

MCA
Summary of Legislation
May 2010

Sunset for Waivers Approaches

The mandate waiver program that has permitted school districts to circumvent the multiple primes bidding requirement (as well as a host of other construction requirements under the school code) is set to expire June 30th of this year. The waiver program is part of the Educational Empowerment Act (part of the Public School Code) and contains a built in "sunset provision" that terminates the law unless it is reauthorized by passing a new law that reauthorizes it. Presently there are more than a dozen bills in either the House or Senate that amend the School Code and which could be used as a vehicle to reauthorize the program. Most of the bills don't address waivers at all, but some of them do. Those bills reflect the controversial nature of this issue as some reauthorize the program while others make the construction provisions unwaivable. There are even a few bills that require that projects be bid both ways, soliciting both single and multiple prime bids and selecting the less expensive option.

Over the last few weeks, a couple of School Code bills have been set for votes in the House. In each case, amendments have been posted that would either extend or end the waiver program, but the amendments were withdrawn before a vote was taken. This cat and mouse game is likely to continue until the June 30th deadline and possibly beyond if the Commonwealth budget is delayed. The latest development is that the Senate Education committee will vote on Senate Bill 250 during the week of June 7th. In its present form, that bill simply reauthorizes the Empowerment Act and the waiver program. Our lobbyists are working to see that the bill is amended so that the construction related waivers are prohibited. Stay tuned....

Plumbers and Elevator Contractors Licensing Bills Advance

Two separate bills that would create Pennsylvania's first contractor licensing laws were moved forward recently. Senate Bill 288, a bill that would set up a statewide plumbers licensing system, passed the Senate in early May. That bill is now in the House Labor Relations committee. House Bill 1349 passed through the House Labor committee on May 26th. It could pass the House before June 30th. Both bills will need to pass the other legislative chamber before November 30th if they are to become law during this session. If either of them is enacted it would be a milestone for the State. Pennsylvania does not license any construction contractors presently. Both bills also include provisions to license journeymen and apprentices. And, both would be administered by the PA Department of Labor and Industry. Pennsylvania is one of only a handful of states that doesn't have statewide licensing for contractors.

Legislative Activity

[HB 687](#) RE: Guaranteed Energy Savings Contracts (by Rep. Frank Dermody, et al) (PN 760) 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.

Rereferred to Senate Appropriations Committee, 5/26/2010

[HB 704](#) RE: Special Ed Funding (by Rep. Mike Sturla, et al) (PN 2375) Amends Public School Code, in reimbursement by Commonwealth and between school districts, further providing for definitions and providing for special education funding for student achievement and instruction of eligible students in regular classrooms and for special education accountability to Commonwealth taxpayers. The Department of Education is required to determine a special education adequacy target and funding target for each school district. The department shall report to the Governor and General Assembly recommending increased standards and the General Assembly shall consider legislation revising the criteria, in any year in which 75% of all school districts meet the criteria and qualify for the 1.15 factor for funding. The Commonwealth shall appropriate additional funding in each year for extraordinary special education program expenses at 1.50% of the total of special education appropriations made. The bill provides for special education accountability to commonwealth taxpayers. (Prior Printer Number: 1651) **NOTE: Several mandate waiver amendments have been posted on this bill since it was listed on the House voting schedule after it came out of House Appropriations Committee.**

Reported as amended from House Appropriations Committee, 5/24/2010

[HB 1196](#) RE: Code Administrator Appeals (By Rep. Scott Boyd, et al)
(PN 3518) Amends PA Construction Code Act further providing that a board of appeals shall consider variance requests, requests for extensions of time and appeals of decisions of code administrators. The bill outlines requirements for code administrator appeals.

Laid on the table 5/26/2010

[HB 1349](#) RE: Pennsylvania Elevator Act (by Rep. Tom Killion, et al)
Requires a license for elevator mechanics, inspectors, contractors; providing guidelines for licensure; establishing fees and penalties.

Reported as amended from House Labor Relations Committee, read first time, and laid on the table, 5/26/2010

[HB 2108](#) RE: Whistleblower Law (by Rep. Brian Ellis, et al)
Amends the Whistleblower Law further providing for the definitions of "employee" and "employer," for enforcement and for penalties. "Employer" is redefined as a public body or any of the following which receives money from a public body to perform work or provide services: (1) an individual; (2) a partnership; (3) an association; (4) a corporation for profit; or (5) a corporation not for profit. Regarding enforcement, the bill states a court shall also award a prevailing complainant all or a portion of the costs of litigation, including reasonable attorney fees and witness fees. Penalties are increased to \$10,000 and suspension from public service for up to seven years. The bill protects employees who report wrongdoing or waste by a public body or waste by any employer.

Passed House, 4/26/2010 (187-0)

Received in the Senate and referred to Senate Rules and Executive Nominations 5/19/2010

[HB 2435](#) RE: Tax Reform Code (By Rep. Dwight Evans, et al)
(PN 3573) Amends Tax Reform Code repealing certain provisions relating to discounts; providing for the imposition of tax reports and the payment of tax; providing a 30 percent tax on the purchase price charged to the retailer for the purchase of any tobacco product; establishing the Natural Gas Severance Tax Act and imposing a 5 percent tax on the gross value of units severed at the wellhead during a reporting period, plus 4.7 cents per unit severed.

Reported as committed from House Appropriations Committee, read first time, and Laid on the table, 5/4/2010

Removed from the table, 5/25/2010

[SB 288](#) RE: Plumbing Contractors Licensure Act (by Sen. Ted Erickson, et al)
(PN 1864) Provides for plumbing contractor licensure, establishes the State Board of Plumbing Contractors and provides for their powers and duties, and establishes fees, fines and civil penalties. The State Board of Plumbing Contractors within the Department of Labor & Industry shall be created and charged with various duties including regulating the licensing of individuals engaged in providing plumbing services, contracting with a professional testing organization to administer tests to qualified applicants for licensure, maintaining a registry of licensees, providing for its contents, and ensuring various reporting requirements are met. Individuals who are not licensed could not provide plumbing services and only master plumbers could use the title "licensed plumbing contractor" and the abbreviation "L.P.C.", subject to certain exceptions. Qualifications for various classes of plumbers are further provided for under the act as are disciplinary options. Reciprocity with other states is also provided for, subject to certain conditions. The sum of \$85,000 shall be appropriated to the department for the payment of costs associated with this bill. This amount shall have to be repaid by the board within three years of the beginning of issuance of licenses. Provides that the act does not authorize the board or a municipality to adopt plumbing standards outside the relevant provisions of the Pennsylvania Construction Code. Also the bill creates a restricted account in the State Treasury which shall be known as the Plumbing Contractors Licensure Account. Beginning July 1, 2010, and thereafter, all moneys collected by the board shall be paid into the account.

Amended on Senate floor, 5/3/2010

Read third time and passed Senate, 5/4/2010 (32-18)

in the House and referred to House Labor Relations Committee, 5/6/2010

New Bills Introduced

The following bills have been introduced since the last report.

[HB 2499](#) RE: Mandate Waivers (by Rep. Ron Miller, et al)
(PN 3771) Amends the Public School Code, in education empowerment, further providing for mandate waiver program and removing the June 30, 2010, expiration. Among the many changes, the bill authorizes a school entity to designate a school employee to act on its behalf in applying for waivers in place of adopting a resolution for each

waiver. The application for a waiver shall allow a school entity comprised of multiple entities to authorize a designee and allow an entity to apply for multiple waivers. No additional waiver shall be granted to a school entity with a past due report until the report has been submitted. The required annual report shall also be submitted to the governor with recommended modifications.

Introduced and referred to House Education Committee, 5/21/2010

Upcoming Meetings of Interest

MONDAY - 6/7/10

House Republican Policy Committee

11:00 a.m., Room 418 Main Capitol

Public hearing on Marcellus Shale with focus on gathering lines & pipelines

TUESDAY - 6/8/2010

Senate Republican Policy Committee

9:00 a.m., Room 156 Main Capitol

Joint public hearing with the Senate Finance Committee on the proposal to expand the PA Sales and Use Tax

THURSDAY - 6/17/10

House Labor Relations Committee

9:30 a.m., Room 60, East Wing

Public hearing on: [HB 2400](#) (Gergely) - Amends Unemployment Compensation Law further providing for definitions and for ineligibility for compensation.

2010 SENATE SESSION SCHEDULE

June 7, 8, 9, 14, 15, 16, 21, 22, 23, 28, 29, 30

2010 HOUSE SESSION SCHEDULE

June: 7, 8, 9, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30

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

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