

MCA
Summary of Legislation
May 2014

June to Include More Than Just Budget Talks

June is arguably the busiest month for Pennsylvania lawmakers as they grapple with enacting a budget. The legislature will be in voting session every week in June or until the budget is enacted. However, much more gets done in June as all of those voting days provide an opportunity to vote on other bills. Also, a few construction related issues are expected to move in early June. If so, this could signal an intention by legislative leaders to get them resolved in the near term.

The Uniform Construction Code has been a political football since it was enacted in the late 90s. Nevertheless, amendments to the statewide building code of just a few years ago have resulted in a process that has effectively stopped Pennsylvania from adopting any of the International Building Code triennial updates. The code Pennsylvania goes by is the 2009 version. Unless the adoption process is altered again, that code will likely remain the state code for the foreseeable future. Legislative efforts to make the process more workable have languished in the Legislature. Still, one bill is moving forward. **Senate Bill 1023** is scheduled for action in the Senate. That is the good news. The bad news is that the bill does not address the problems associated with updating the code. As it is presently written, the bill is window dressing with minor tweaks to accessibility codes, adding a member to the Advisory Council that is responsible for updates and providing funding for that Council (even though it is unlikely to actually adopt any updates). Efforts to make real changes to the law do not seem to have much traction in the Senate. Yet, if Senate Bill 1023 reaches the House, it could be an opportunity to make additional fixes there.

On the topic of fixes, the House is poised to consider a bill that would reform PlanCon (the multi-stepped process which school districts utilize to receive reimbursements from the state for construction). The Commonwealth appropriates about \$300 million a year for this purpose, but no new projects have been let into the system since October of 2012. Districts wait years for their reimbursements, but the statutory moratorium on funding new projects will ultimately end the program. The current administration has made no bones about its desire to this program. As you might expect, school districts and other construction related groups would like it continued. **House Bill 2124** proposes to streamline the PlanCon process and rename it "ArCon" (Accountability and Reducing Costs in Construction) with the ultimate goal of keeping the program from slipping out of existence. That bill is already out of committee and is set for a vote by the full House. After that, it heads to the Senate. Yet, the Commonwealth budget projections are dismal, so any proposal costing money faces an uncertain future.

Primary Elections: Democrat Wolf to Face Corbett; Few Upsets Among Incumbent Legislators

In an embarrassingly low turnout day, despite great weather and important seats at stake, York businessman **Tom Wolf** proved the pollsters right and was able to win the Democratic nomination on May 20, and with it the right to take on incumbent Gov. Tom Corbett in November. Wolf winning with nearly 58 percent of the vote, retiring U.S. Rep. Allyson Schwartz pulled 17.6 percent, state Treasurer Rob McCord garnered nearly 16.9 percent; and former state Environmental Protection Secretary Katie McGinty took less than 8 percent. Wolf had wrestled the polling lead early in the race from presumed front-runner Schwartz after a series of mostly self-funded television ads showing the millionaire businessman and former Revenue Secretary as a compassionate employer who drives a Jeep. None of the other contenders were able to burst the bubble Wolf created for himself.

State Sen. **Mike Stack, D-Philadelphia**, won the five-way lieutenant governor primary with nearly 46.8 percent of the vote. Gov. Tom Corbett and Lt. Gov. Jim Cawley were unopposed in their primary contests.

In the Senate, all but one incumbent Senator who ran cleared the first hurdle. Philadelphia Democrat Sen. **LeAnna Washington**, who is facing several charges of using district staff for campaign purposes, was the lone sitting Senator to be defeated. Most of those running had no opposition in the primary. Newly elected **Senator Scott Wagner** of York County easily won his primary and will win a full four-year term in November. Several other Senate seats saw contested open races due to reapportionment and retirements. In Mercer County, **Sen. Bob Robbins** ends a long career in the State legislature. **State Rep. Michele Brooks**, author of HB 290 (now Act 92), won a three-way Republican primary and is a heavy favorite to succeed Robbins. Fayette County Democrat Rep. **Deb Kula** won a contested primary race to succeed retiring **Sen. Rich Kasunic**. She will face Republican opposition in the fall.

In the House, due to the redistricting of several seats, numerous retirements, and still more charges of official corruption, there will be at least two dozen new faces in the House next January. Some of those retiring included Lebanon County Republican **Rosemarie Swanger** and Franklin County's **Todd Rock**. Members would do well to thank these members for their service and friendship and also get to know the candidates aspiring to take their seats. It is only through building good relationships with the state legislators that an organization can move forward legislatively and defend itself from those who want to bring it down.

Republican Lawmaker to be on Democratic Ballot in the Fall

Rep. Mike Fleck of Huntingdon County will be on the Democratic ticket come November's General Election. The four-term Republican apparently has won the Democratic write-in votes in the 81st District by a margin of 15 ballots. Rep. Fleck lost the Republican primary challenge to the Huntingdon County treasurer and Republican write-in candidate, Richard Irvin. According to unofficial totals, Fleck won 3,396 Republican votes in the 81st district, while Irvin collected 3,600 write-ins. Irvin had failed to acquire the required number of signatures to appear on the ballot, but then ran a rare, successful write-in campaign, defeating the first openly-gay legislator in PA history. Fleck says he will remain a Republican if re-elected.

Governor Corbett Announces \$21 Million Available in Growing Greener Grants

Governor Tom Corbett announced this month that the Department of Environmental Protection (DEP) is now accepting applications for the Growing Greener Grant Program for watershed protection and abandoned mine drainage projects, the agency announced today. Local governments, non-profits, schools, municipal authorities and watershed associations are eligible to apply.

"Each year, these grants are offered to deserving environmental stewards across Pennsylvania," Corbett said. "The infusion of Act 13 dollars has given this program a deserved boost, so that more positive environmental projects can take shape."

Act 13 impact fee revenues are expected to provide more than \$7.8 million into the Environmental Stewardship Fund to support the Growing Greener program. Growing Greener is also funded by a series of bond issues and a fee on waste entering landfills. The infusion of impact fee revenues restores funding levels to where they stood before the fund was obligated to pay debt service on the bond issues.

A total of \$16 million is available through the Pennsylvania Growing Greener program for projects to improve water quality in impaired waterways or to protect water quality where the watershed may be threatened by non-point sources, such as agricultural or urban runoff or acid mine drainage. Approved projects for this section of the grant solicitation must be completed by Dec. 31, 2018.

The state works with watershed associations and the federal government to list certain priority watersheds in need of restoration, identified through the development of an approved Section 319 Nonpoint Source Watershed Implementation Plan. The federal Water Pollution Control Act will provide \$3 million for projects to support restoration of 35 such watersheds across the state. Projects for this section of the grant solicitation must be completed by Sept. 30, 2018.

As part of its innovative and award-winning program to restore abandoned mine sites, DEP also announced \$2 million in federal Surface Mining Conservation and Reclamation Act funding for abandoned mine drainage projects. The federal program is funded by a fee on the active mining industry. The state is also accepting applications for projects to reclaim mine sites that have forfeited reclamation bonds.

A formal notice announcing the grant solicitation, which runs through July 11, appears in this week's Pennsylvania Bulletin. Applications must be postmarked no later than July 11 and mailed to the DEP Grant Center at P.O. Box 8776, Harrisburg, PA 17105. If hand delivered, the package must be received by the Center by 4 p.m. on July 11. Late submissions will not be considered.

For more information and to download a grant application, visit www.dep.state.pa.us and click the "Growing Greener" button or enter keyword: Growing Greener.

Legislative Activity

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

BIDDING / CONTRACTING

[HB 201](#) RE: Evaluation of 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. The legislation also provides for Iran-Free Procurement by disallowing the procurement from any company having a relationship with the country

of Iran. The amendment of 62.Pa.C.S. Ch 35 shall take effect July 1, 2015, or immediately, whichever is later; and the remainder of the act shall take effect immediately.

Reported as amended from Senate State Government Committee, and read first time, 5/6/2014

BUDGET RELATED BILLS

NONE. The Commonwealth Fiscal Year 2014/15 budget bill and ancillary bills to it, will be introduced, debated and passed before the General Assembly breaks for the summer.

ENVIRONMENTAL BUILDING STANDARDS

[HB 1672](#) RE: State Agency Green Technology Implementation Act (by Rep. Ron Miller, et al)

Provides for the testing of new, environmentally beneficial and energy efficient technologies within various state agencies. The secretary of the Department of General Services is authorized to direct a state agency with the approval of the governor to test certain technology, products or processes that promote energy conservation or efficiency on a trial basis. The testing agency shall maintain records, proprietary information is exempt from the Right to Know Law, and the testing period shall be 30-60 days. Acquisition of any technology, product or process for purposes of the test program shall not be deemed to be a purchase under the provisions of the Procurement Law. After the test period, purchases would be subject to the procurement law. Provides for the promotion of demand-side management and for penalties for displaying Commonwealth endorsement when no such proper endorsement exists.

Reported as committed from Senate State Government Committee, and read first time, 5/6/2014

[SB 1255](#) RE: Storm Water Management (by Sen. Ted Erickson, et al)

Amends Title 53 (Municipalities Generally), in municipal authorities, authorizing storm water authorities to establish programs that would allow property owners to reduce their storm water rates and charges by implementing and maintaining storm water best management practices that address their own contributions to the problems caused by storm water runoff.

Received in the House and referred to House Local Government Committee, 5/1/2014

LOCAL/STATE GOVERNMENT/REGULATIONS

[HB 2079](#) RE: Uncertified Buildings (by Rep. Sam Smith, et al)

Amends the Pennsylvania Construction Code Act relating to uncertified buildings over which the department does not have jurisdiction. Requires a construction code official to issue a certificate of occupancy to an uncertified building if it meets the requirement of section 902 (b) relating to uncertified buildings under the department's jurisdiction, the latest adopted version of the International Existing Building Code or Chapter 34 of the International Building Code. Also requires the construction code official to utilize the code that, in his professional judgment, he deems best to apply.

Read second time, and rereferred to House Appropriations Committee, 5/5/2014

Reported as committed from House Appropriations Committee, read third time, and passed House, 5/6/2014 (200-0)

Received in the Senate and referred to Senate Labor and Industry Committee, 5/16/2014

[SB 1254](#) RE: Definition of "Lead Free" (by Sen. John Yudichak, et al)

Amends the Plumbing System Lead Ban and Notification Act changing the definition of "lead free" to, when used with respect to solders and flux, solders and flux containing not more than 0.2 percent lead and, when used with respect to the wetted surfaces of pipes, pipe fittings, plumbing fittings and fixtures, the term refers to the wetted surfaces of pipes, pipe fittings, plumbing fittings and fixtures containing not more than a weighted average of 0.25 percent lead. The definition includes a formula for calculating the weighted average lead content of a pipe, pipe fitting, plumbing fitting or fixture.

Reported as committed from House Environmental Resources and Energy Committee, read first time, and laid on the table, 5/5/2014

Removed from the table, 5/6/2014

Read second time, and Rereferred to House Appropriations Committee, 5/7/2014

LIABILITY

NONE

LICENSURE BILLS

NONE

MANDATE WAIVERS

NONE

MECHANIC'S LIEN

NONE

MINIMUM WAGE

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. Effective immediately.

Approved by the Governor, 5/6/2014. Act No. 42 of 2014.

[HB 2045](#) RE: Tax Exemption and Mixed-Use Incentive Program (by Rep. Jerry Stern, et al)

Authorizes local taxing authorities to exempt from real property taxation the assessed valuation of improvements to deteriorated properties and the assessed valuation of new construction within the respective municipal corporations designated deteriorated areas of economically depressed communities in the amounts and in accordance with the provisions and limitations set forth in the bill. If an area is zoned for mixed-use housing and development, improvements shall incorporate mixed-use housing and development that benefit the efficiency and economy of the community. The bill provides for an exemption schedule; establishes standards and qualifications; provides procedure for obtaining exemption incentives; and outlines eligibility requirements.

Reported as amended from House Urban Affairs Committee, read first time, and laid on the table, 5/6/2014

Removed from the table, 5/7/2014

TRANSPORTATION

NONE

UC/Workers Comp

NONE

Upcoming Meetings of Interest

2014 SENATE SESSION SCHEDULE

June 2, 3, 4, 9, 10, 11, 16, 17, 18, 19, 23, 24, 25, 26, 27, 28, 29, 30

2014 HOUSE SESSION SCHEDULE

June 2, 3, 4, 9, 10, 11, 16, 17, 18, 19, 23, 24, 25, 26, 27, 28, 29, 30

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

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