



## 104TH GENERAL ASSEMBLY

### State of Illinois

2025 and 2026

HB5042

Introduced 2/10/2026, by Rep. William "Will" Davis

#### 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 16547 HLH 29945 b

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.