

## **MCA**

### **Summary of Legislation**

#### **November 2007**

#### **Separate Primes Waivers Reinstated By Court**

The long awaited decision in the case that sought to reinstate waivers for school districts that wanted to award construction projects via a single prime contract instead of separate primes has been decided by the Pennsylvania Supreme Court. The Court ruled, without dissent, to reverse the Commonwealth Court and allow the Department of Education to approve waiver requests on the separate primes issue. In the opinion written by Chief Justice Ralph Cappy, the court found that waiving the separate primes requirement is not the same as "superseding or abrogating" it. The School Code has long contained a prohibition for "superseding" or "abrogating" the separate primes requirement. At the same time, the Court found that the waiver issued to the Philadelphia school district was legal, but did remand that part of the decision back to Commonwealth Court for further proceedings consistent with the Supreme Court's ruling.

#### **Transportation Bill Proposes to Eliminate Separate Primes For Design/Build Development**

A bill that deals mostly with transportation infrastructure and public/private partnerships also includes an exclusion from the Separations Act. **Senate Bill 1158** was introduced to create a mechanism under which public entities can partner with private developers to build projects more efficiently. While the bill focuses primarily on transportation projects, it also addresses building projects that have a transportation purpose. When a building project is done through a design/build arrangement, the Separations Act is inapplicable. The bill was introduced on November 13 and has been referred to the Transportation committee which just happens to be chaired by the prime sponsor of the bill, Senator Roger Madigan. The genesis for the legislation is thought to be a transportation study commissioned by the Legislature that was released last year and, among other things, recommended the repeal of the Separations Act.

#### **Capital Budget Bill Adds Prison Projects**

Bills that authorize funding for state financed building projects are called capital budget bills. One such bill, **House Bill 1589**, is working its way closer to the Governor's desk. The bill passed the House earlier this year and included funding for dozens of projects including three \$200 million prison housing projects. Since then, the Senate has added another 5 prison projects each with the same projected \$200 million cost. As the bill stands, these projects are slated to be done under design/build contracts. At this time the design/build language is under review and may or may not be changed. The bill is expected to pass before the end of the year.

#### **Legislative Activity**

**HB 1096 RE:** Uniform Construction Code Advisory Council (by Rep. Buxton, et al) Amends the PA Construction Code Act to create the Uniform Construction Code Advisory Council which would be charged with gathering information from municipal officers, building code officials, construction code officials, licensed design professionals, builders and property owners concerning issues with the Uniform Construction code and evaluating this information in order to give recommendations to the Governor, Labor and Industry Committees in the Senate and House and the Code Development Councils of the International Code council. The composition of the Council and meeting requirements are further provided for in the legislation.

**Passed House, 10/29/2007 (192-0)**

**Referred to Senate Labor and Industry Committee, 11/13/2007**

**HB 1600 RE:** Supplemental Homeowner Property Tax Relief Act (By Rep. David Levdansky, et al)

Establishes the Personal Income Tax Surcharge Fund. The bill would charge a surtax equal to 0.5% imposed on the purchase price of property and services subject to taxation. There would also be a surtax equal to 0.22% imposed on the taxable income of resident and nonresident individuals. The department would calculate the State allocation pursuant to this chapter for each school

district and each year, in which a school district receives a local property tax reduction allocation pursuant to this act, the school district would calculate a homestead and farmstead exclusion. **This bill may be the vehicle for other tax reform proposals to be voted on the House floor, including another proposal to expand the sales tax to most all items and professional services. This vote may happen in December.**

**Reported as amended from House Finance Committee, read first time, and laid on the table, 11/1/2007**

**HB 1889 RE:** Prototypical School Facility Plan Clearinghouse (by Rep. David Kessler, et al)

Amends the Public School Code establishing a prototypical school facility plan clearinghouse, for use by school entities as a reference guide in the design and construction of new facilities.

**Reported as amended from House Finance Committee, read first time, and laid on the table, 11/1/2007**

**SB 1 RE:** Right-to-Know Law (by Sen. Dominic Pileggi, et al)

Amends the Right-to-Know Law to further provide for public records of judicial agencies, legislative agencies and state-related universities. The bill establishes an open records officer in each agency and exceptions officers to hear appeals. The bill also creates the Open Records Clearinghouse in the Department of Community and Economic Development that will provide information relating to the implementation and enforcement of this act, issue advisory opinions to agencies and requesters, and provide annual training courses to Commonwealth agencies and local agencies.

**Reported as amended from Senate State Government Committee, and read first time, 10/29/2007**

**Rereferred to Senate Appropriations Committee, 10/30/2007**

**Reported as amended from Senate Appropriations Committee 11/14/2007**

**Amended on Senate floor and read second time, 11/19/07**

#### **New Bills Introduced**

**HB 2016 RE:** Municipal Authorities Procurement Code (By Rep. Jennifer Mann, et al)

Amends Title 62 (Procurement) establishing the Municipal Authorities Procurement Code. The bill provides that while an authority may adopt this addition to control procurement it would not apply to the disposal of properties, supplies and materials of authorities. Further provides for the powers and duties of the authority, source selection and contract formation and cancellation of bids. Multi-term contracts are provided for and contracts for supplies, construction or services may be entered into for a period of time deemed to be in the best interests of the authority. Specification for reporting requirements, supply management and legal and contractual remedies are also detailed.

**Referred to House Local Government committee, 11/14/2007**

**HB 2054 RE:** KOZ, KEZ, KIZ Requirements (by Rep. Bob Belfanti, et al)

Amends the Keystone Opportunity Zone, Keystone Opportunity Expansion Zone & Keystone Opportunity Improvement Zone Act providing for work performed on deteriorating property by adding that all construction, reconstruction, demolition, alteration and repair work other than maintenance work performed on a deteriorating property under this act shall be done in accordance with the Separations Act, and the Pennsylvania Prevailing Wage Act.

**Referred to House Labor Relations Committee, 11/21/2007**

**SB 1087 RE:** Electronic Publication of Legal Advertising (by Sen. Bob Robbins, et al)

Amends Title 45 (Legal Notices) providing for electronic publication of legal advertising by stipulating that a government unit has the authority to electronically publish legal notices in lieu of newspaper advertisements required under Chapter 3 (relating to legal advertising) or any other law. The Center for Local Government Services would create and maintain a list of the names and websites of all government units for which it has received a copy of an enactment to advertise, accessible through the department's website.

**Referred to Senate Communications and Technology Committee, 11/1/2007**

#### **Upcoming Meetings of Interest**

None

**2007 Senate Fall Session Schedule**

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

**November 27, 28**

**December 3, 4, 5, 10, 11, 12**

**2007 House Fall Session Schedule**

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

**December 3, 4, 5(Non-voting), 10, 11, 12**

**2008 SENATE SPRING SESSION SCHEDULE**

**The Senate has announced the following session days for Spring 2008, subject to change**

**January 1, 14, 15, 16, 28, 29, 30**

**February 4, 5, 6, 11, 12**

**March 10, 11, 12, 17, 18, 31**

**April 1, 2, 7, 8, 9, 28, 29, 30**

**May 5, 6, 7, 12, 13, 14, 19, 20, 21**

**June 2, 3, 4, 9, 10, 11, 16, 17, 18, 23, 24, 25, 26, 27, 30**

**The House has not yet announced its Spring session schedule, but likely will follow similar days.**

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

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