

MCA
Summary of Legislation
May 2011

Public Private Partnership Bill Delayed

House Bill 3, a bill that would allow the state to team up with private developers to improve infrastructure, has been a priority for transportation improvement advocates for the last few years. While this bill does not authorize the leasing of the PA Turnpike, it could lead to other transportation projects, some of which include building construction. The legislation enables the private partner to charge fees or tolls to recoup their investment. As reported from the House Transportation committee, House Bill 3 contained language that makes it clear that prevailing wages will apply to any of these Public Private Partnership (P3) projects. And it was that provision that incited anti-prevailing wage legislators to file an amendment that would exempt any of the P3 projects from state prevailing wage coverage.

The amendment that would strip the prevailing wage section out of the bill was authored by Representative Darrell Metcalf, one of the most conservative members in the House. Apparently, efforts to convince Metcalf to withdraw his amendment were unsuccessful and the bill went from being scheduled for a vote by the full House to being tabled and eventually sent back to the Transportation committee. Up to that point, the House Republican leadership had done a good job of keeping their members unified. That does not appear to be the case with House Bill 3 though. Even though no vote was taken, there is widespread speculation that all of the Democrats and enough Republicans (estimated between 15 and 30) want the prevailing wage provision left in the bill.

Sending the bill back to committee avoids a messy floor fight, but sooner or later the House will most likely need to face that issue. Even if the House waits for the Senate companion bill to arrive from that chamber, a floor vote is inevitable. There may be an effort to use parliamentary maneuvers to side step a vote on the prevailing wage dispute, but that won't be easy either. For now, the bill and projects reliant on the bill passing are stuck in neutral.

Higher Education Authority Targets Prevailing Wage

A state agency that provides tax exempt financing to public and private colleges plans on debating whether or not prevailing wage law applies to projects it finances. The PA Higher Education Facilities Authority (PHEFA) issues tax exempt bonds for both public and private colleges and universities. In 2007, the authority made a policy decision that any project it financed would be subject to prevailing wage law. With only 5 days notice, the Authority announced that it would vote on rescinding that policy decision at its May 26th meeting. But in response to a joint letter sent to PHEFA by State Treasurer Rob McCord and State Auditor General Jack Wagner, the decision was postponed.

PHEFA is comprised of the Governor, the Secretaries of Education and General Services, the State Treasurer and Auditor General as well as 2 House and 2 Senate members. That make up represents 5 Republicans and 4 Democrats, so a party line vote would rescind the current prevailing wage policy. It is not clear that this would result in a party line vote though. In the letter sent by McCord and Wagner, they request information on the legality and impact of a change in this policy. The financing offered by PHEFA is provided through the floating of bonds and the colleges and universities are required to pay back the money. It is expected that this issue will be brought up again at a future meeting of the PHEFA board.

E-Verify Passes Senate

Legislation requiring construction contractors to verify the citizenship of their workers passed the PA Senate 42-7 on May 24th. Senate Bill 637 only covers construction on public works projects. The House also has similar legislation. In fact last year, the House passed two bills, one dealing with public projects, the other addressing private construction projects. Neither of those bills passed the Senate however. The Senate passage of SB 637 is a strong indication that, at least, the public works verification will be passed into law. Under the provisions of the bill, contractors would need to use the federal e-verify system to check on the legal residence status of their employees.

Mechanics Lien Back on the Agenda

The Pennsylvania Mechanic's Lien law has long been a battlefield for the construction industry. Major changes were enacted in the law about 6 years ago and every session since there are attempts to reopen the Act to make further changes or undue the previous ones. **House Bill 1602** establishes a "notice of commencement" procedure in the law. That means that in order to have a valid lien, a contractor would need to make formal notice that he is working on the job within 15 days of starting work. This type of provision has proven to be a major cause of invalidating lien claims in other states that have it in their law. House Bill 1602 is scheduled to be the subject of a public hearing before the House Labor and Industry committee on June 13th in Harrisburg. Traditionally our organization has opposed bills like this one that make it more difficult for contractors to file liens and receive proper payment.

Legislative Activity

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

[HB 3](#) RE: Public-Private Transportation Partnerships (By Rep. Rick Geist, et al)

Amends Title 74 (Transportation) adding a chapter providing for public-private transportation partnerships and making a related repeal.

Laid on the table 5/10/2011

Removed from the table and Rereferred to House Transportation Committee, 5/23/2011

[HB 285](#) RE: School Bidding Thresholds (by Rep. Mark Keller, et al)

(PN 238) Amends Public School Code increasing the amount of purchases that are subject to advertising requirements to \$25,000 from \$10,000. Additionally, written or telephonic price quotations from at least three qualified and responsible contractors would be requested for all contracts that exceed \$7,000 (increased from \$4,000). The legislation provides for the annual adjustment of these amounts based on the Consumer Price Index for All Urban Consumers.

Read second time and rereferred to House Appropriations Committee, 5/2/2011

Reported as committed from House Appropriations Committee, read third time, and passed House, 5/23/2011 (124-75)

[HB 292](#) RE: Bidding Thresholds (by Rep. Mark Keller, et al)

(PN 1442) Amends Title 53 (Municipalities) further providing for competitive bidding of contracts relating to parking authorities by requiring adjustments to the base amount based on inflation, and increasing the minimum threshold for contracts that must receive written or telephonic price quotations from at least three qualified and responsible contractors from \$4,000 to a base amount of \$10,000. (Prior Printer Number: 245)

Received in the Senate and referred to Senate Local Government Committee, 5/3/2011

[HB 293](#) RE: Bidding Thresholds (by Rep. Mark Keller, et al)

Amends Title 74 (Transportation), in metropolitan transportation authorities, further providing for competitive bidding of contracts.

Received in the Senate and referred to Senate Received in the Senate and referred to Senate Transportation Committee, 5/3/2011

[HB 808](#) RE: WC Benefits (By Rep. Dave Hickernell, et al)

Amends the Workers' Compensation Act, in liability and compensation, requiring an employee to see a physician for a period of 180 days following an initial visit (increased from 90).

Reported as amended from House Labor and Industry Committee, read first time, and laid on the table, 5/10/2011

Removed from the table, 5/11/2011

[HB 1312](#) RE: Job Transition Loan Fund (By Rep. Todd Stephens, et al)

Amends the Public Welfare Code, in public assistance, to create the Job Transition Loan Fund to provide job transition loans for the purchase of related items, such as clothing, testing fees, or transportation, to those receiving unemployment compensation benefits. The money must be paid back at intervals described in the bill. The amount owed may be reduced in proportion to which the recipient no longer requires food stamps.

Received in the Senate and referred to Senate Public Health and Welfare Committee, 5/3/2011

[SB 9](#) RE: Proof of Citizenship for Receipt of Public Benefits Act (by Sen. Joe Scarnati, et al)

requires identification of lawful presence in the United States as a prerequisite to the receipt of public benefits. This does not apply if compliance would lead to a loss of federal funding or would be in conflict with federal law.

Reported as committed from Senate Appropriations Committee, 5/9/2011

Read second time, 5/11/2011

7 Floor amendments adopted, 5/23/2011

Read third time and passed Senate, 5/24/2011 (40-9)

Received in the House and referred to House State Government Committee, 5/25/2011

[SB 263](#) RE: Data for Consideration by IRRC (By Sen. Ted Erickson, et al)

Amends the Regulatory Review Act to require the promulgating agency to submit to the Independent Regulatory Review Commission any data on which the information in the regulation is based and how that data was used. The agency has the burden of proving the acceptability of the data and the commission shall consider whether the regulation is supported by acceptable data in its determination of whether to approve a regulation.

Rereferred to Senate Appropriations Committee, 5/3/2011

Reported as committed from Senate Appropriations Committee, 5/23/2011

Read Second time, 5/24/2011

[SB 308](#) RE: Sewage Disposal Systems (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.

Reported as committed from Senate Environmental Resources and Energy Committee, and read first time, 5/3/2011

Rereferred to Senate Appropriations Committee, 5/24/2011

[SB 405](#) RE: Mercantile or Business Privilege Taxes (by Sen. Pat Browne, et al)

(PN 1055) Amends the Local Tax Enabling Act to limit a local taxing authority's ability to levy a mercantile or business privilege tax to only if the privilege of doing business is exercised through a base of operations in the local taxing jurisdiction. No jurisdiction may charge this tax where the tax is levied by another jurisdiction. Pertinent definitions are provided. (Prior Printer Number: 395)

Rereferred to Senate Appropriations Committee, 5/11/2011

[SB 552](#) RE: Industry Partnerships (By Sen. Mike Brubaker, et al)

Amends the Workforce Development Act adding a chapter providing for industry partnerships. The bill provides for the identification of industry clusters and targeted industry clusters and requires information to be published online annually by the Department of Labor and Industry along with a list of statewide and regional high-priority occupations which will guide workforce and educational investments by the department and participating agencies. The bill establishes a grant program to provide funding to industry partnerships. The grants could be used by industry partners to organize collaborative structures, identify training needs, facilitate economies of scale, and other such purposes. The bill provides for interdepartmental cooperation with the Departments of Agriculture, Community and Economic Development, Education, Corrections, and Public Welfare. The Department of Labor shall provide the necessary industry and labor market research to support and further develop the work of industry partnerships.

Reported as committed from Senate Appropriations Committee, 5/2/2011

Read Second time, 5/4/2011

Read third time and passed Senate, 5/9/2011 (49-0)

Received in the House and referred to House Labor and Industry Committee, 5/10/2011

[SB 637](#) RE: E-Verify (By Sen. Kim Ward, et al)

(PN 992) Amends Title 62 (Procurement), in contracts for public works, adding a subchapter requiring verification of the employment eligibility of all employees for purposes of wage reporting and employment eligibility in certain public works projects as a precondition of being awarded a contract. The bill prescribes penalties and establishes good faith immunity under certain circumstances. (Prior Printer Number: 645)

Rereferred to Senate Appropriations Committee, 5/4/2011

Reported as committed from Senate Appropriations Committee, 5/9/2011

Read Second time, 5/11/2011

Amended on Senate floor, 5/23/2011

Read Third time and passed Senate, 5/24/2011 (42-7)

[SB 747](#) RE: Plumbing Contractors Licensure Act (by Sen. Ted Erickson, et al)

Provides for plumbing contractor licensure, establishes the State Board of Plumbing Contractors and provides for its powers and duties, and establishes fees, fines and civil penalties. The State Board of Plumbing Contractors within the Department of Labor and 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 be repaid by the board within three years of the beginning of issuance of licenses. 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 the Plumbing Contractors Licensure Account in the State Treasury. Beginning July 1, 2011, all moneys collected by the board shall be paid into the account. Bill further requires all plumbers be properly licensed under the Act before holding themselves out as a plumber and places greater requirements on plumber licensure.

Rereferred to Senate Appropriations Committee, 5/4/2011

[SB 1054](#) RE: 2011-12 Capital Budget Act (by Sen. Jake Corman, et al)

Provides for the capital budget for the fiscal year 2011-2012. Provides \$1,662,000,000 for capital improvements: \$935 million for buildings and structures, \$10 million for furniture and equipment, \$212 million for transportation assistance projects, \$270 million for redevelopment assistance projects, \$35 million for flood control projects, and \$200 million for bridge projects.

Introduced and referred to Senate Appropriations Committee, 5/10/2011

Reported as committed from Senate Appropriations Committee and read first time, 5/23/2011

Read second time, 5/24/2011

New Bills Introduced

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

[HB 1477](#) RE: Healthy Families, Healthy Workplaces Act (By Rep. Marc Gergely, et al)

Provides that employers shall provide a minimum of one hour of paid sick leave for every 40 hours worked by an employee. Employers are not required to provide more than 52 hours of sick leave for an employee in a calendar year. Paid sick leave would accrue in hour unit increments. Employees shall be entitled to use accrued paid sick leave beginning 90 business days following the date of hire. No more than 40 hours of paid sick leave of an employee may carry forward from one calendar year to the next. The bill provides for the use of paid sick leave. For leave of more than three consecutive days, an employer may require reasonable documentation that the paid leave is covered. Lastly, the bill states that an employer or small employer shall not take retaliatory personnel action or discriminate against an employee because the employee has requested paid sick leave under this act or taken paid sick leave guaranteed by this act or made a complaint or filed an action to enforce an employee's right to paid sick leave.

Introduced and referred to committee on House Labor and Industry, 5/5/2011

[HB 1485](#) RE: General Appropriation Act of 2011 (by Rep. Bill Adolph, et al)

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, 2011, to June 30, 2012, 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, 2011; to provide appropriations from the State Lottery Fund, the Energy Conservation and Assistance Fund, the Aviation Restricted Revenue Account, 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 Oil and Gas Lease 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, 2011, to June 30, 2012; to provide appropriations from the Motor License Fund for the fiscal year July 1, 2011, to June 30, 2012, 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, 2011; and to provide for the additional appropriation of Federal and State funds from the General Fund for the Executive Department of the Commonwealth for the fiscal year July 1, 2010, to June 30, 2011, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 2010.

Introduced and referred to House Appropriations Committee, 5/9/2011

Reported as amended from House Appropriations, read first time, laid on the table and removed from the table, 5/11/2011

Read Second time, 5/23/2011

Read third time and passed House, 5/24/2011 (109-92)

Received in the Senate and referred to Senate Appropriations Committee, 5/26/2011

[HB 1539](#) RE: Keystone Works I Program Act (By Rep. Stan Saylor, et al)

Establishes the Keystone Works I Program under the purview of the Department of Labor and Industry. The program would permit a claimant to be matched with a participating business, which will then provide skill enhancement for up to 24 hours per week for up to six weeks. Upon completion of the six-week period, claimants must be considered for employment by the business. A business shall not be required to compensate claimants involved with the program. The bill outlines other duties of the department.

Introduced and referred to House Labor and Industry Committee, 5/12/2011

[HB 1540](#) RE: Prevailing Wage Threshold (by Rep. Scott Perry, et al)

Amends the Pennsylvania Prevailing Wage Act raising the applicability threshold for "public work" to an estimated cost of \$500,000 on March 1 each year adjusted for changes in the Consumer Price Index.

Introduced and referred to House Labor and Industry Committee, 5/12/2011

[HB 1541](#) RE: Public Work Definition (by Rep. Scott Perry, et al)

Amends the Pennsylvania Prevailing Wage Act amending the definition of "public work" to require at least 51 percent of the monies be public funds.

Introduced and referred to House Labor and Industry Committee, 5/12/2011

[HB 1543](#) RE: Public Work Definition (by Rep. Duane Milne, et al)

Amends the Pennsylvania Prevailing Wage Act to exclude work on land held or owned by nonprofit historical organizations or land conservancies from the definition of "public work."

Introduced and referred to House Labor and Industry Committee, 5/12/2011

[HB 1556](#) RE: Sewer lines (By Rep. Harry Readshaw, et al)

Amends the Pennsylvania Infrastructure Investment Authority Act defining "private lateral sewer line" as a private sewer line serving a structure or dwelling, running from the structure or dwelling to a public sewer line. Private lateral sewer lines are added to the definition of "project". The legislation authorizes governmental units to use financial assistance received under this act for the improvement, extension, repair or rehabilitation of private lateral sewer lines connected to public sewer systems, where the government unit determines that such activities will benefit the public sewer system. No governmental unit which has completed such activities would be deemed to be the owner of such private lateral sewer lines, or to have any further responsibility to conduct such activities, unless a governmental unit makes an affirmative determination to accept such obligations.

Introduced and referred to House Environmental Resources and Energy Committee, 5/18/2011

[HB 1557](#) RE: Sewer lines (By Rep. Harry Readshaw, 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," defining "private lateral sewer line" as a private sewer line serving a structure or dwelling, running from the structure or dwelling to a public sewer line. The legislation authorizes 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, where the municipality or municipal authority determines that such activities will benefit the public sewer system. No municipality or municipal authority which has completed such activities would be deemed to be the owner of such private lateral sewer lines, or to have any further responsibility to conduct such activities, unless a municipality or municipal authority makes an affirmative determination to accept such obligations.

Introduced and referred to House Environmental Resources and Energy Committee, 5/18/2011

[HB 1602](#) RE: Mechanics' Lien (by Rep. Tom Killion, et al)

Amends the Mechanics' Lien Law further providing for formal notice by subcontractor to the prothonotary of the Court of Common Pleas of the relevant jurisdiction as condition precedent to beginning construction. Notice must be given within 15 days of commencement of the construction. Form of the notice is provided for and a model notice given. A petition for a claim from a lien for a construction project must be filed within four months after completion of the work.

Introduced and referred to House Labor and Industry Committee, 5/25/2011

[HR 269](#) RE: 80th anniversary of the Davis-Bacon Act (by Rep. John Galloway, et al)

A Resolution marking the 80th anniversary of the passage and signing of the Davis-Bacon Act.

Introduced and referred to House Labor and Industry Committee, 5/4/2011

[HR 270](#) RE: Project Labor Agreements (by Rep. John Galloway, et al)

A Resolution offering support & recommendation of the House of Rep. for the use of project labor agreements for all publicly funded or guaranteed public works construction, alteration, renovation, demolition, excavating & paving projects in PA.

Introduced and referred to House Labor and Industry Committee, 5/4/2011

[SB 1068](#) RE: Municipal Connection Funding Programs (by Sen. Lloyd Smucker, et al)

Amends the Pennsylvania Infrastructure Investment Authority Act establishing Municipal Connection Funding Programs for the purpose of authorizing financial assistance in the form of guaranteed low-interest loans to homeowners for tapping fees and eligible costs relating to the installation of a water or sewage lateral for homes constructed prior to the installation of a public water distribution system or a public sewage collection system servicing the property or relating to the replacement of water or sewage laterals to housing units as part of an upgrading or reconstruction of a public water distribution system or public sewage collection system. The bill also provides for the establishment of the Municipal Connection Funding Loan Guarantee Program, and sets out duties and responsibilities of the Authority relating to both programs.

Introduced and referred to Senate Environmental Resources and Energy Committee, 5/12/2011

[SB 1070](#) RE: WC for Sole Proprietors, etc. (by Sen. Joe Scarnati et al)

Amends the Workers' Compensation Act, in procedure, providing for insurance for different forms of business by adding that insurers are authorized to provide, on a voluntary basis, to sole proprietors, partners of a partnership or members of a limited liability company, workers' compensation insurance equivalent to that which employers provide to employees which insure their liability. For the purposes of computing the premium charge, the wages shall be at least equal to the minimum payroll for a corporate officer, and no more than the maximum payroll for a corporate officer. Additionally, the bill repeals provisions on logging.

Introduced and referred to Senate Labor and Industry Committee, 5/16/2011

Upcoming meetings of Interest

THURSDAY - 6/2/11

House Consumer Affairs Committee

9:00 a.m., Convention Center, Room 111, 1101 Arch Street, Philadelphia

Joint Public hearing with the House Transportation Committee on the "Right to Repair"

MONDAY - 6/13/11

House Labor and Industry Committee

10:00 a.m., Room 205, Ryan Office Building (Rescheduled from 6/6/11)

Public hearing on: [HB 1602](#) (Killion) - Amends the Mechanics' Lien Law further providing for formal notice by subcontractor as condition precedent and for filing and notice of filing of claim.

2011 SENATE SESSION SCHEDULE

June 6, 7, 8, 13, 14, 15, 20, 21, 22, 23, 24, 27, 28, 29, 30

2011 HOUSE SESSION SCHEDULE

June 6, 7, 8, 13, 14, 15, 20, 21, 22, 23, 24, 27, 28, 29, 30

The Fall Legislative Schedule has not 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>