

MCA
Summary of Legislation
June 2007

Senate Passes Mechanic's Lien Bill, Rough Landing Expected in House

The Pennsylvania Senate passed amendments to the Mechanic's Lien law just 6 months after changes made last year became effective. **Senate Bill 726** as originally introduced redefines "residential construction". Contractors working on residential projects can still waive their lien rights under the Act. The bill removed the million-dollar ceiling which was part of the existing definition of "residential" and replaces it with a more common definition (i.e. a residence of 3 stories or less). That part of the bill was not controversial, but before the bill passed the Senate another amendment was added.

Inserted into the bill on the Senate floor was a provision to eliminate the so-called "double jeopardy" issue (i.e. a circumstance under which a contractor could be forced to pay twice for the same work). The Senate amendment was not agreed to by all parties however. When the bill was sent to the House it was referred to the House Judiciary committee chaired by Representative Tom Caltagirone (Dem., Berks Co.). Caltagirone has already hosted a highly spirited meeting between some of the competing interests. Current conventional wisdom is that Senate Bill 726 may never move out of that committee. Even still, additional discussions and negotiations will likely take place on the mechanic's lien issue over the Summer.

Job Training Money Faces Cuts

Even with the Commonwealth budget deadline looming large, the Legislature and Governor continue to thrust and parry over spending issues. One recent twist may end up eliminating a large portion of the workforce development funds that supplement a good number of construction apprenticeship programs across the State. A budget bill that reportedly represents the consensus of 3 of the 4 legislative caucuses cuts millions of dollars of training funds. It comes as part of a move that has the Legislature cutting a myriad of programs including their own pet project funds often referred to as WAMs (walking around money).

One school of thought is that the cutting of the workforce development money is just posturing to leverage the Governor to agree to other areas of the budget. That view, however, is not universally held, and these cuts may become a reality. The deadline for budget passage is June 30th, but the negotiators remain far apart heading into the final full week of June.

Legislative Activity

HB 507 RE: Home Improvement Consumer Protection Act (by Rep. Keith McCall, et al)

Provides that no person may hold himself out as a contractor nor would a person perform any home improvement without first registering with the Bureau of Consumer Protection. The bureau would maintain a toll-free telephone number from which a caller can obtain information as to whether a contractor is registered with the bureau. The bill provides for procedures for registration as a contractor. Each application for a certificate for a home improvement contractor or renewal of that certificate would include a fee of \$50. The bill also provides for home improvement contracts, stating that no contract would be valid or enforceable unless it contains required information. The bill creates that Home Improvement Guaranty Fund, from which an owner may be compensated for an actual loss that results from an act or omission or a violation of this act by a registered contractor.

Rereferred to House Appropriations Committee, 6/5/2007

HB 647 RE: Crane Operator Licensure Act (by Rep. Mario Civera, et al)

Establishes the State Board of Crane Operators within the Department of State. Composition of the Board, its operation and powers and duties are further provided for in the legislation. The bill states that **an individual may not operate a crane, offer himself for employment as an**

individual who may operate a crane or hold himself out as a crane operator unless licensed by the board. For purposes of acquiring the experience necessary to obtain certification, a trainee who has passed a written examination of the national commission for the certification of crane operators or of a national association deemed equivalent by the board may operate a crane when under the immediate supervision of a crane operator. A license would only be valid in conjunction with certification and only in the specialty for which the crane operator is certified. A license would be issued on a biennial basis. The bill provides for fines and penalties for violations and for revocation and suspensions of licenses. The \$85,000 would be given to the department for the administration of this act. Within 18 months of the effective date of the bill, the board would have to promulgate regulations to carry out the act.

Reported as committed from House Appropriations Committee, 6/21/2007

HB 894 RE: Referendum or Public Hearing Required Prior to Construction (by Rep. Daylin, Leach, et al)
Amends the Public School Code further providing for referendum or public hearing required prior to construction or lease by adding that building construction cost would not include the additional cost involved in the building construction of a school that meets the Leadership in Energy and Environmental Design (LEED) standards as established and published by the United States Green Building Council. It also adds that an estimate of the "operating cost" (as defined in the legislation) of the building be included in the information required to be submitted to the Department of Education 30 days before the hearing.

Reported as amended from House Education Committee, read first time, and rereferred to House Rules Committee, 6/11/2007

HB 1286 RE: 2007-08 Budget (by Rep. Dwight Evans)

As introduced, this is the Governor's spending proposal, unveiled in February. It does not fund several traditional programs that Rendell has not funded, and the legislature usually has restored. Many are expected to be added as the process goes on.

Passed House, 5/23/2007 (102-97)

Reported as amended from Senate Appropriations Committee, and read first time, 6/13/2007

Read Second time, and recommitted to Senate Appropriations Committee, 6/18/2007

Reported as amended from Senate Appropriations Committee, 6/19/2007

Passed Senate, 6/20/2007 (49-1)

Received as amended in House and rereferred House Rules Committee, 6/21/2007

SB 333 RE: "Public Work" (By Sen. Mike Waugh, et al)

Amends the PA Prevailing Wage Act by adding that "public work" includes combination rehabilitation/reconstruction projects where non-maintenance items exceed 15% of the total project cost; and "maintenance work" includes the following actions taken on roads: (1) replacement in kind, or compliance with current Department of Transportation design criteria and standards, of guide rails, curbs, pipes, line painting and other related road equipment; (2) repair of pavement service by laying bituminous material up to three and a half inches thick or up to four hundred twenty pounds per square yard on asphalt pavement, cement, concrete or other hard surface, including associated milling, and related work raising existing paved shoulders to new grade; or patching of cement or concrete surface to include joint spalling and repair work; (3) widening of existing alignment which does not result in additional lanes or new shoulders; and (4) bridge cleaning, washing, resurfacing with blacktop, minor non-structural repairs or improvements and painting except when combined with complete bridge rehabilitation. The bill adds that "**public work**" means construction where the estimated cost of the total project is in excess of \$175,000 (increased from \$25,000). For the 12-month period beginning December 1, 2007, through November 30, 2008, and every year thereafter, the estimated cost threshold for public work projects would be increased by an annual cost adjustment.

Reported as amended from Senate Labor and Industry Committee, and read first time, 6/5/2007

SB 726 RE: Mechanics' Lien Law (by Sen. Pat Browne, et al)

Amends the Mechanics' Lien Law by stating that a contractor or subcontractor may waive his right to file a claim against residential property by a written instrument signed by him or by any conduct which operates equitably to stop such contractor from filing a claim. The bill defines "residential property".

2 Floor amendment(s) adopted on Senate Floor, 6/13/2007

Passed Senate, 6/18/2007 (50-0)

Referred to House Judiciary Committee, 6/19/2007

SB 798 RE: 2007-08 Capital Budget (by Sen. Gibson Armstrong)

An act providing for the capital budget for the fiscal year 2007-2008, which provides \$752,000,000 for capital projects. The bill also authorizes the Department of General Services to pay for the settlement or award of claims arising from construction contracts for public improvement projects from available funds in accounts within the Capital Facilities Fund that include funds no longer required for the design, acquisition or construction of any approved capital project.

Reported as amended from House Appropriations Committee, read first time, and Laid on the table, Removed from the table 6/12/2007

Read Second time, and rereferred to House Appropriations Committee, 6/13/2007

New Bills Introduced

HB 1204 RE: High-Performance, State-Funded Buildings Standards Act (by Rep. Matt Smith, et al)

Requires the design, construction and renovation of buildings that receive a State appropriation to comply with specified energy and environmental building standards. The Department of General Services would annually report to the Environmental Resources and Energy Committees of the Senate and House.

Referred to House Environmental Resources and Energy Committee, 6/1/2007

HB 1408 RE: R-CAP Ceiling (by Rep. Dwight Evans)

Amends the Capital Facilities Debt Enabling Act by increasing the limitation on redevelopment assistance capital projects for which obligations are outstanding from \$2,650,000,000 to \$2,900,000,000.

Referred to House Appropriations Committee, 6/5/2007

HB 1468 RE: Small Business Definition (By Rep. Jake Wheatley, et al)

Amends Title 62 (Procurement) by redefining "small business" as a business that employs 175 or fewer employees. Currently, the definition provides the business employs 100 or fewer employees.

Referred to House Commerce Committee, 6/5/2007

HB 1515 RE: "Public Work" (by Rep. Ron Marsico, et al)

Amends the **PA Prevailing Wage Act** by adding that "public work" includes combination rehabilitation/reconstruction projects where non-maintenance items exceed fifteen percent of the total project cost; and "maintenance work" includes the following actions taken on roads: (1) replacement in kind, or compliance with current Department of Transportation design criteria and standards, of guide rails, curbs, pipes, line painting and other related road equipment; (2) repair of pavement service by laying bituminous material up to three and a half inches thick or up to four hundred twenty pounds per square yard on asphalt pavement, cement concrete or other hard surface, including associated milling, and related work raising existing paved shoulders to new grade; or patching of cement concrete surface to include joint spalling and repair work; (3) widening of existing alignment which does not result in additional lanes or new shoulders; and (4) bridge cleaning, washing, resurfacing with blacktop, minor non-structural repairs or improvements and painting except when combined with complete bridge rehabilitation.

Referred to House Labor Relations Committee, 6/7/2007

HB 1577 RE: Approval of School Building Design (by Rep. Tom Caltagirone, et al)

Amends the State Public School Building Authority Act further providing for purposes and powers of the Authority by stating that all contracts between the Authority and school districts would be conditioned upon the preparation of general plans for centralized design of physical plants, for the orderly development of improved attendance areas and administrative units, and for the improved housing of the public schools of PA.

Referred to House Education Committee, 6/20/2007

SB 437 RE: PA Construction Code Amendments (By Sen. Bob Regola, et al)

Amends the PA Construction Code Act further providing Section R404.1 and Tables R404.1(1), R404.1(2) and R404.1(3) of the 2006 International Residential Code are not a part of the Uniform Construction Code. The bill also provides for the provisions which would apply to the Uniform Construction Code regarding concrete and masonry foundation walls.

Passed Senate, 3/20/2007 (50-0)

Passed House, amended, 6/6/2007 (194-0)

Senate concurred in House amendments, 6/13/2007 (Vote: Y: 50/N: 0)

Signed in the Senate, 6/13/2007

Signed in the House, 6/18/2007

In the hands of the Governor, 6/18/2007. Last day for Governor's action, 6/28/2007

Remaining 2007 House Spring Session Schedule

The following are the remaining scheduled session days for the House in 2007:

June 25, 26, 27, 28, 29, 30

Remaining 2007 Senate Spring Session Schedule

The following are the remaining scheduled session days for the Senate in 2007:

June 25, 26, 27, 28, 29

No days have been scheduled yet in July, but they may be necessary.

Copies of all bills of interest can be accessed via the Internet at:

<http://www.legis.state.pa.us/WU01/LI/BI/billroom.htm>