

MCA
Summary of Legislation
October 2012

Legislature Ends Voting Session with a Flurry

In response to public concerns, the General Assembly has avoided “lame duck” voting in recent years. So even though the current legislative session continues until November 30th, both the PA House and Senate have made it clear that October 17th was their last voting day for this session. Regardless of the date though, the final voting days are always a frantic affair characterized by last minute blitzes aimed at passing or defeating legislation before time expires. This year was no exception. A few of the bills considered affect the construction industry, but nothing harmful passed. And, any bills not passed by now will need to be reintroduced and start again next year. The House and Senate do return to Harrisburg in mid November, but only for the purpose of leadership elections and farewell speeches.

No News Is Good News

A number of important construction laws have been under a relentless assault this legislative session. Prevailing wage law, separations act and mechanic’s lien law all were targeted by the House. Each issue advanced a few paces towards enactment but all ultimately fell well short of reaching the Governor’s desk. Construction spending also fell into the cross-hairs of the House as it passed austere budgets and lobbied the Senate to reduce Redevelopment Assistance Capital Projects (RACP) spending (funds appropriated for specially designated construction projects throughout the state). In the end, the RACP debt reduction bill stalled in the Senate. That’s certainly good news for the construction industry, but there is little doubt that all of these issues will be revived come 2013. Inaction isn’t necessarily a good thing though as the beaten down transportation sector will tell you. Those contractors would dearly love to see a serious effort to pass infrastructure funding. That too will have to wait, at least, until next year.

Steel Products Amendment Passes

Legislation designed to make it easier for contractors to comply with the Steel Products Procurement Act passed both the House and Senate and was signed into law by Governor Corbett on October 24th. The bill states that the Act shall not apply to a list of exempt steel products identified by the Department of General Services (DGS). DGS is charged with identifying products that are not produced in the United States in sufficient quantities in the previous calendar year. The Department shall then publish the list on its website. The intent is to relieve the paperwork associated with complying with the Act in cases where it is well known that certain products are not available. DGS shall update the list of those products annually.

Legislative Activity

The following bills of interest to the construction industry were acted on by the General Assembly in October.

BIDDING / CONTRACTING

HB 1840 RE: Steel Products Procurement Act (by Rep. John Bear, et al)

Amends the Steel Products Procurement Act adding language providing section 4 of the Act shall not apply in any case where a list of exempt steel products, which has been identified by the Department of General Services as not produced in the United States in sufficient quantities in the previous calendar year, is published on the department’s website, which contractors, subcontractors, suppliers, bidders, offerors and public agencies can rely upon in preparing bids and contracts. Requires the department to annually update the list of exempt products on a date selected by the department. Further provides the department may not make changes to the list during the year following publication. Lays out the exemption process and provides for publication in the Pennsylvania Bulletin. The sovereign immunity clause is removed. The bill also provides for the requirement of posting exempt machinery in the Pennsylvania Bulletin.

Read Second time and rerefereed to House Appropriations Committee, 10/1/2012

Reported as committed from House Appropriations Committee, read third time, and passed House, 10/2/2012 (195-0)

Received in the Senate and referred to Senate State Government Committee, 10/10/2012
Reported as committed from Senate State Government Committee, read first time, and Rereferred to Senate Appropriations Committee, 10/15/2012
Reported as committed from Senate Appropriations Committee, and read second time, 10/16/2012
Read third time and passed Senate, 10/17/2012 (49-0)
Signed in the House and Senate, 10/17/2012
Approved by the Governor 10/24/2012 (Act No. 159)

HB 2324 RE: Competition in Award of Contracts (By Rep. Mark Keller, et al)
Amends the Public Auditorium Authorities Law further providing for competition in award of contracts.
Read second time, Rereferred to Senate Appropriations Committee, and Reported as committed from Senate Appropriations Committee, 10/1/2012
Read third time and passed Senate, 10/2/2012 (49-0)
Signed in the House 10/3/2012
Signed in the Senate 10/15/2012
Approved by the Governor, 10/24/2012 (Act No.168 of 2012)

SB 623 RE: Veteran-Owned Small Businesses (by Sen. Tommy Tomlinson, et al)
Amends Title 62 (Procurement) adding chapter providing for contracting with veteran-owned small businesses. Definitions are provided and the Department of General Services (DGS) is given the power to establish policy on the subject. The bill sets a participation goal of not less than three percent participation by veteran-owned small businesses, including service-disabled veteran-owned small businesses. Duties of DGS are outlined and the bill states a purchasing agency may reduce the level or change the types of bonding normally required or accept alternative forms of security to the extent reasonably necessary to encourage procurement from veteran-owned small businesses and service-disabled veteran-owned small businesses. Contracts under \$25,000 with veteran-owned small businesses shall be exempt from bonding requirements. Each agency shall report to DGS annually and DGS and the agencies shall report annually to the House and Senate Veterans Affairs and Emergency Preparedness Committees. Compliance with federal law, where the two conflict, is provided for.
Removed from the table, 10/1/2012
Amended on House floor, read second time, and Rereferred to House Appropriations Committee, 10/2/2012
Reported as committed from House Appropriations Committee, read third time and passed House, 10/3/2012 (197-0)
Received as amended in Senate and rereferred Senate Rules and Executive Nominations Committee, 10/12/2012
Re-reported on concurrence as committed Senate Rules and Executive Nominations Committee, 10/15/2012
Senate concurred in House amendments, 10/16/2012 (49-0)
Signed in the Senate, 10/16/2012
Signed in the House, 10/17/2012
Approved by the Governor 10/24/2012 G (Act No. 185 of 2012)

BUDGET RELATED BILLS

HB 1916 RE: Hurricane Irene and Tropical Storm Lee (by Rep. David Millard, et al)
Act implementing the provisions of clause (1) of subsection (a) of section 7 of Article VIII of the Pennsylvania Constitution, authorizing the incurring of debt for the rehabilitation of areas affected by Hurricane Irene and Tropical Storm Lee; imposing duties upon the Governor, the Auditor General and the State Treasurer; prescribing the procedures for the issuance, sale and payment of general obligations bonds, the funding of debt and refunding of bonds; exempting said bonds from State and local taxation; creating the Disaster Relief Fund and the Disaster Relief Redemption Fund; providing for allocation of proceeds; making appropriations; providing for highway projects itemization, public bridge projects itemization, disaster mitigation and assistance projects itemization and disaster railroad assistance projects itemization for flood damages; and stating an estimated use. The bill further provides for itemized projects for repair following the 2011 floods resulting from Hurricane Irene and Tropical Storm Lee.
Re-reported on concurrence as committed from House Rules Committee, and laid on the table, 10/15/2012

HB 2175 RE: Redevelopment Assistance Capital Projects (RACP) (by Rep. Mike Turzai, et al)
Amends a variety of Redevelopment Assistance Capital Projects (RACP) provisions contained within the Capital Debt Enabling Act. Among them, it transfers from the existing act the definition of "applicant" to make it a defined term. "Capital projects" is amended to include five categories and to clarify that infrastructure can be funded as a part of the capital project. Types of eligible projects are expanded to include stormwater infrastructure and tunnels can be funded if they are associated with an economic development project. A minimum 50-percent private match is required for state funding and the Budget Office can give preference to projects with at least 75-percent private funding. Upon enactment, the RACP debt limit would be cut from \$4.05 billion to \$3.5 billion, and would then

decrease incrementally until it reaches \$1.5 billion sometime after 2020. No redevelopment assistance capital project may be approved in the period between the date of the general election at which the governor-elect was elected and the third Tuesday of January next following the election. All projects not authorized as of December 31, 2011, would expire and need to be re-listed in compliance with the updated requirements of the act. Requires projects to be submitted to the General Assembly as a single piece of legislation and approved by the General Assembly. Also requires certain reports on the projects to the General Assembly. Provides for disclosure of approved projects on a publicly accessible website.

Passed over in Senate Appropriations Committee, 10/16/2012

SB 1480 RE: Capital Budget Act of 2012-2013 (by Sen. Jake Corman, et al)

Appropriates the following sums for capital projects: \$995,000,000 for buildings and structures (general and special funds); \$40,000,000 for furniture and equipment (general and special funds); \$210,000,000 for transportation assistance projects (general fund); \$345,000,000 for redevelopment assistance projects (general fund); and \$85,000,000 for bridge projects (general fund or motor license fund).

Read Second time and rereferred to House Appropriations Committee, 10/12/2012

Reported as committed from House Appropriations Committee, read third time, and passed House, 10/3/2012 (142-55)

Signed in the Senate and House, 10/15/2012

Approved by the Governor 10/24/2012 G (Act NO. 193 of 2012)

ENVIRONMENTAL BUILDING STANDARDS

None

LOCAL/STATE GOVERNMENT/REGULATIONS

HB 710 RE: Mechanics' Lien (By Rep. Bob Godshall, et al)

Amends the Mechanics' Lien Law further providing for right to lien and amount by adding that a subcontractor does not have the right to a lien with respect to an improvement to a residential property if the owner or tenant paid the full contract price to the contractor, the property is or is intended to be used as the residence of the owner or tenant, and the residential property is a building that consists of one or two dwelling units used, intended or designed to be built, used, rented or leased for living purposes. The bill also provides for discharge of lien on payment into court or entry of security by adding that a claim filed under this act with respect to an improvement to a residential property subject to section 301(b) shall, upon petition or motion to the court by the owner or a party in interest, be discharged as a lien against the property when the owner or tenant has paid the full contract price to the contractor or the lien shall be reduced to the amount of the unpaid contract price owed by the owner or tenant to the contractor.

Laid on the table, 10/15/2012

HB 1718 RE: Municipalities Consultants (By Rep. Tom Creighton, et al)

Amends the Pennsylvania Municipalities Planning Code, in subdivision and land development, to require in the contents of a subdivision and land development ordinance there to be contracted at least three private consultants from each discipline to be on hand to review applications and only the review fee may be charged to the applicant. The applicant may be required to reimburse for the inspection. Increases amount of time to 100 days to agree on the amount of the fee. The bill also provides for arbitration costs and a surcharge.

Read Second time, and Rereferred to Senate Appropriations Committee, 10/15/2012

Reported as committed from Senate Appropriations Committee, 10/16/2012

Read third time and passed Senate, 10/17/2012 (49-0)

Signed in the House and Senate, 10/17/2012

Approved by the Governor, 10/24/2012. (Act No. 154 of 2012)

HB 1719 RE: Municipalities Consultants (By Rep. Tom Creighton, et al)

Amends Title 53 (Municipalities Generally), in municipal authorities, if the authority requires the property owner to reimburse it for engineering review and inspection of the plans the authority shall designate by resolution a minimum of three approved engineers from different firms who are readily available to provide services in the municipality, and the property owner may select an engineer from this list who shall be the authority's engineer for reviewing the plans or inspecting the improvements for that particular project. If the property owner selects an engineer, only the review and inspection fees by the selected engineer may be charged to the property owner. Allows for arbitration over the fee to be assessed and increases the time to settle on a proper fee from 20 working days to 60 days. Based upon the decision of the arbitrator, the property owner, professional consultant or authority shall be required to pay any amounts necessary to implement the decision within 60 days.

Read Second time, and Rereferred to Senate Appropriations Committee, 10/15/2012

Reported as committed from Senate Appropriations Committee, 10/16/2012

Read third time and passed Senate, 10/17/2012 (49-0)

Signed in the House and Senate, 10/17/2012

Approved by the Governor, 10/24/2012. (Act No. 155 of 2012)

HB 2530 RE: PCC Board of Appeals (by Rep. Will Tallman, et al)

Amends the PA Construction Code Act further providing for administration and enforcement by stipulating that a municipality which has adopted an ordinance for the administration and enforcement of this act or municipalities which are parties to an agreement for the joint administration and enforcement of this act shall establish or designate a board of appeals as provided by chapter 1 of the 1999 BOCA national building code, fourteenth edition, to hear appeals from decisions of the code administrator. A municipality may establish a board of appeals or may establish or designate a joint board of appeals in accordance with 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation).

Read Second time, and rereferred to House Appropriations Committee, 10/1/2012

Reported as committed from House Appropriations Committee, read third time, and passed House, 10/2/2012 (195-0)

Received in the Senate and referred to Senate Labor and Industry Committee, 10/3/2012

Reported as committed from Senate Labor and Industry Committee, read first time, and rereferred to Senate Appropriations Committee, 10/15/2012

Reported as committed from Senate Appropriations Committee, and read second time, 10/16/2012

Read third time, and passed Senate, 10/17/2012 (49-0)

Signed in the House and Senate, 10/17/2012

Approved by the Governor, 10/24/2012 (Act No. 179 of 2012)

SB 1261 RE: Storm Water Management (by Sen. Ted Erickson, et al)

Amends Title 53 (Municipalities), in municipal authorities, adds storm water management planning and projects to the list of projects which municipal authorities can perform.

Reported as committed from House Local Government Committee, read first time, and laid on the table, 10/2/2012

Removed from the table, 10/4/2012

Read second time and Rereferred to House Appropriations Committee, 10/16/2012

Reported as committed from House Appropriations Committee, 10/17/2012

NOT VOTED

SB 1495 RE: Mechanics' Lien Law (By Sen. Kim Ward, et al)

Amends the Mechanics' Lien Law to detail instances where subcontractors do not have the right to the lien and further details when a lien may be discharged against a residential property owner.

Reported as amended from Senate Labor and Industry Committee, and read first time, 10/1/2012

Laid on the table, 10/15/2012

PREVAILING WAGE

HB 1329 RE: Pennsylvania Prevailing Wage Act (by Rep. Fred Keller, et al)

Amends the Pennsylvania Prevailing Wage Act to increase the amount in the contract needed to constitute "public work" to \$185,000 to be adjusted according to the consumer price index as published by the US Department of Labor. Additionally, the bill states no person shall intentionally divide a construction project into multiple parts for the purposes of circumventing the act. The secretary shall provide written notice acknowledging receipt of materials submitted for the purposes of inclusion in the calculation of the prevailing wage; if the submitted material is determined to be incomplete, the secretary shall send a written statement by mail providing the reasons the information cannot be used. The bill also provides protection of workmen by adding that no contractor or subcontractor may discharge, threaten or otherwise discriminate or retaliate against a workman regarding the employee's compensation, terms, conditions, location or privileges of employment because the workman exercised his rights or is requested by the secretary to participate in an investigation, hearing or inquiry held by the secretary or in a court action. The bill provides for relief to workmen in the event of a violation.

Laid on the table, 10/15/2012

TRANSPORTATION

NONE

UNEMPLOYMENT/WORKERS COMP

None

Upcoming meetings of Interest**2012 SENATE FALL SESSION SCHEUDLE**

November 14 (Leadership Elections)

2012 HOUSE FALL SESSION SCHEUDLE

November 13, 14, 19, 20

All of the November House session days are understood to be NON-VOTING days, for farewell speeches from departing members, and leadership elections for the 2013-14 session.

2013 SENATE SESSION SCHEUDLE

January	1, 22, 23, 28, 29, 30
February	4, 5, 6, 11, 12, 13
March	11, 12, 13, 18, 19, 20
April	8, 9, 10, 15, 16, 17, 29, 30
May	1, 6, 7, 8, 9, 13, 14
June	3, 4, 5, 10, 11, 12, 17, 18, 19, 24, 25, 26, 27, 28

2013 House Session Schedule Is Yet To Be Determined

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

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