

## **MCA**

### **Summary of Legislation**

#### **August 2009**

#### **House Passes Senate Budget, Rendell “Blue-lines” Most; Senate Override Fails**

In an effort to restore paychecks for state workers, and fund core functions of government in the absence of an agreement on the full 2009-10 budget plan, House Democrats called up **SB 850**, which had been reported from the Appropriations Committee with a negative recommendation, for a final vote on August 4. The bill passed 195-3, and went to the Governor. Gov. Rendell then used his “blue-line” authority to cut the vast majority of the funding in the bill, including all of the funding for the operations of the State Senate. This act brought the bill well under the spending limit, as it relates to projected revenue, but obviously does not meet the needs of the Commonwealth. The bill was then sent back to the Republican –controlled Senate, which has the option to override the veto, in whole or in parts, if they muster a 2/3 vote, and the House subsequently does likewise. Getting to a 2/3 vote in the Senate is unlikely, but an override in the House is out of the question.

Nevertheless, on August 19 the Senate Republican leadership brought up several lines that had been stricken for override votes. Each time, the votes fell short, as all but one Democrat, Sen. Lisa Boscola of Northampton County voted to sustain the veto.

Meanwhile, the budget negotiators working on the Conference Committee on **HB 1416** continue to work on a compromise that will eventually become the actual budget, once the parties agree on how much they want to spend, and then how much they will need to raise to get that much money. A raise in the Personal Income Tax seems now “off the table”, and in the latter part of the month Senate Republicans also expressed little interest in expanding the sales tax. Due to a death in the family of House Appropriations Committee Chairman Dwight Evans’ family, negotiations were further stalled in mid-month. Although the conference committee itself has not met for several weeks in public, parts of the committee, and staff, have been meeting with staff of the Rendell Administration to try to arrive at the essential numbers, while the rest of us wait anxiously for the long ordeal to be over. At this writing, that end does not appear to be imminent, but hope remains.

#### **Mechanic’s Lien Amendment Enacted**

A bill that redefines what constitutes “residential construction” for the purpose of filing a mechanic’s lien was signed by the Governor on August 11. This is the first time the law has been amended since 2006 when the Mechanic’s Lien law received a major overhaul. The most notable of the 2006 changes was the prohibition of waiving a contractor’s lien rights, a common practice under the old law. However lien rights could still be waived if the project was a “residential” project under \$1 million.

As it turned out, the residential exemption proved inadequate. As the housing market plummeted, home owners in a number of large housing developments discovered liens had been placed on their homes after the general contractors went bankrupt. The backlash in Harrisburg was a renewed interest in addressing the residential exemption. The recently enacted change (Senate Bill 563) redefines “residential” as any single family residence or townhouse of 3 stories or less not including the basement.

A number of other groups continue to pursue amendments to the law that would roll back some of the changes to the lien law as amended in 2006. Our lobbyists made certain that the recently passed legislation was limited to the “agreed to” residential issue and did not include other issues that could impact commercial construction.

#### **Prevailing Wage Vote Looming**

A legislative effort to promote energy and resource conservation has become a target for prevailing wage changes. **House Bill 687** extends the guaranteed energy savings program to include water consumption and operating costs at drinking and waste water treatment plants. The

bill is due to be voted by the full House, but an amendment has been posted that would raise the threshold of when projects are covered by the prevailing wage law. If adopted, the amendment would raise the threshold from \$25,000 to \$250,000. Even though similar amendments have been defeated in the past, members are encouraged to contact their State Representatives and urge their opposition to Representative Marsico's prevailing wage amendment.

### **Making Construction Management Reimbursable to Schools**

Representative John Pallone (D, Allegheny Co.) has proposed legislation that would allow school districts to be reimbursed for costs associated with construction management services. **House Bill 1891** defines construction management services and places it on the list of reimbursable items for construction by school districts. Presently, school districts are not reimbursed for these services. The bill was introduced on July 24<sup>th</sup> and has since been referred to the House Education committee.

### **Legislative Activity**

[HB 687](#) RE: Guaranteed Energy Savings Contracts (by Rep. Frank Dermody, et al)

Amends Title 62 (Procurement), in guaranteed energy savings contracts, amending the definition of "energy conservation measure" to include technology upgrades designed to reduce water and wastewater consumption or operating costs, and inserting water and wastewater-related provisions into language relating to contract procedures and provisions.

**Laid on the table and removed from the table, 8/19/2009**

[HB 1418](#) RE: Capital Budget Act of 2009-2010 (By Rep. Dwight Evans, et al)

Provides for the capital budget for the fiscal year 2009-2010. Also itemizes transportation assistance projects to be constructed or acquired or assisted by the Department of General Services or the Department of Transportation, together with their estimated financial costs. Authorizes the incurring of debt without the approval of the electors for the purpose of financing the transportation assistance projects. In addition, states the estimated useful life of the projects and makes appropriations.

**Reported as amended from House Appropriations Committee, 8/3/2009**

**Laid on the table, removed from the table 8/17/2009**

**Laid on the table, removed from the table 8/20/2009**

[HB 1770](#) RE: Unemployment Compensation Law Stimulus Changes (by Rep. Marc Gergely, et al)

Amends the Unemployment Compensation Law further defining "State 'on' indicator" and "State 'off' indicator" by adding any week for which there would otherwise be a State "on" indicator shall continue to be such a week and shall not be determined to be a week for which there is a State "off" indicator. There is a "State 'on' indicator" for this State for a week if: (1) the average rate of total unemployment in this State, seasonally adjusted, for the period consisting of the most recent three months for which data for all states are published before the close of such week equals or exceeds 6.5%; and (2) the average rate of total unemployment in this State, seasonally adjusted, for the three-month period equals or exceeds 110% of such average rate for either, or both, of the corresponding three-month periods ending in the two preceding calendar years. There is a State "off" indicator for this State for a week if neither of these requirements are satisfied. These provisions would apply only with respect to weeks of unemployment for which 100% Federal sharing of extended benefits is available under section 2005(a) of the American Recovery and Reinvestment Act, without regard to the extension of Federal sharing for certain claims. The bill also provides for total extended benefit amount by making substitutions with respect to weeks in a high unemployment period. In effect, the bill provides eligible claimants with an additional seven weeks of federally funded unemployment compensation extended benefits.

**Re-reported on concurrence as committed from House Rules Committee, 8/3/2009**

**House concurred in Senate amendments, 8/3/2009 (198-0)**

**Approved by the Governor 8/4/2009. Act No. 30 of 2009**

[HB 1876](#) RE: Advertising Requirements (by Rep. John Hornaman, et al)

Amends Title 45 (Legal Notices) adding language providing that from the effective date through June 30, 2012, a newspaper of general circulation shall not charge a government unit a rate or price that exceeds 75% of the legal advertising rates in effect on July 1, 2009, or that exceeds 75% of the lowest base classified advertising rate charged by the newspaper to it non-contractual commercial customers for advertisements of the same size, composition and use, whichever is lower. Further provides that after June 30, 2012, the rate or price may be raised no more than the annual cost-of-living increase calculated by applying the percentage change in the consumer price index for all urban consumers for the Pennsylvania, New Jersey, Delaware and Maryland area, for the most recent twelve month period for which the figures have been officially reported. In no event shall the rate or price charged exceed 75% of the lowest base classified advertising rate charged by the newspaper to it non-contractual commercial customers for

advertisements of the same size, composition and use. This shall not apply to fees for services requested by a government unit in addition to publication, or to legal advertising for which the cost is reimbursed to the government unit. Also provides for publication of notice and an annual audit of the legal advertising rate charged by newspapers of general circulation at the discretion of the Auditor General. In addition, except as otherwise provided by statute, every notice or advertisement required by law or rule of court to be published in one or more newspapers of general circulation, unless dispensed with by special order of court, shall also be published on an internet website with a searchable database of legal notices, maintained by or contracted to provide such service by a newspaper of general circulation. Publication shall be subject to the same stipulations and regulations as those imposed for the publication of print notices.

**Reported as amended from House Judiciary Committee, read first time, and Rereferred to House Rules Committee, 8/4/2009**

[SB 563](#) RE: Mechanics' Lien Law (By Sen. Pat Browne, et al)

Amends the Mechanics' Lien Law further providing the definition of "residential property" (changed from "residential building"), by stating it means property on which there is or will be constructed a residential building not more than three stories in height, not including any basement level, regardless of whether any portion of that basement is at grade level, or which is zoned or otherwise approved for residential development on which there is or will be constructed a residential building not more than three stories in height, not including any basement level, regardless of whether any portion of that basement is at grade level, planned residential development or agricultural use, or for which a residential subdivision or land development plan or planned residential development plan has received preliminary, tentative or final approval on which there is or will be constructed a residential building not more than three stories in height, not including any basement level, regardless of whether any portion of that basement is at grade level. Additionally, the bill provides for waiver of lien by claimant by stating 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 estop such contractor from filing a claim.

**Passed Senate, 6/30/2009 (49-0)**

**Reported as committed from House Appropriations Committee and read second time, 8/3/2009**

**Read third time and passed House, 8/4/2009 (197-0)**

**Received as amended in Senate and rereferred Senate Rules and Executive Nominations Committee, 8/4/2009**

**Re-reported on concurrence as committed Senate Rules and Executive Nominations Committee, 8/10/2009**

**Senate concurred in House amendments 8/11/2009 (47-0)**

**Approved by the Governor, 8/11/2009. Act No. 34 of 2009**

[SB 693](#) RE: Transportation Infrastructure (by Sen. John Rafferty, et al)

Amends Title 74 (Transportation) adding a part entitled Transportation Infrastructure. The bill establishes that a proprietary public entity has full authority to enter into a transportation development agreement with an authorized development entity or entities governing the development or operation of all or any portion of a transportation facility, with exceptions. The bill authorizes certain project activities, and stipulates that the Transportation Commission shall serve as the primary repository for all materials relating to the review and approval of transportation development agreements that involve transportation facilities that receive funding from the Commonwealth or result in the proprietary public entity disposing of or relinquishing its control over the transportation facilities. The bill outlines rules governing solicited and unsolicited proposals, negotiations, federal credit assistance, adverse interests, and confidentiality of records. **In its present form, this bill would exempt any of these public private partnership projects from the need to comply with the Separations Act.**

**Laid on the table in Senate, 8/3/2009**

[SB 850](#) RE: The General Appropriations Act of 2009 (By Sen. Jake Corman)

**The Senate Republicans 2009-10 budget.** Provides from the General Fund for the expenses of the Executive, Legislative and Judicial Departments of the Commonwealth, the public debt and the public schools for the fiscal year July 1, 2009, to June 30, 2010, for certain institutions and organizations, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 2009; to provide appropriations from the State Lottery Fund, the Energy Conservation and Assistance Fund, the Hazardous Material Response Fund, The State Stores Fund, the Milk Marketing Fund, the Home Investment Trust Fund, the Emergency Medical Services Operating Fund, the Tuition Payment Fund, the Banking Department Fund, the Firearm Records Check Fund, the Ben Franklin Technology Development Authority Fund and the Tobacco Settlement Fund to the Executive Department; to provide appropriations from the Judicial Computer System Augmentation Account to the Judicial Department for the fiscal year July 1, 2009, to June 30, 2010; to provide appropriations from the Motor License Fund for the fiscal year July 1, 2009, to June 30, 2010, for the proper operation of the several departments of the Commonwealth and the Pennsylvania State Police authorized to spend Motor License Fund moneys; to provide for the appropriation of Federal funds to the Executive Department of the Commonwealth and for the payment of bills

remaining unpaid at the close of the fiscal year ending June 30, 2009; to provide for the additional appropriation of Federal and State funds from the General Fund, from the State Lottery Fund and from the Tobacco Settlement Fund for the Executive Department of the Commonwealth for the fiscal year July 1, 2008 to June 30, 2009, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 2008; and making interfund transfers for the fiscal year July 1, 2008, to June 30, 2009.

**Passed Senate, 5/6/2009 (30-20)**

**Read Second time, 8/3/2009**

**Read Third time and passed House, 8/4/2009 (195-3)**

**Approved by the Governor 8/5/2009. Act No. 1A of 2009**

**Bill, together with Governor's Line Item Veto Message, laid on the table and Removed from the table, 8/10/2009**

**Four override votes failed, 30-19**

### **New Bills Introduced**

**The following bills have been introduced since the last report.**

[HB 1920](#) RE: Approval by DOE (By Rep. Seth Grove, et al)

Amends the Public School Code further providing for acquisition of buildings, stipulating that approval of the Department of Education for school buildings and playgrounds on any school construction project that is not eligible for State reimbursement shall not be required.

**Introduced and referred to House Education Committee, 8/10/2009**

[HB 1923](#) RE: Prevailing Wage Moratorium (by Rep. John Bear, et al)

Amends the Pennsylvania Prevailing Wage Act stipulating it will have no application during the period after June 30, 2009, and before July 1, 2012.

**Introduced and referred to House Labor Relations Committee, 8/10/2009**

[HB 1943](#) RE: Comprehensive General Appropriation Act of 2009 (By Rep. Mario Civera, et al)

**This is the House Republican “compromise” budget, formerly known as the “Kotik amendment”.** The bill provides from the General Fund for the expenses of the Executive, Legislative and Judicial Departments of the Commonwealth, the public debt and the public schools for the fiscal year July 1, 2009, to June 30, 2010, for certain institutions and organizations, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 2009; to provide appropriations from the State Lottery Fund, the Energy Conservation and Assistance Fund, the Hazardous Material Response Fund, The State Stores Fund, the Milk Marketing Fund, the Home Investment Trust Fund, the Emergency Medical Services Operating Fund, the Tuition Payment Fund, the Banking Department Fund, the Firearm Records Check Fund, the Ben Franklin Technology Development Authority Fund and the Tobacco Settlement Fund to the Executive Department; to provide appropriations from the Judicial Computer System Augmentation Account to the Judicial Department for the fiscal year July 1, 2009, to June 30, 2010; to provide appropriations from the Motor License Fund for the fiscal year July 1, 2009, to June 30, 2010, for the proper operation of the several departments of the Commonwealth and the Pennsylvania State Police authorized to spend Motor License Fund moneys; to provide for the appropriation of Federal funds to the Executive Department of the Commonwealth and for the payment of bills remaining unpaid at the close of the fiscal year ending June 30, 2009; to provide for the additional appropriation of Federal and State funds from the General Fund, from the State Lottery Fund and from the Tobacco Settlement Fund for the Executive Department of the Commonwealth for the fiscal year July 1, 2008, to June 30, 2009, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 2008; making interfund transfers; and making a related repeal. *It is not likely to be considered in the House.*

**Introduced and referred to House Appropriations Committee, 8/20/2009**

### **Remaining Summer 2009 Session Schedules**

**SENATE SESSION SCHEDULE FOR SUMMER 2009**

**TBA**

**HOUSE SESSION SCHEDULE FOR SUMMER 2009**

**TBA**

**More days may be added as needed to pass the FY 2009-2010 state budget.**

**The Fall session schedule has not yet been announced.**

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

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