

MCA
Summary of Legislation
August 2011

Discussions on Prevailing Wage Law Continue

During August, the House Labor and Industry committee held two public hearings on multiple bills that propose to amend the prevailing wage law and canceled a third hearing that had been planned for later in the month. All of the bills would fundamentally alter the prevailing wage by changing how wage rates are determined or redefining the term “maintenance” or how classifications are handled. John Wanner and Robert O’Brien presented testimony opposing the bills on behalf of MCA and a coalition of union construction organizations. The House does not return to voting session in Harrisburg until September 26th but the Chair of the committee, Representative Ron Miller (R) from York County indicated that a vote on some prevailing wage bill is likely to occur this fall.

Meanwhile in the Senate of Pennsylvania, the Senate Labor and Industry has announced that it will hold a public hearing on the prevailing wage law on October 11th in Chambersburg. The hearing is thought to be in reaction to recent public criticisms regarding prevailing wage from local government officials in Franklin County. Generally speaking, the Senate is thought to be less likely to vote on any anti-prevailing wage bill. The public hearing does provide another opportunity to educate members of the Legislature on the merits of the law.

Not to be outdone, The PA Department of Labor and Industry has been meeting with various organizations, both pro and con, on the Prevailing Wage Act and how the Department enforces it. Both the state building trades and a group of union contractors met separately with L&I staff. At this time, it is unclear what, if any, administrative changes the Department will make.

Legislative Activity

The following bills were acted on by the General Assembly this month.

[HB 50](#) RE: Freedom of Employment Act (by Rep. Daryl Metcalfe, et al)

provides no person may be required to become or remain a member of a labor organization as a condition of employment or continuation of employment and no person may be required to abstain or refrain from membership in a labor organization as a condition of employment or continuation of employment. A person who violates this act commits a misdemeanor of the third degree and shall be fined up to \$1,000, imprisoned for up to six months, or both. The act also provides relief to those threatened or injured by any prohibited action and provides for repeals.

Public hearing held in House Labor and Industry Committee, 8/16/2011

[HB 355](#) RE: Taxpayer and Citizen Protection Act (By Rep. Harry Readshaw, et al)

Amends The Administrative Code creating the Taxpayer and Citizen Protection Act of 2009. The bill states that it shall be unlawful for any person to transport, move, conceal, harbor or shelter from detection any alien knowing or in reckless disregard of the fact that the alien has come to, entered or remained in the United States in violation of law, in furtherance of the illegal presence of the alien in the United States. Any person violating this provision commits a misdemeanor of the third degree. The bill adds that all government identification papers would be issued only to United States citizens, legal permanent resident aliens or holders of valid unexpired nonimmigrant visas. Also, when a person charged with a felony or with driving under the influence is confined for any period, a reasonable effort would be made to determine the citizenship status of the person confined. The bill states that every public employer would register and participate in the basic pilot program to verify the work authorization status of all new employees. The employer would be required to withhold 6 percent of the amount of compensation paid to an individual, which compensation is required to be reported on Form 1099 and with respect to which the individual has failed to provide a valid Social Security number issued by the United States Social Security Administration. Also, every Commonwealth agency or political subdivision shall verify the lawful presence in the United States of any natural person 14 years of age or older who has applied for State or local public benefits.

Public Hearings held in House State Government Committee, on 8/30/2011 and 8/31/2011

[HB 858](#) RE: Fair Employment Act (by Rep. Daryl Metcalfe, et al)

Requires all employers, including government entities, in the Commonwealth to enroll in the federal Employment Eligibility Verification Program (E-verify). It shall be unlawful for any employer to employ, or employer or business entity to permit the employment of, an unauthorized alien. Further provides as a condition for the award of any Commonwealth contract or grant to an employer for which the value of employment, labor or personal service shall exceed \$10,000, the employer shall provide written documentation affirming its enrollment and participation in the E-verify Program. Also provides compensation, whether in money or in kind or in services, provided to any unauthorized alien shall not be allowed as a business expense deduction from any Commonwealth income tax or business tax. Further provides for violations, enforcement and local ordinances.

Public Hearings held in House State Government Committee, on 8/30/2011 and 8/31/2011

[HB 916](#) RE: Definition of "Credit Week" (by Rep. Scott Perry, et al)

Amends Unemployment Compensation Law further providing for definition of "credit week" to include remuneration of not less than \$125 (increased from \$50) and deleting providing relating to the establishment and maintenance of employer's reserve accounts; providing for relief from charges by stating the department will relieve an employer of charges for compensation; further providing for qualifications required to secure compensation stating compensation would be payable to an individual who is making an active search for suitable employment or who earned wages for employment for ten separate weeks, for ineligibility for compensation and for rate and amount of compensation; providing for effect of severance pay on benefits by stating an employee who receives severance pay shall have the benefit year adjusted to start the date of expiration of the period when 50% of the severance pay ends; further providing for rules of procedure; and providing for applicability by stating rules established by the board shall permit either party to a hearing to testify via telephone, without regard to distance of hearing location from either party. According to Rep. Perry, the legislation proposes reforms to the current law including: 1) tightening financial eligibility requirements; 2) requiring active job search; 3) tightening eligibility for reapplication for benefits; 4) slowing the growth of maximum benefit rate; and 5) readjusting calculation of the benefit rate.

Discussed in Joint Public Hearing of House Labor and Industry and Senate Labor and Industry Committees, 8/9/2011

[HB 1271](#) RE: "Public Work" definition (by Rep. Ron Marsico, et al)

Amends the Pennsylvania 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.

Public hearing held in House Labor and Industry Committee, 8/17/2011

[HB 1367](#) RE: Prevailing Wage Rate Determination (by Rep. Ron Miller, et al)

Amends Pennsylvania Prevailing Wage Act adding language providing the Secretary of Labor and Industry shall determine the prevailing wage rate for each county, utilizing occupational wage rate data determined by the Center for Workforce and Analysis of the department as the basis of the determination.

Public hearing held in House Labor and Industry Committee, 8/10/2011

[HB 1685](#) RE: Prevailing Wage Rates (by Rep. John Bear, et al)

Amends the Pennsylvania Prevailing Wage Act stipulating that, unless otherwise authorized by statute, the secretary shall base the scope of a craft or classification of workmen on the most recent version of the Federal occupational classifications, utilizing the description of the craft or classification in the "nature of work" subsection for each rate category.

Public hearing held in House Labor and Industry Committee, 8/10/2011

[HB 1754](#) RE: Unemployment Comp Eligibility (by Rep. Ron Miller, et al)

Amends Unemployment Compensation Law further providing for ineligibility for compensation; and providing for applicability by including clauses rendering a compelling nature attributable to employment, and stipulating no employe shall be deemed to be ineligible under the subsection where the Federal Unemployment Tax Act requires eligibility, and provided that no employe shall be deemed ineligible under this subsection if the employe is a spouse of a full-time member of the United States Armed Forces or a full-time member of any of its reserve components, including the Pennsylvania National Guard, and the employe is leaving employment due to the reassignment of the military member to a different geographical location. The bill clarifies the meaning of "misconduct."

Discussed in Joint Public Hearing of House Labor and Industry and Senate Labor and Industry Committees, 8/9/2011

[SB 1030](#) RE: Definition of "Credit Week" (By Sen. John Gordner, et al)

Amends the Unemployment Compensation Law to provide circumstances under which an employer may be relieved of paying unemployment compensation benefits. The definition of "credit week" is changed to any week in which the employee is paid not less than \$100 (to expire December 31, 2014) and starting in 2015 the definition is 16 times

the minimum hourly wage required by the Minimum Wage Act. The bill provides for weekly benefit computation and a formula is provided detailing the rate and amount of compensation. If an employee's weekly benefit rate is less than \$70 they shall not receive compensation. The process and procedure of filing a request for relief of unemployment compensation benefits is provided. Such relief attaches to other applications for benefits unless terminated.

Discussed in Joint Public Hearing of House Labor and Industry and Senate Labor and Industry Committees, 8/9/2011

New Bills Introduced

The following bills were introduced and referred to committees this month.

SB 1192 RE: Roofing Projects Act (by Sen. Patricia Vance, et al)

Amends Title 62 (Procurement) to add a chapter providing for the Roofing Projects Act detailing roofing projects undertaken by local governments. Definitions and project specifications, including proposals from design professionals and bidding so as not to allow for favoritism. Brand name specifications and specification features are detailed. Certain prohibited acts and required disclosures are provided for along with a model certification form for those working on the roofing project. Bid advertisement requirements and enforcement remedies are provided for. The enforcement authority of the Attorney General and local governments is detailed.

Introduced and referred to Senate State Government Committee, 8/2/2011

SB 1212 RE: Pennsylvania First Act (by Sen. Tim Solobay, et al)

Amends Title 62 (Procurement) further providing for reciprocal limitations by changing the name of the Reciprocal Limitations Act to the Pennsylvania First Act, which provides preference to Pennsylvania residents and bidders offering supplies manufactured in the Commonwealth and prohibits the purchase or use of certain supplies.

Introduced and referred to Senate State Government Committee, 8/2/2011

Upcoming meetings of Interest

L&I UNIFORM CONSTRUCTION CODE REVIEW AND ADVISORY COUNCIL MEETING

The Uniform Construction Code Review and Advisory Council will meet on Thursday, September 15, 2011, from 10 a.m. to 5 p.m., in Hearing Room 1, Second Floor (North Street Elevator), Commonwealth Keystone Building, 400 North Street, Harrisburg. For more information contact the Department of Labor and Industry web site at www.dli.state.pa.us , or call Edward Leister at (717) 783-6304.

TUESDAY - 9/20/11

House Republican Policy Committee

10:00 a.m., Beaver County, venue to be determined

Public hearing on workforce development

2011 SENATE SESSION SCHEDULE

September 19, 20, 21, 26, 27, 28

October 17, 18, 19, 24, 25, 26, 31

November 1, 14, 15, 16

December 5, 6, 7, 12, 13, 14

2011 HOUSE SESSION SCHEDULE

September 26, 27, and 28

October 3, 4, 5, 17, 18, 19, 24, 25, 26, and 31

November 1, 2, 14, 15, 16, 21, 22, and 23

December 5, 6, 7, 12, 13, and 14

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

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