

SB3760



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB3760

Introduced 2/5/2026, by Sen. Willie Preston

SYNOPSIS AS INTRODUCED:

30 ILCS 550/1

from Ch. 29, par. 15

Amends the Public Construction Bond Act. Provides that the Department of Transportation and the Illinois State Toll Highway Authority shall require every contractor for public works to furnish, supply, and deliver a bond if the public works contract will cost more than \$10,000,000 (currently, \$500,000). Provides that local governmental units shall require a bond for public works projects costing over \$5,000,000 (currently, \$150,000) and may require a bond for public works projects valued at \$5,000,000 or less (currently, \$150,000 or less). Provides that certain bonding requirements apply until January 1, 2034 (currently, January 1, 2029).

LRB104 16548 HLH 29946 b

A BILL FOR

1 AN ACT concerning finance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Public Construction Bond Act is amended by
5 changing Section 1 as follows:

6 (30 ILCS 550/1) (from Ch. 29, par. 15)

7 (Text of Section before amendment by P.A. 104-168)

8 Sec. 1. Except as otherwise provided by this Act, until
9 January 1, 2034, ~~January 1, 2029,~~ all officials, boards,
10 commissions, or agents of this State, or of any political
11 subdivision thereof, other than a local governmental unit, in
12 making contracts for public work of any kind costing over
13 \$150,000 to be performed for the State, or of any political
14 subdivision thereof, other than a local governmental unit,
15 shall require every contractor for the work to furnish, supply
16 and deliver a bond to the State, or to the political
17 subdivision thereof entering into the contract, as the case
18 may be, with good and sufficient sureties. The surety on the
19 bond shall be a company that is licensed by the Department of
20 Insurance authorizing it to execute surety bonds and the
21 company shall have a financial strength rating of at least A-
22 as rated by A.M. Best Company, Inc., Moody's Investors
23 Service, Standard & Poor's Corporation, or a similar rating

1 agency. The amount of the bond shall be fixed by the officials,
2 boards, commissions, commissioners or agents, and the bond,
3 among other conditions, shall be conditioned for the
4 completion of the contract, for the payment of material,
5 apparatus, fixtures, and machinery used in the work and for
6 all labor performed in the work, whether by subcontractor or
7 otherwise.

8 Until January 1, 2034, ~~January 1, 2029~~, when making
9 contracts for public works to be constructed, the Department
10 of Transportation and the Illinois State Toll Highway
11 Authority shall require every contractor for those works to
12 furnish, supply, and deliver a bond to the Department or the
13 Authority, as the case may be, with good and sufficient
14 sureties only if the public works contract will cost more than
15 \$10,000,000 ~~\$500,000~~. The Department of Transportation and the
16 Illinois State Toll Highway Authority shall publicly display
17 the following information by website or annual report and
18 shall provide that information to interested parties upon
19 request:

20 (1) a list of each of its defaulted public works
21 contracts, including the value of the award, the adjusted
22 contract value, and the amount remaining unpaid by the
23 Department or Authority, as applicable;

24 (2) the number and the aggregate amount of payment
25 claims made under the Mechanics Lien Act along with the
26 number of contracts in which payment claims are made under

1 the Mechanics Lien Act;

2 (3) for each of its public improvement contracts,
3 regardless of the contract value, the aggregate annual
4 revenue of the contractor derived from contracts with the
5 State;

6 (4) for each of its public works contracts, regardless
7 of contract value, the identity of the surety providing
8 the contract bond, payment and performance bond, or both;
9 and

10 (5) for each of its public works contracts, regardless
11 of the bond threshold, a list of bidders for each public
12 works contract, and the amount bid by each bidder.

13 Until January 1, 2034, all officials, boards, commissions,
14 or agents of a local governmental unit, in making contracts
15 for public work of any kind costing over \$5,000,000 to be
16 performed for the local governmental unit shall require every
17 contractor for the work to furnish, supply, and deliver a bond
18 to the local governmental unit with good and sufficient
19 sureties. The surety on the bond shall be a company that is
20 licensed by the Department of Insurance authorizing it to
21 execute surety bonds and the company shall have a financial
22 strength rating of at least A- as rated by A.M. Best Company,
23 Inc., Moody's Investors Service, Standard & Poor's
24 Corporation, or a similar rating agency. The amount of the
25 bond shall be fixed by the officials, boards, commissions,
26 commissioners, or agents, and the bond, among other

1 conditions, shall be conditioned for the completion of the
2 contract, for the payment of material, apparatus, fixtures,
3 and machinery used in the work and for all labor performed in
4 the work, whether by subcontractor or otherwise. Until January
5 1, 2034, ~~January 1, 2029,~~ local governmental units may require
6 a bond, by ordinance or resolution, for public works contracts
7 valued at \$5,000,000 ~~\$150,000~~ or less.

8 On and after January 1, 2034, ~~January 1, 2029,~~ all
9 officials, boards, commissions, or agents of this State, or of
10 any political subdivision thereof, in making contracts for
11 public work of any kind costing over \$50,000 to be performed
12 for the State, or of any political subdivision thereof, shall
13 require every contractor for the work to furnish, supply and
14 deliver a bond to the State, or to the political subdivision
15 thereof entering into the contract, as the case may be, with
16 good and sufficient sureties. The surety on the bond shall be a
17 company that is licensed by the Department of Insurance
18 authorizing it to execute surety bonds and the company shall
19 have a financial strength rating of at least A- as rated by
20 A.M. Best Company, Inc., Moody's Investors Service, Standard &
21 Poor's Corporation, or a similar rating agency. The amount of
22 the bond shall be fixed by the officials, boards, commissions,
23 commissioners or agents, and the bond, among other conditions,
24 shall be conditioned for the completion of the contract, for
25 the payment of material, apparatus, fixtures, and machinery
26 used in the work and for all labor performed in the work,

1 whether by subcontractor or otherwise.

2 If the contract is for emergency repairs as provided in
3 the Illinois Procurement Code, proof of payment for all labor,
4 materials, apparatus, fixtures, and machinery may be furnished
5 in lieu of the bond required by this Section.

6 Each such bond is deemed to contain the following
7 provisions whether such provisions are inserted in such bond
8 or not:

9 "The principal and sureties on this bond agree that all
10 the undertakings, covenants, terms, conditions and agreements
11 of the contract or contracts entered into between the
12 principal and the State or any political subdivision thereof
13 will be performed and fulfilled and to pay all persons, firms
14 and corporations having contracts with the principal or with
15 subcontractors, all just claims due them under the provisions
16 of such contracts for labor performed or materials furnished
17 in the performance of the contract on account of which this
18 bond is given, when such claims are not satisfied out of the
19 contract price of the contract on account of which this bond is
20 given, after final settlement between the officer, board,
21 commission or agent of the State or of any political
22 subdivision thereof and the principal has been made."

23 Each bond securing contracts between the Capital
24 Development Board or any board of a public institution of
25 higher education and a contractor shall contain the following
26 provisions, whether the provisions are inserted in the bond or

1 not:

2 "Upon the default of the principal with respect to
3 undertakings, covenants, terms, conditions, and agreements,
4 the termination of the contractor's right to proceed with the
5 work, and written notice of that default and termination by
6 the State or any political subdivision to the surety
7 ("Notice"), the surety shall promptly remedy the default by
8 taking one of the following actions:

9 (1) The surety shall complete the work pursuant to a
10 written takeover agreement, using a completing contractor
11 jointly selected by the surety and the State or any
12 political subdivision; or

13 (2) The surety shall pay a sum of money to the obligee,
14 up to the penal sum of the bond, that represents the
15 reasonable cost to complete the work that exceeds the
16 unpaid balance of the contract sum.

17 The surety shall respond to the Notice within 15 working
18 days of receipt indicating the course of action that it
19 intends to take or advising that it requires more time to
20 investigate the default and select a course of action. If the
21 surety requires more than 15 working days to investigate the
22 default and select a course of action or if the surety elects
23 to complete the work with a completing contractor that is not
24 prepared to commence performance within 15 working days after
25 receipt of Notice, and if the State or any political
26 subdivision determines it is in the best interest of the State

1 to maintain the progress of the work, the State or any
2 political subdivision may continue to work until the
3 completing contractor is prepared to commence performance.
4 Unless otherwise agreed to by the procuring agency, in no case
5 may the surety take longer than 30 working days to advise the
6 State or political subdivision on the course of action it
7 intends to take. The surety shall be liable for reasonable
8 costs incurred by the State or any political subdivision to
9 maintain the progress to the extent the costs exceed the
10 unpaid balance of the contract sum, subject to the penal sum of
11 the bond.".

12 The surety bond required by this Section may be acquired
13 from the company, agent or broker of the contractor's choice.
14 The bond and sureties shall be subject to the right of
15 reasonable approval or disapproval, including suspension, by
16 the State or political subdivision thereof concerned. Except
17 as otherwise provided in this Section, in the case of State
18 construction contracts, a contractor shall not be required to
19 post a cash bond or letter of credit in addition to or as a
20 substitute for the surety bond required by this Section.

21 Prior to the completion of 50% of the contract for public
22 works, a local governmental unit may not withhold retainage
23 from any payment to a contractor who furnishes the bond or bond
24 substitute required by this Act in an amount in excess of 10%
25 of any payment made prior to the date of completion of 50% of
26 the contract for public works. When a contract for public

1 works is 50% complete, the local governmental unit shall
2 reduce the retainage so that no more than 5% is held. After the
3 contract is 50% complete, no more than 5% of the amount of any
4 subsequent payments made under the contract for public works
5 may be withheld as retainage.

6 Prior to the completion of 50% of the contract for public
7 works, the contractor and their respective subcontractors
8 shall not withhold from their subcontractors retainage in
9 excess of 10% of any payment made prior to the date of
10 completion of 50% of the contract for public works. When the
11 contract for public works is 50% complete, the contractor and
12 its subcontractors shall reduce the retainage so that no more
13 than 5% is withheld from their respective subcontractors.
14 After the contract is 50% complete, the contractor and its
15 subcontractors shall not withhold more than 5% of the amount
16 of any subsequent payments made under the contract to their
17 respective subcontractors.

18 When other than motor fuel tax funds, federal-aid funds,
19 or other funds received from the State are used, a political
20 subdivision may allow the contractor to provide a
21 non-diminishing irrevocable bank letter of credit, in lieu of
22 the bond required by this Section, on contracts under \$100,000
23 to comply with the requirements of this Section. Any such bank
24 letter of credit shall contain all provisions required for
25 bonds by this Section.

26 In order to reduce barriers to entry for diverse and small

1 businesses, the Department of Transportation may implement a
2 5-year pilot program to allow a contractor to provide a
3 non-diminishing irrevocable bank letter of credit in lieu of
4 the bond required by this Section on contracts under \$500,000.
5 Projects selected by the Department of Transportation for this
6 pilot program must be classified by the Department as low-risk
7 scope of work contracts. The Department shall adopt rules to
8 define the criteria for pilot project selection and
9 implementation of the pilot program.

10 In this Section:

11 "Local governmental unit" has the meaning ascribed to it
12 in Section 2 of the Local Government Prompt Payment Act.

13 "Material", "labor", "apparatus", "fixtures", and
14 "machinery" include those rented items that are on the
15 construction site and those rented tools that are used or
16 consumed on the construction site in the performance of the
17 contract on account of which the bond is given.

18 (Source: P.A. 102-968, eff. 1-1-23; 103-570, eff. 1-1-24.)

19 (Text of Section after amendment by P.A. 104-168)

20 Sec. 1. Except as otherwise provided by this Act, until
21 January 1, 2034, ~~January 1, 2029~~, all officials, boards,
22 commissions, or agents of this State, or of any political
23 subdivision thereof, other than a local governmental unit, in
24 making contracts for public work of any kind costing over
25 \$150,000 to be performed for the State, or of any political

1 subdivision thereof, other than a local governmental unit,
2 shall require every contractor for the work to furnish, supply
3 and deliver a bond to the State, or to the political
4 subdivision thereof entering into the contract, as the case
5 may be, with good and sufficient sureties. The surety on the
6 bond shall be a company that is licensed by the Department of
7 Insurance authorizing it to execute surety bonds and the
8 company shall have a financial strength rating of at least A-
9 as rated by A.M. Best Company, Inc., Moody's Investors
10 Service, Standard & Poor's Corporation, or a similar rating
11 agency. The amount of the bond shall be fixed by the officials,
12 boards, commissions, commissioners or agents, and the bond,
13 among other conditions, shall be conditioned for the
14 completion of the contract, for the payment of material,
15 apparatus, fixtures, and machinery used in the work and for
16 all labor performed in the work, whether by subcontractor or
17 otherwise.

18 Until January 1, 2034, ~~January 1, 2029~~, when making
19 contracts for public works to be constructed, the Department
20 of Transportation and the Illinois State Toll Highway
21 Authority shall require every contractor for those works to
22 furnish, supply, and deliver a bond to the Department or the
23 Authority, as the case may be, with good and sufficient
24 sureties only if the public works contract will cost more than
25 \$10,000,000 ~~\$500,000~~. The Department of Transportation and the
26 Illinois State Toll Highway Authority shall publicly display

1 the following information by website or annual report and
2 shall provide that information to interested parties upon
3 request:

4 (1) a list of each of its defaulted public works
5 contracts, including the value of the award, the adjusted
6 contract value, and the amount remaining unpaid by the
7 Department or Authority, as applicable;

8 (2) the number and the aggregate amount of payment
9 claims made under the Mechanics Lien Act along with the
10 number of contracts in which payment claims are made under
11 the Mechanics Lien Act;

12 (3) for each of its public improvement contracts,
13 regardless of the contract value, the aggregate annual
14 revenue of the contractor derived from contracts with the
15 State;

16 (4) for each of its public works contracts, regardless
17 of contract value, the identity of the surety providing
18 the contract bond, payment and performance bond, or both;
19 and

20 (5) for each of its public works contracts, regardless
21 of the bond threshold, a list of bidders for each public
22 works contract, and the amount bid by each bidder.

23 Until January 1, 2034, all officials, boards, commissions,
24 or agents of a local governmental unit, in making contracts
25 for public work of any kind costing over \$5,000,000 to be
26 performed for the local governmental unit shall require every

1 contractor for the work to furnish, supply, and deliver a bond
2 to the local governmental unit with good and sufficient
3 sureties. The surety on the bond shall be a company that is
4 licensed by the Department of Insurance authorizing it to
5 execute surety bonds and the company shall have a financial
6 strength rating of at least A- as rated by A.M. Best Company,
7 Inc., Moody's Investors Service, Standard & Poor's
8 Corporation, or a similar rating agency. The amount of the
9 bond shall be fixed by the officials, boards, commissions,
10 commissioners, or agents, and the bond, among other
11 conditions, shall be conditioned for the completion of the
12 contract, for the payment of material, apparatus, fixtures,
13 and machinery used in the work and for all labor performed in
14 the work, whether by subcontractor or otherwise. Until January
15 1, 2034, ~~January 1, 2029,~~ local governmental units may require
16 a bond, by ordinance or resolution, for public works contracts
17 valued at \$5,000,000 ~~\$150,000~~ or less.

18 On and after January 1, 2034, ~~January 1, 2029,~~ all
19 officials, boards, commissions, or agents of this State, or of
20 any political subdivision thereof, in making contracts for
21 public work of any kind costing over \$50,000 to be performed
22 for the State, or of any political subdivision thereof, shall
23 require every contractor for the work to furnish, supply and
24 deliver a bond to the State, or to the political subdivision
25 thereof entering into the contract, as the case may be, with
26 good and sufficient sureties. The surety on the bond shall be a

1 company that is licensed by the Department of Insurance
2 authorizing it to execute surety bonds and the company shall
3 have a financial strength rating of at least A- as rated by
4 A.M. Best Company, Inc., Moody's Investors Service, Standard &
5 Poor's Corporation, or a similar rating agency. The amount of
6 the bond shall be fixed by the officials, boards, commissions,
7 commissioners or agents, and the bond, among other conditions,
8 shall be conditioned for the completion of the contract, for
9 the payment of material, apparatus, fixtures, and machinery
10 used in the work and for all labor performed in the work,
11 whether by subcontractor or otherwise.

12 If the contract is for emergency repairs as provided in
13 the Illinois Procurement Code, proof of payment for all labor,
14 materials, apparatus, fixtures, and machinery may be furnished
15 in lieu of the bond required by this Section.

16 Each such bond is deemed to contain the following
17 provisions whether such provisions are inserted in such bond
18 or not:

19 "The principal and sureties on this bond agree that all
20 the undertakings, covenants, terms, conditions and agreements
21 of the contract or contracts entered into between the
22 principal and the State or any political subdivision thereof
23 will be performed and fulfilled and to pay all persons, firms
24 and corporations having contracts with the principal or with
25 subcontractors, all just claims due them under the provisions
26 of such contracts for labor performed or materials furnished

1 in the performance of the contract on account of which this
2 bond is given, when such claims are not satisfied out of the
3 contract price of the contract on account of which this bond is
4 given, after final settlement between the officer, board,
5 commission or agent of the State or of any political
6 subdivision thereof and the principal has been made.".

7 Each bond securing contracts between the Capital
8 Development Board or any board of a public institution of
9 higher education and a contractor shall contain the following
10 provisions, whether the provisions are inserted in the bond or
11 not:

12 "Upon the default of the principal with respect to
13 undertakings, covenants, terms, conditions, and agreements,
14 the termination of the contractor's right to proceed with the
15 work, and written notice of that default and termination by
16 the State or any political subdivision to the surety
17 ("Notice"), the surety shall promptly remedy the default by
18 taking one of the following actions:

19 (1) The surety shall complete the work pursuant to a
20 written takeover agreement, using a completing contractor
21 jointly selected by the surety and the State or any
22 political subdivision; or

23 (2) The surety shall pay a sum of money to the obligee,
24 up to the penal sum of the bond, that represents the
25 reasonable cost to complete the work that exceeds the
26 unpaid balance of the contract sum.

1 The surety shall respond to the Notice within 15 working
2 days of receipt indicating the course of action that it
3 intends to take or advising that it requires more time to
4 investigate the default and select a course of action. If the
5 surety requires more than 15 working days to investigate the
6 default and select a course of action or if the surety elects
7 to complete the work with a completing contractor that is not
8 prepared to commence performance within 15 working days after
9 receipt of Notice, and if the State or any political
10 subdivision determines it is in the best interest of the State
11 to maintain the progress of the work, the State or any
12 political subdivision may continue to work until the
13 completing contractor is prepared to commence performance.
14 Unless otherwise agreed to by the procuring agency, in no case
15 may the surety take longer than 30 working days to advise the
16 State or political subdivision on the course of action it
17 intends to take. The surety shall be liable for reasonable
18 costs incurred by the State or any political subdivision to
19 maintain the progress to the extent the costs exceed the
20 unpaid balance of the contract sum, subject to the penal sum of
21 the bond.".

22 The surety bond required by this Section may be acquired
23 from the company, agent or broker of the contractor's choice.
24 The bond and sureties shall be subject to the right of
25 reasonable approval or disapproval, including suspension, by
26 the State or political subdivision thereof concerned. Except

1 as otherwise provided in this Section, in the case of State
2 construction contracts, a contractor shall not be required to
3 post a cash bond or letter of credit in addition to or as a
4 substitute for the surety bond required by this Section.

5 Prior to the completion of 50% of the contract for public
6 works, the State or a local governmental unit, except for the
7 Department of Transportation, may not withhold retainage from
8 any payment to a contractor who furnishes the bond or bond
9 substitute required by this Act in an amount in excess of 10%
10 of any payment made prior to the date of completion of 50% of
11 the contract for public works. When a contract for public
12 works is 50% complete, the State or the local governmental
13 unit, except for the Department of Transportation, shall
14 reduce the retainage so that no more than 5% is held. After the
15 contract is 50% complete, no more than 5% of the amount of any
16 subsequent payments made under the contract for public works
17 may be withheld as retainage.

18 Subject to the limitations in this Section, a State agency
19 may withhold as retainage a portion of the moneys from the
20 payment of a contract that is entered into on or after the
21 effective date of this amendatory Act of the 104th General
22 Assembly if and only if the State agency determines that
23 satisfactory progress has not been achieved by a contractor or
24 subcontractor during any period for which a payment is to be
25 made. Satisfactory progress shall be clearly provided for in
26 the contract between the State agency and the contractor or

1 subcontractor. Retainage may not be used as a substitute for
2 good contract management, and the State agency may not
3 withhold funds without cause. Determinations to retain and the
4 specific amount to be withheld must be made by the State agency
5 on a case-by-case basis based on the performance of milestones
6 under the current contract as provided for in the contract
7 between the State agency and the contractor. A contractor may
8 not withhold retainage from a subcontractor except to the
9 extent a State agency has withheld retainage from the
10 contractor which is attributable to that subcontractor's
11 subcontract. This paragraph does not apply to the Illinois
12 State Toll Highway Authority.

13 Prior to the completion of 50% of the contract for public
14 works, the contractor and their respective subcontractors
15 shall not withhold from their subcontractors retainage in
16 excess of 10% of any payment made prior to the date of
17 completion of 50% of the contract for public works. When the
18 contract for public works is 50% complete, the contractor and
19 its subcontractors shall reduce the retainage so that no more
20 than 5% is withheld from their respective subcontractors.
21 After the contract is 50% complete, the contractor and its
22 subcontractors shall not withhold more than 5% of the amount
23 of any subsequent payments made under the contract to their
24 respective subcontractors.

25 When other than motor fuel tax funds, federal-aid funds,
26 or other funds received from the State are used, a political

1 subdivision may allow the contractor to provide a
2 non-diminishing irrevocable bank letter of credit, in lieu of
3 the bond required by this Section, on contracts under \$100,000
4 to comply with the requirements of this Section. Any such bank
5 letter of credit shall contain all provisions required for
6 bonds by this Section.

7 In order to reduce barriers to entry for diverse and small
8 businesses, the Department of Transportation may implement a
9 5-year pilot program to allow a contractor to provide a
10 non-diminishing irrevocable bank letter of credit in lieu of
11 the bond required by this Section on contracts under \$500,000.
12 Projects selected by the Department of Transportation for this
13 pilot program must be classified by the Department as low-risk
14 scope of work contracts. The Department shall adopt rules to
15 define the criteria for pilot project selection and
16 implementation of the pilot program.

17 In this Section:

18 "Local governmental unit" has the meaning ascribed to it
19 in Section 2 of the Local Government Prompt Payment Act.

20 "Material", "labor", "apparatus", "fixtures", and
21 "machinery" include those rented items that are on the
22 construction site and those rented tools that are used or
23 consumed on the construction site in the performance of the
24 contract on account of which the bond is given.

25 "Retainage" means a portion of money withheld from a
26 payment, including, but not limited to, a payment as defined

1 in the Local Government Prompt Payment Act or the State Prompt
2 Payment Act, made to a contractor or subcontractor intended to
3 ensure that the contractor or subcontractor completes the
4 requirements of the contract or subcontract. "Retainage" does
5 not include (i) moneys withheld due to violations of local,
6 State, or federal laws or (ii) moneys withheld from grants to
7 entities for capital improvements to non-State property.

8 Nothing in this amendatory Act of the 104th General
9 Assembly may be construed to modify any provision of the State
10 Prompt Payment Act or the Local Government Prompt Payment Act.

11 (Source: P.A. 103-570, eff. 1-1-24; 104-168, eff. 6-1-27.)

12 Section 95. No acceleration or delay. Where this Act makes
13 changes in a statute that is represented in this Act by text
14 that is not yet or no longer in effect (for example, a Section
15 represented by multiple versions), the use of that text does
16 not accelerate or delay the taking effect of (i) the changes
17 made by this Act or (ii) provisions derived from any other
18 Public Act.