

MCA
Summary of Legislation
January 2014

L&I Announces Laborer Work Guidelines

In what is sure to create controversy throughout the unionized construction industry, the Pennsylvania Department of Labor and Industry (L&I) has published “Laborer notes” that list construction activities that are considered to be tasks performed by laborers on prevailing wage projects. The preface to the list says:

“The following updates to the Bureau of Labor Law Compliance’s Pennsylvania Building Journeyman Laborer Notes are meant to provide a reference point for uniformity and clarity throughout the Commonwealth. The Notes may not be comprehensive, and should be read in conformity with the custom and usage of the construction industry in the geographic region in which they are utilized.”

The list is 53 items long and covers any number of items that would be traditionally covered by the “green book” jurisdictional reference. Number 10 on the list has garnered particular attention. It reads:

“Handling and distributing lumber and all other building materials, including final strip, and including materials used or installed by mechanical trades (e.g., electrician, plumber, sheet metal worker, insulator)”

These “notes” will likely have little impact on formal jurisdictional disputes between unionized trades but could provide an affirmative defense to non union contractors that misclassify workers in order to underbid their competition on public projects. It is unclear at this time if these “notes” have the weight of law behind them as they are not regulations nor have they been open for public comment. The full list can be viewed at:

<http://www.portal.state.pa.us/portal/server.pt?open=514&objID=553559&mode=2>

Union Workers Rally Against “Paycheck Protection” Bills

Members of several labor unions packed the Pennsylvania Capitol for a rally on January 28 in opposition to pending legislation that aims to prevent the state, school districts and local governments from deducting union dues and political action committee contributions from the paychecks of unionized workers. The Capitol Rotunda was so full that police forced many more union demonstrators to wait outside in the freezing cold. Labor leaders and even Democratic gubernatorial candidates, particularly State Treasurer Rob McCord, stated the group view that big money outside interest are painting a false picture of the issue, contending that taxpayer money is being used for political purposes by public employee unions. The unions contend that the contributions are voluntary, and are the subject of labor negotiations agreed to by the state. They view the deductions just as other voluntary charitable deductions, also endorsed by the state.

HB 1507, sponsored by Rep. Bryan Cutler, and **SB 1034**, sponsored by Sen. John Eichelberger, remove member dues and PAC contributions as subjects of collective bargaining agreements. Both bills are sitting in their respective State Government Committees, and the rally sought to make sure they stay there.

Waugh Resigns, Special Election to be Held March 18, Miller Favored

State Sen. Mike Waugh, R-York, who had already announced he would not seek re-election to the 28th Senatorial District, resigned from the state Senate on January 13 and accepted a job with the state Department of Agriculture as executive director of the Pennsylvania Farm Show Complex and Expo Center in Harrisburg. “It has been a distinct honor to represent the residents of York County in the General Assembly,” said Waugh, who was first elected to the state House of Representatives in 1993, and then later elected to the state Senate in 1998. “I will always remember and cherish the trust they put in me for the past two decades.”

Later that day, **Lt. Gov. Jim Cawley** announced a special election to fill the seat for the duration of the term, which will be held on March 18. State **Rep. Ron Miller, R-York**, has been chosen by York County Republicans to contest for the open seat. Miller, who has served in the state House representing the 93rd state House seat since 1998, will face Democrat **Linda Small**, a former county Democratic committee office manager. Both will also be candidates in the May primary for the full, four-year term that begins next January.

Topper Wins Special to Succeed the Late Rep. Dick Hess

Republican **Jesse Topper** won an overwhelming victory in a special election held on January 28 to fill Bedford County based 78th District state House seat vacated by the death of **Rep. Dick Hess**. Topper, 32, a Bedford minister and Republican Party officer, handily defeated Democrat **Barbara Barron** by a 4-1 margin, according to results posted in the district's three counties. The race drew just 15 percent of the district's Bedford County voters, typical for special elections held separately from standard election days.

Legislative Activity

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

BIDDING / CONTRACTING

[SB 1189](#) RE: Public Works Contractors' Bond Law (by Sen. John Eichelberger, et al)

Amends the Public Works Contractors' Bond Law further providing for duty of prime contractor to provide financial security in certain contracts involving public works and public improvements by requiring a contractor to furnish performance bond, payment bond, irrevocable letters of credit, or escrow account.

Rereferred to Senate Appropriations Committee, 1/29/2014

[SB 1227](#) RE: Neighborhood Improvement Zones (By Sen. Judy Schwank, et al)

Amends the Tax Reform Code further providing for the definitions of "city," "contracting authority" and "pilot zone" by adding cities and counties of the second class A to the scope; providing and for establishment of contracting authority; providing for number of authorized zones; and further providing for approval. The bill provides for the authorization of 15 zones by the department and provides for their location. Beginning in 2016, applications for two additional zones may be approved each calendar year regardless of population. Priority for approval shall be given to applications submitted on behalf of a city that is distressed or a city that has had a receiver appointed. Not more than five pilot zones may be approved and a city may not be approved for more than one zone. A township or borough may not be approved for more than one pilot zone. A city that established a neighborhood improvement zone shall be eligible to apply for or be approved for a zone.

Introduced and referred to Senate Finance Committee, 1/16/2014

[SR 207](#) RE: Costs of Public Construction Laws (by Sen. Mike Folmer, et al)

A Resolution directing the Joint State Government Commission to establish an advisory committee to conduct a comprehensive study of the costs and efficiencies of the requirements under Pennsylvania's public construction laws.

Laid on the table, removed from the table, 1/28/2014

BUDGET RELATED BILLS

[HB 1763](#) RE: Grant for Alternative Energy (by Rep. Donna Oberlander, et al)

Amends the Alternative Energy Investment Act to further provide for definitions and disallowing certain grants to be provided to electric generation units or cogeneration units for the purpose of conversion to a new fuel source or modifying a unit to be used for multiple fuel sources.

Introduced and referred to House Environmental Resources and Energy Committee, 2/4/2013

[SB 1134](#) RE: Veterans Housing (by Sen. Vincent Hughes, et al)

Amends the Capital Facilities Debt Enabling Act adding that the guidelines for a "redevelopment assistance capital project" (RACP) include projects that house the veteran population of the Commonwealth. The bill also amends the funding requirements for housing units, adding a provision that \$20,000,000 of the \$50,000,000 cap shall be used for the construction of units to house veterans in Pennsylvania who are homeless or in need of housing.

Introduced and referred to Senate Appropriations Committee, 1/13/2014

Cosponsor memo Filed

[HCO2669](#) (Santarsiero) - Reforms the PlanCon program with a new act called Building Blocks PA and places a severance tax on natural gas extraction calculated on a per-volume rate of 29 cents per MCF extracted.

Filed 1/15/2014

ENVIRONMENTAL BUILDING STANDARDS

[SB 1023](#) RE: PCC Duties of the Council (by Sen. Chuck McIlhinney, et al)

Amends the Pennsylvania Construction Code Act further providing for the duties of the council by adding that the annual report shall include those items specified for rejection (changed from adoption) and that the council shall, as part of its review of the 2015 ICC codes, also re-review the 2012 codes. Additionally, the council shall include a professor of engineering with a concentration or specialty in building energy efficiency and an architect specializing in building energy efficiency. Per diems paid to council member shall be \$60 and reasonable travel, hotel, and other necessary expenses incurred in performing their duties. The department shall promulgate regulations within 12 months (changed from three) of receipt of the report. A third account is established, the Review and Advisory Council Administration Account, which shall receive 25 percent of specified moneys collected shall be deposited; the remaining 75 percent shall be divided equally between the Municipal Code Official Training Account and the Construction Contractor Training Account. Moneys in the Review and Advisory Council Administration Account shall be transmitted quarterly to the Department of Labor and Industry for per diem and expenses of the Review and Advisory Council and administrative assistance as determined necessary by the council and the department. Establishes the Review and Advisory Council Administration Account to be funded by a \$1 dollar surcharge to the building permit fee; extends the amount of time for the council's report; allows the council to also consider code modifications; and allows the council to review 2012 codes not previously adopted.

Reported as amended from Senate Labor and Industry Committee, and read first time, 1/28/2014

LOCAL/STATE GOVERNMENT/REGULATIONS

[HB 1565](#) RE: Riparian Buffers (by Rep. Marcia Hahn, et al)

Amends the Clean Streams Law further providing for potential pollution by adding that the use or installation of riparian buffers and riparian forest buffers shall not be required under this section. Riparian buffers and riparian forest buffers may be used as a choice among best management practices, design standards and alternatives to minimize the potential for accelerated erosion and sedimentation and to protect, maintain, reclaim and restore water quality and for existing and designated uses.

Public hearing held in House Environmental Resources and Energy Committee, 1/29/2014

[HB 1607](#) RE: PA One Call (By Rep. Matt Baker, et al)

Amends the Underground Utility Line Protection Law to further provide for definitions and to make substantial editorial revisions. The bill transfers oversight authority for PA One Call from the Department of Labor and Industry to the Public Utility Commission and adds that the lawful start date for applicable projects is three business days following notification to PA One Call. The bill places duties upon facility owners to maintain records of notice to the One Call system, verify where underground utility lines run in certain instances, report violations, and participate in One Call's member mapping system. The legislation details when a fee must be paid by an excavator, designer, or operator and further requires the reporting of alleged violations. The legislation establishes a Damage Prevention Commission, responsible for establishing a Damage Prevention Committee, the purpose and duty of which is enumerated in the legislation. The bill also establishes the Underground Utility Line Protection Fund to be used by the commission for enforcement of the Underground Utility Line Protection Law. The act shall expire December 31, 2021 (changed from 2016). Section 7.9 shall take effect immediately; and the remainder of the act shall take effect in 180 days.

Reported as amended from House Consumer Affairs Committee, read first time, and laid on the table, 1/13/2014

LIABILITY

[HB 1808](#) RE: Adverse Possession (By Rep. Kurt Masser, et al)

Amends Title 42 (Judiciary) providing for the reduction of the standard period for bringing an action for the acquisition of title through adverse possession under certain circumstances from 21 years to ten years for a property that is less than one-half acre in size and that contains a single-family home. The bill provides for definitions of eligible homes and circumstances as well as limitations on applicability and guidelines for mesne profits.

Reported as committed from House Urban Affairs Committee, read first time, and Laid on the table, 1/15/2014

Removed from the table, 1/27/2014

Amended on House floor, read second time, and Rereferred to House Appropriations Committee, 1/28/2014

Reported as committed from House Appropriations Committee, read third time, and passed House, 1/29/2014 (183-13)

MANDATE WAIVERS

NONE

MECHANIC'S LIEN

[SB 908](#) RE: Declaration of Homestead (by Sen. Mike Waugh, et al)

Amends Title 42 (Judiciary) adding a new subsection providing that subject to certain requirements, a primary residence owned by a judgment debtor shall be exempt from sale to satisfy a judgment if the debtor files a declaration of homestead with the county recorder in his county of residence. Further provides that to be exempt from sale, the primary residence may have an assessed value of not more than \$300,000. If it is assessed at more than \$300,000, it may be sold but the judgment debtor is entitled to receive the first \$300,000 of the sale proceeds. Also provides the filing of the declaration of homestead does not prevent a primary residence from being sold to satisfy a judgment from mortgage foreclosure, unpaid property taxes or a mechanic's lien.

Reported as committed from Senate Judiciary Committee, read first time, 1/14/2014

MINIMUM WAGE

NONE

LICENSING BILLS

NONE

PREVAILING WAGE

NONE

LOCAL/PROPERTY TAX REFORM

[HB 1513](#) RE: Business Privilege Tax (by Rep. George Dunbar, et al)

Amends the Local Tax Enabling Act, allowing local taxing authorities to levy a tax on the privilege of doing business in the jurisdiction of the local taxing authority if business transactions occur fifteen or more days in a year and/or the transactions occur through a base of operations in the jurisdiction of the levying local tax authority. Applies to taxable years beginning January 1, 2014.

Read second time, and Rereferred to Senate Appropriations Committee, 12/4/2013

TRANSPORTATION

[HB 1902](#) RE: Repeal of Transportation Funding Act (by Rep. Brad Roae, et al)

Act repealing Act 89 of 2013, regarding transportation funding. Effective immediately.

Introduced and referred to House Transportation Committee, 12/10/2013

UNEMPLOYMENT/WORKERS COMP

[SB 1195](#) RE: Uninsured Employers Guaranty Fund (by Sen. John Gordner, et al)

Amends the Workers' Compensation Act transferring \$4 million from the Administrative Fund to the Uninsured Employers Guaranty Fund. Requires an injured worker to file a claim petition within 180 days of the currently required notice to the fund and requires the worker to provide proof of wages before filing a claim of lost employment. Also provides for medical treatment for injured workers through a list of designated healthcare providers. Effective immediately.

Laid on the table, removed from the table, 1/29/2014

Workforce Development

[HB 1725](#) RE: CareerBound Act (By Rep. Ryan Mackenzie, et al)

Provides for the creation and implementation of up to seven school-to-work pilot programs in the Department of Labor and Industry, to be known as CareerBound, and provides a tax credit to businesses that participate in the program. A school-to-work pilot program shall expire at the end of the fourth school year of operation and the department shall issue a report on the programs following their expiration. Requires program partners to set objectives and measurable goals; requires Department of Labor and Industry to set outcome-based metrics used to

evaluate all programs in annual and final reports; allows contributing businesses to designate which program their contributions would support; enumerates and allows Pennsylvania institutions of higher learning to participate in CareerBound; includes "soft skills" in curriculum requirements; gives priority to programs targeting middle school and early high school students; and clarifies that the Department of Labor and Industry and the Pennsylvania Department of Welfare (PDE) must provide program partners with informational resources. Requires additional consideration be given to a pilot program which is integrated into a school partner's curriculum as a credit course.
Received in the Senate and referred to Senate Labor and Industry Committee, 1/6/2014

[HB 1878](#) RE: Pennsylvania Workforce Investment Strategy Act (by Rep. Eli Evankovich, et al)
Provides for the establishment of the Pennsylvania Workforce Investment Strategy Program to incentivize businesses to organize and collaborate with each other to address common personnel needs and training shortfalls. Participating businesses shall, with the assistance and oversight of the department and the local workforce investment board, develop employee training programs and implement them utilizing preexisting infrastructure that is readily available. The businesses shall be eligible for a tax credit to subsidize a portion of their incurred expenses for participation in the program. Expands the definition of "qualifying workforce expenditure" to include money paid to the local Workforce Investment Board (WIB) by participating businesses to cover administrative costs; and expands the tax credit from 60 percent reimbursement threshold to 90 percent. The program shall be administered by the Department of Labor and Industry. The bill provides for duties of the department and local workforce investment boards, for employee training programs, and amount and allocation of the Pennsylvania Workforce Investment Strategy Tax Credit. The Department of Community and Economic Development, the Department of Revenue, and the Department of Labor and Industry shall jointly develop written guidelines for the implementation of the tax credit provisions. The department shall issue a report annually. Effective immediately.

Reported as committed from House Appropriations committee, read third time, and passed House, 1/13/2014 (200-0)

Received in the Senate and referred to Senate Labor and Industry Committee, 1/21/2014

[HB 1962](#) RE: City Revitalization and Improvement Zones (by Rep. Stan Saylor, et al)
Amends the Tax Reform Code, in city revitalization and improvement zones, to allow for the approval of two additional zone applications.

Introduced and referred to House Urban Affairs Committee, 1/22/2014

Upcoming meetings of Interest

THURSDAY - 2/13/14

House State Government Committee

9:00 a.m., Room 60, East Wing

Informational meeting on: [HB 1503](#) (Maloney) - Amends the Pennsylvania Sewage Facilities Act further providing for official plans.

After the Governor's Budget Address on February 4, the House and Senate will break for several weeks of budget hearings, at which each agency will defend the Governor's budget request.

2014 SENATE SESSION SCHEDULE

February	3, 4, 5
March	10, 11, 12, 17, 18, 19, 31
April	1, 2, 7, 8, 9, 28, 29, 30
May	5, 6, 7
June	2, 3, 4, 9, 10, 11, 16, 17, 18, 19, 23, 24, 25, 26, 27, 28, 29, 30

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

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