary contractor detailing the nature and basis for the claim. Failure of the employer or the primary contractor to resolve the claim within 10 days after receipt of this notice, or during any agreed upon period extending this deadline, may result in the filing of a civil action to enforce the provisions of this Act.

After careful review of the amendment and consultation with ICIC members, it was determined more work needs to be done to ensure our members are protected from the additional liability that will be created by HB 5412, should it become law.

HB 5412 as amended was approved by the House Labor & Commerce Committee this week. It is important to note, the sponsor of the legislation, Leader Marcus Evans, Jr., made a commitment to continue work on the bill with stakeholders and return the bill to committee with an additional amendment. Leader Evans' commitment to return to committee provides ICIC an opportunity to continue working on this bill. We are currently working on developing language that more clearly provides an exemption for signatories of collective bargaining agreements than what is included in HB 5412 as amended.

HB 2538 Amendment #1 (Rep. Denyse Stoneback) sets forth requirements for the licensure of Illinois contractors. As currently drafted, this proposal provides that no person may call themselves "general contractor" without a license from the Illinois Department of Financial & Professional Regulation. Although the legislation uses the term "general contractor", the bill specifically states application to various construction activities. Despite opposition from ICIC and other construction industry associations, **HB 2538 was approved by the House Labor & Commerce Committee this week.**

HB 4432 (Rep. Dave Vella) amends the Prevailing Wage Act to expand the definition of "public works" to include construction projects in a designated redevelopment project area as defined in the Tax Increment Allocation Redevelopment Act and construction projects in a River Edge Redevelopment Zone. Amendment #1 provides prevailing wage applies to projects in these zones with an aggregate cost of at least \$25,000.00. ICIC is opposed to HB 4432. **HB 4432 was not approved by the House Labor & Commerce Committee this week.**

HB 4551 (Rep. Justin Slaughter) creates the Second Chance State Contracts Act. This legislation sets forth requirements for contractors working on public construction projects to hire "impacted individuals" as apprentices to work on public works projects. Impacted individuals includes Illinois residents who have been arrested or convicted of committing a felony. In addition to outlining hiring requirements, HB 4551 also includes onerous reporting requirements contractors must follow to ensure compliance with the Act. For these reasons, ICIC opposes HB 4551. **This legislation was not approved by the State Government & Administration Committee this week.**

HB 5504 (Rep. Tim Butler) requires the Department of Transportation and the Capital Development Board to develop policies regarding maximum acceptable global warming potential for specified eligible materials used in public projects. ICIC is opposed to HB 5504. **HB 5504 was not approved by House Energy & Environment Committee this week.**

HB 5564 (Rep. Larry Walsh, Jr.) amends the Illinois Procurement Code to provide that when a state contract is awarded to the lowest responsible bidder, an otherwise qualified bidder who will fulfill the contract through the use of low embodied carbon concrete may be given preference over other bidders unable to do so. ICIC is opposed to HB 5564. **HB 5564 received unanimous approval by the House State Government Administration Committee and advanced to 2nd Reading.**

HB 5550 (Rep. Justin Slaughter) would bring anyone who transports construction materials and other aggregates to or from a public works project under the requirements of the Prevailing Wage Act. HB 5550 conflicts with the federal prevailing wage statute (Davis-Bacon Act) and would circumvent the collective bargaining process currently used in negotiations. In addition, this proposal will likely lead to increased construction costs in Illinois. For these reasons, ICIC opposes HB 5550. **HB 5550 was not approved by the House Labor & Commerce Committee this week.** ICIC does not anticipate this bill will move forward this session.

SB 3795 (Sen. Julie Morrison/Rep. Joyce Mason) allows county governments to enter into design-build contracts. This legislation 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 and evaluation of contracts. Existing design-build laws in statute include the Capital Development Board, Public Building Commission, Chicago Park District, Park Districts, and most recently, the Forest Preserve District and Conservation District Design-Build Authorization Act. **ICIC supports SB 3795 as amended. This bill was approved by the Senate with unanimous support and will soon be debated in the House.**

Additional design-build related legislation includes **SB 3625 (Sen. Melinda Bush)** and **HB 4750 (Rep. Joyce Mason)**. These are companion bills that extend the sunset for the Capital Development Board's statutory authority to use the design-build delivery method through 2027. These proposals do not make any other changes to the statute, and ICIC supports these proposals. **SB 3625 advanced to Second Reading in the Senate; while HB 4750 was approved by the House Executive Committee this week.**

SB 2981 (Sen. Ram Villivalam) allows the Illinois Department of Transportation 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.** Most important to ICIC members, is the inclusion of language protecting contractors and other design build team members by providing that no member of the design build team may be removed without authorization to do so by the Transportation agency. After

careful review, ICIC is neutral on SB 2981. However, we will continue to monitor this bill for amendments that may be forthcoming from IDOT. **SB 2981 is assigned to the Senate Transportation Committee and is scheduled for a hearing on February 22nd.**

As the spring 2022 legislative session inches closer to the scheduled April 8th adjournment date, ICIC expects to be engaged in the issues listed above and others that may arise due to amendment introductions in the coming weeks. ICIC will continue to keep a watchful eye on legislative issues that are important to the Illinois construction industry.

If you have any questions regarding this information, please do not hesitate to contact Jessica Newbold Hoselton by calling 217.523.8044 or by email at jnewbold@boldnewstrat.com.