

MCA
Summary of Legislation
January 2011

Anti-Separate Primes and Prevailing Wage Bills are Back

True to form, legislators are once again offering proposals that would scale back some aspects of both the Prevailing Wage law and the multiple primes bidding requirement contained in the Separations Act. During the first month of the new legislative session we have seen:

- A bill that would raise the threshold of when Separations Act and Prevailing Wage applies
- A bill that would allow school districts to apply for a waiver of the multiple primes bidding requirement
- A list of priorities for the House Education committee that includes changing the Separations Act and the Prevailing Wage law
- A bill that would allow school districts to opt out of paying prevailing wages for their construction projects

While some of these proposals have been around in past sessions, the new Republican majority in the House increases the likelihood of these bills being voted on, at least at the committee level. Our lobbyists anticipate that there will be a greater need for efforts to protect both of these vital laws.

Corbett names choices for PennDOT, chief counsel

Gov.-elect Tom Corbett announced January 12 that his choice to head the state Department of Transportation is an engineer who has worked on many large road and bridge projects in Pennsylvania. The PennDOT secretary nominee will be **Barry J. Schoch** of Camp Hill, a vice president at McCormick Taylor Inc. who serves as transportation engineering manager of its Harrisburg office. He played a top role in developing the state's failed proposal to add tolls to Interstate 80.

Schoch "possesses a strong understanding of PennDOT policies, procedures and partners and will provide a wealth of transportation expertise to the administration," Corbett said in a release.

Schoch, 50, who has a bachelor's degree in civil engineering from Penn State University, said he has gotten to know many of PennDOT's professionals during nearly three decades working in the state. Schoch's position requires Senate confirmation but Aichele's does not.

Corbett also disclosed that his general counsel will be **Stephen S. Aichele**, chairman and past managing partner of the large Philadelphia-based law firm Saul Ewing. Aichele has taught at Temple University School of Law, chaired the Tredyffrin Township Board of Supervisors in the early 1990s and retired from the U.S. Naval Reserve after serving for 25 years. His law practice has focused on commercial real estate.

Also this month, Corbett selected Aichele's wife, **Carol**, as his choice for Pennsylvania's **Secretary of State**. The Secretary of State has jurisdiction over the professional licensing boards, elections, lobbyist registration and campaign finance reporting, corporations and non-profit registrations.

Legislative Activity

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

[HB 107](#) RE: Competitive Sealed Proposals (by Rep. George Dunbar, et al)

Amends Title 62 (Procurement) regarding the evaluation of competitive sealed proposals by providing no individual who has been employed by an offeror within the last two years may participate in the evaluation of proposals.

Introduced and referred to House State Government Committee, 1/19/2011

Reported as committed from House State Government Committee, read first time, and laid on the table, and removed from the table, 1/25/2011

Several amendments declared not Germane, read second time, and Rereferred to House Appropriations Committee, 1/31/2011

[HB 108](#) RE: Public Access to Procurement Information (by Rep. Glenn Grell, et al)

Amends Title 62 (Procurement) providing for public access to procurement information by stating that if a procurement is to be made under section 513 (relating to competitive sealed proposals), 515 (relating to sole source procurement), 517 (relating to multiple awards), 518 (relating to competitive selection procedures for certain services), 519 (relating to selection procedure for insurance and notary bonds) or 905 (relating to procurement of design professional services), five business days prior to execution by the contracting official the purchasing agency shall post the proposed contract on its website. This shall not apply to a procurement under section 516 (relating to emergency procurement).

Introduced and referred to House State Government Committee, 1/19/2011

Reported as committed from House State Government Committee, read first time, and laid on the table, and removed from the table, 1/25/2011

Several amendments declared not Germane, read second time, and Rereferred to House Appropriations Committee, 1/31/2011

New Bills Introduced

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

[HB 1](#) RE: Comparative Negligence (by Rep. Curt Schroder, et al)

Amends Title 42 (Judiciary and Judicial Procedure) repealing previous provisions for comparative negligence and adding new language for (1) Apportionment of responsibility among certain nonparties and effect; (2) Recovery against joint defendant; contribution; (3) Off-road vehicle riding; and (4) Downhill skiing.

Introduced and referred to House Judiciary Committee, 1/27/2011

[HB 83](#) RE: Surety Bond Guarantee Fund Program Act (by Rep. W. Curtis Thomas, et al)

Provides definitions and creates the Surety Bond Guarantee Fund Program to help disadvantaged businesses compete for competitive contracts. The fund is established in the Treasury and shall be administered by that department to guarantee to bonding companies against percentages of losses sustained as a result of defaults by disadvantaged businesses on a contract or project. Surety bond guarantees paid out of the fund shall not exceed \$1 million. Eligibility requirements for contracts to obtain the guarantee are provided and certain required contract provisions are given. The application process and acceptance criteria for an eligible disadvantaged business is outlined along with the criteria for disallowing participation in the program. Powers and duties are given to the department and \$5 million is appropriated to DCED for placement in the fund and DCED may spend ten percent of that money.

Introduced and referred to House Commerce Committee, 1/20/2011

[HB 88](#) RE: Public Contract Integrity Act (by Rep. Bob Godshall, et al)

The bill renders it unlawful for an executive agency or a local agency to enter into a public contract with a person who has made a contribution to or solicited a contribution on behalf of a candidate exceeding the limits set forth within one year immediately preceding the awarding of a public contract. The act also renders certain contributions illegal, sets terms for a public contract, and provides for enforcement.

Introduced and referred to House State Government Committee, 1/20/2011

[HB 179](#) RE: Energy Efficiency in State Government Buildings Act (By Rep. Ron Miller et al)

Provides for a 30 percent reduction in energy use in State buildings by 2015, for energy efficiency and for increased efficiency in the state motor vehicle fleet and for other energy efficiency and procurement. The Interagency Task Force on Energy is established to encourage a diverse supply of energy, promote energy efficiency and conservation, coordinate state agency actions, and identify opportunities for state agencies to lead by example. The bill provides for recognition of efforts to improve State energy efficiency and for annual reporting to the House and Senate Environmental Resources and Energy Committees.

Introduced and referred to House Environmental Resources and Energy Committee, 1/24/2011

[HB 190](#) RE: Mandate Waiver Program (By Rep. Will Tallman, et al)

Amends the Public School Code, in education empowerment, further providing for mandate waiver program by adding that a school district receiving a mandate waiver of the provisions of section 751 regarding separation of contracts shall be granted such waiver under the condition that the school district shall solicit bids for the school construction project both as a single-prime contractor construction project and a multiple-prime contractor construction project that complies with the provisions of section 751. The department shall collect and analyze the bids submitted and report its findings regarding the potential costs or savings of mandate waivers of the provisions of section 751 within three years.

Introduced and referred to House Education Committee, 1/24/2011

[HB 193](#) RE: High-Performance, State Buildings Standards Act (By Rep. Kate Harper, et al)

Provides for the creation of high-performance building standards. All projects in facilities owned by a Commonwealth agency shall meet or exceed the prescribed level of achievement under the high-performance building standard. The Department of General Services and Department of Environmental Protection shall develop and issue regulations for compliance and DGS shall report annually to the legislature.

Introduced and referred to House Environmental Resources and Energy Committee, 1/24/2011

[HB 258](#) RE: Prototypical School Facility Designs Clearinghouse (By Rep. Seth Grove, et al)

Amends the Public School Code providing for the establishment of a central clearinghouse of prototypical school facility designs for access by school entities. The Department of Education must review and evaluate submitted plans for inclusion in the clearinghouse using certain standards. The bill requires the Legislative Budget and Finance Committee after the fifth year of operation to conduct a study of the department's program to determine the savings incurred by school entities that have participated in the program. **(Reintroduced from last session)**

Introduced and referred to House Education Committee, 1/26/2011

[HB 337](#) RE: Elevator Contractors' Licensing (by Rep. Tom Killion, et al)

Act providing for licensing of elevator contractors and mechanics; and imposing duties on the Department of Labor and Industry.

Introduced and referred to House Labor & Industry Committee, 1/31/2011

[HB 350](#) RE: PA Construction Code Act (By Rep. Curt Sonney, et al)

Amends the Pennsylvania Construction Code Act amending section 501 pertaining to administration and enforcement providing the act may be administered and enforced by municipalities by the retention of three or more construction code officials or third-party agencies to act on behalf of the municipality. Also adds a subsection providing for fee limitations.

Introduced and referred to House Labor & Industry Committee, 1/31/2011

[HB 352](#) RE: Home Improvement Contracts (by Rep. Curt Sonney, et al)

Amends Home Improvement Consumer Protection Act further providing for the definition of "home improvement" by removing certain work at private residences, for procedures for registration by adding standards for determining proof of insurance and identification, for voidable clauses, and for prohibited acts. The bill provides for home improvement contracts by deleting the existing language and stating no home improvement contract shall be valid or enforceable against an owner unless it is agreed to and signed by the home improvement contractor and the owner, agent or other contracted party. Language relating to voidable clauses is deleted. Lastly, no person shall deviate from or disregard plans or specifications unless agreed to by the contractor and the owner, agent or other contracted party.

Introduced and referred to Consumer Affairs Committee, 1/31/2011

[HB 355](#) RE: Immigration (by Rep. Harry Readshaw, et al)

Amends The Administrative Code providing for immigration matters; and imposing penalties and duties on the Department of Labor and Industry, Pennsylvania State Police, Secretary of State and Attorney General.

Introduced and referred to Labor and Industry Committee, 2/1/2011

[HB 377](#) RE: Log Walls (by Rep. Garth Everett, et al)

Amends the Pennsylvania Construction Code adding that the act shall not apply to industrialized housing, with the exception that any model code enacted pursuant to the Industrialized Housing Act shall not include code provisions specifically omitted from adoption pursuant to this act. Additionally, the bill states log walls with a minimum average wall thickness of five inches or greater which comply with the International Code Council Standard on the Design and Construction of Log Structures, ICC 400-2007, shall be permitted in residential buildings if they meet certain enumerated standards. Section R501.3 of the 2012 International Residential Code shall be part of the Uniform Construction Code. This subsection shall apply to construction under which the permit applicant opts to not apply the automatic sprinkler requirement.

Introduced and referred to Labor and Industry Committee, 2/1/2011

[SB 2](#) RE: Contributory Negligence (by Sen. Jake Corman, et al)

Amends Title 42 (Judiciary and Judicial Procedure) to state that in contributory negligence and in recovery with joint defendants and contribution, defendants shall be liable in dollar amount in direct relation to the amount they were liable. Liability shall be several and a judgment shall be entered against each individual defendant in the amount of their fault. Certain instances where liability is joint and several are detailed and where this is the case and where a defendant has paid more than his share, he is entitled to recover from the other defendants. Apportionment among certain non-parties and effect is also provided. Repealed is the previous section dealing with joint and several liability. Nothing in this section is to be construed to disallow the joining of parties who are potentially responsible.

Introduced and referred to Senate Judiciary Committee, 1/18/2011

[SB 205](#) RE: Business Taxes (by Sen. Bob Mensch, et al)

Amends the Tax Reform Code to have business taxes apportioned for taxable years ending after December 31, 2008, by multiplying income by the sales factor.

Introduced and referred to Senate Finance Committee, 1/21/2011

[SB 206](#) RE: CNI Tax Reduction (by Sen. Bob Mensch, et al)

Amends the Tax Reform Code to have the corporate net income tax be calculated as follows for the following taxable years: through December 31, 2010, 9.99 percent; from January 1, 2011 through December 31, 2011, 8.99 percent; from January 1, 2012 through December 31, 2012, 7.99 percent; and for the taxable years starting January 1, 2013 and all taxable years thereafter 6.99 percent.

Introduced and referred to Senate Finance Committee, 1/21/2011

[SB 207](#) RE: CNI Carry Forward (by Sen. Bob Mensch, et al)

Amends the Tax Reform Code, in corporate net income, removing the carry forward provisions for certain taxable years.

Introduced and referred to Senate Finance Committee, 1/21/2011

[SB 208](#) RE: Career Development Tax Payer Act (by Sen. Bob Mensch, et al)

Amends the Tax Reform Code to create The Career Development Tax Payer Act and establish a Career Development Tax Credit. The act provides definitions and allows a taxpayer who has incurred qualified career training expenses to submit an application for a tax credit. The application must be submitted by September 15 for the prior taxable year. The amount of the credit shall be 25 percent of the taxpayer's total expenses. A taxpayer is not allowed to take the tax credit for taxable years ending after December 31, 2012, and the commonwealth may not give total credits over \$20,000,000 in any fiscal year. The department may not approve a tax credit after December 31, 2012, and a report must be completed by the department and submitted to the General Assembly on the efficacy of the tax. The secretary has the power promulgate regulations under this act.

Introduced and referred to Senate Finance Committee, 1/21/2011

[SB 308](#) RE: Sewer Lines Improvements (By Sen. John Pippy, et al)

Amends the act entitled "An act to provide for and regulate the accumulation, investment, and expenditure of funds by cities, boroughs, incorporated towns and townships for preparing plans for sewage disposal systems, and for the construction, improvement or replacement of sewage disposal systems for which plans have been approved by the Sanitary Water Board of the Commonwealth," further providing for definitions and allowing municipalities and municipal authorities to use public funds for the improvement, extension, repair or rehabilitation of private lateral sewer lines connected to public sewer systems; providing requirements and definitions.

Introduced and referred to Senate Environmental Resources and Energy Committee, 1/27/2011

Upcoming meetings of Interest

2011 SENATE SESSION SCHEDULE

February	7, 8, 9, 14, 15, 16, 28
March	1, 2, 7, 8, 9
April	5, 6, 11, 12, 13, 26, 27
May	2, 3, 4, 9, 10, 11, 23, 24
June	6, 7, 8, 13, 14, 15, 20, 21, 22, 23, 24, 27, 28, 29, 30

2011 HOUSE SESSION SCHEDULE

February	7, 8, 9, 14, 15, 16, 28
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March	1, 2, 7, 8, 9
April	4, 5, 6, 11, 12, 13, 25 (NV), 26, 27
May	2, 3, 4, 9, 10, 11, 23, 24, 25
June	6, 7, 8, 13, 14, 15, 20, 21, 22, 23, 24, 27, 28, 29, 30

The Governor's 2011 Budget Address is scheduled for March 8, 2011. The House and Senate will then break for three weeks of budget hearings.

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

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