

MCA
Summary of Legislation
March 2015

Prevailing Wage Exemption Touted as School Relief

The latest assault on the Prevailing Wage law comes in the form of a bill that would exempt all school work from the law's provisions. House Bill 707 was introduced by Representative Jesse Topper (R-Bedford/Fulton/Franklin) and was the subject of a press conference held in the Capitol on April 1st. This isn't the first time this type of bill has been introduced, nor is it the only legislation introduced this year that attacks prevailing wage. The reason for concern is that it is being advanced by prevailing wage opponents as yet another negotiating item to be discussed during the upcoming budget debate. Governor Wolf is expected to be hard pressed during those negotiations on a number of issues supported by organized labor (public pensions, state store privatization, etc.). You can officially add prevailing wage changes to that list.

PLANCON Moratorium Returns

From October of 2012 to June of 2014, the school construction reimbursement program known as PLANCON would not accept new applications for funds based on a statutory moratorium that was initiated by then Governor Corbett. School construction advocates got the moratorium lifted as part of last June's budget package. Now we have a new Governor, and a new proposal to bring back the moratorium. Most of the discussion about Governor Wolf's budget proposal has centered on raising tax revenue and how it might be spent. However, his budget also proposes to reinstate the PLANCON moratorium. While the proposed moratorium may just be a starting point for negotiations, construction advocates need to vocally oppose the idea. The coming budget negotiations will cover a wide range of issues and school funding in general will be front and center. If the moratorium really does return, it will represent a huge set back in the effort to provide PA students with adequate educational facilities.

House Committee Holds Hearing on Water and Wastewater Industries

On March 18, the House Consumer Affairs Committee held a public hearing in Harrisburg on a number of issues, including the water and waste water industries. Here are some highlights of that segment.

[Louise Knight, Esq.](#), Chair, PA Chapter, National Association of Water Companies (NAWC), reviewed investor or privately-owned water and wastewater industries. She noted Pennsylvania is home to 2,200 water systems and 1,059 wastewater systems. She said the systems are subject to Public Utility Commission (PUC) jurisdiction for rates and service, except in the case of authority or municipally-owned systems, the PUC's jurisdiction is limited to only the rates and service of customers outside the municipal boundaries and the PUC has virtually no jurisdiction over authorities. Knight remarked on the importance of water and expressed NAWC's commitment to "working with elected leaders who seek innovative solutions and go the extra mile to the benefit of their constituents." She thanked the committee for the reauthorization of Chapter 14 and highlighted the importance of innovative rate mechanisms, such as the DSIC, to avoid rate shock. Knight reviewed issues and challenges facing the industry and indicated support for [HB 382, which provides for public private partnerships \(P3s\) and excludes certain projects from the Separations Act](#); discussed Act 68 of 2013 which authorized the creation of stormwater authorities, but said the Public Utility Code is silent on stormwater and asked that the definition of "public utility" be amended to include stormwater management and to address unauthorized high volume water use, such as for filling pools; and expressed strong support for [HB 48, which would implement water well construction standards](#).

Committee **Chairman Bob Godshall (R-Montgomery)** cited a Penn State study on wells outside the Marcellus Shale area found that more than 40 percent of wells were contaminated. He opined the state should have standards for wells drilled on private property. He then shared a story of a water diversion project in his district that was met with protests and said those protestors are now at a new site and claiming the Delaware River will run dry.

Rep. Eli Evankovich (R-Westmoreland) requested more information on why it is so important to have new capital as would be in the public private partnership proposal and what opportunities that would create. Knight said there is a lot of pushback about investor-owned utilities in the industry, but opined that in the industry and financial sector

there is an understanding that government spending is not necessarily robust enough to address all the needs. She said the P3s are the opportunity for financing and technical expertise to upgrade services. Tagert said there are opportunities for partnerships and returns on investment. Rep. Evankovich asked how important the **Separations Act** is. Knight said everything is governed by the act, which has built in inefficiencies. She said it is important to eliminate the Separations Act in order to make the P3s successful.

Legislative Activity

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

BIDDING / CONTRACTING

[HB 726](#) RE: Contractor & Subcontractor Payment (by Rep. Mike Tobash, et al)

Amends the Contractor & Subcontractor Payment Act adding a language providing the provisions of the Act cannot be waived in any contract. Increases from 1 percent to 1.5 percent the monthly interest rate for an outstanding payment. Also adds a provision allowing for posting of **security in lieu of retainage**. Increases the penalty from 1 percent per month to 1.5 percent per month in cases where an arbitrator or litigation determines that payment was wrongly withheld.

Introduced and referred to House Commerce Committee, 3/6/2015

BUDGET RELATED BILLS

[HB 801](#) RE: Sewer Lines (by Rep. Harry Readshaw, et al)

Amends the Pennsylvania Infrastructure Investment Authority Act further providing for definitions; and providing for additional use of funds for financial assistance by authorizing 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 shall 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. The bill provides for eligibility.

Introduced and referred to House Environmental Resources and Energy Committee, 3/17/2015

ENVIRONMENTAL BUILDING STANDARDS

[SB 615](#) RE: High-Performance State Building Standards Act (by Sen. John Rafferty, et al)

Requires the design, construction and renovation of certain State-owned or State-leased buildings to comply with specified energy and environmental building standards; and providing for the powers and duties of the Department of General Services.

Introduced and referred to Senate Environmental Resources and Energy Committee, 3/23/2015

[SB 653](#) RE: Water Well Construction Standards (by Sen. Pat Vance, et al)

Amends Title 27 (Environmental Resources), in conservation and natural resources, adding a chapter outlining water well construction standards; and prescribing penalties. A water well owner shall be responsible for the decommissioning of an abandoned well on the water well owner's land. A water well abandoned after the adoption of regulations under the legislation shall be decommissioned within one year following abandonment; a water well abandoned prior to the effective date shall be decommissioned within two years of the adoption of regulations. The bill provides for the powers and duties of the Environmental Quality Board.

Introduced and referred to Senate Environmental Resources and Energy Committee, 3/23/2015

LOCAL/STATE GOVERNMENT/REGULATIONS

[HB 568](#) RE: PA Construction Code Application (by Rep. Eli Evankovich, 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 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 third time, and passed House, 3/4/2015 (195-0)

Received in the Senate and referred to Senate Labor and Industry Committee, 3/6/2015

[HB 782](#) RE: Construction Code Officials (by Rep. Doyle Heffley, et al)

Amends the Pennsylvania Construction Code Act, in adoption and enforcement by municipalities, further providing for administration and enforcement by requiring the retention of three or more (increased from one or more) construction code officials or third-party agencies to act on behalf of the municipality for administration and enforcement of this act. A municipality administering and enforcing this act by designation of a municipal code official or through joint administration and enforcement shall collect fees that represent their actual administrative costs of code enforcement. such municipalities shall annually report to the department, on a schedule determined by the department, the fees that were collected and the operating costs of their code enforcement program. The department shall have the power to order municipalities to readjust fee schedules that it reasonably believes to be excessive. The provisions relating to the retention of two or more third party agencies shall take effect July, 1, 2015, or immediately, whichever is later.

Introduced and referred to House Labor and Industry Committee, 3/13/2015

[HB 800](#) RE: Plans for Sewage Disposal Systems (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," further providing for definitions, for creation of a Sewage Disposal System Fund and for expenditure of fund; and making editorial changes. Municipalities and municipal authorities shall have the right, but not the duty, 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 shall 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, 3/17/2015

LIABILITY

NONE

MANDATE WAIVERS

NONE

LICENSURE

NONE

LOCAL/PROPERTY TAX REFORM

NONE

MECHANIC'S LIEN

NONE

MINIMUM WAGE

NONE

PREVAILING WAGE

[HB 707](#) RE: Prevailing Wage in Scholl Construction (by Rep. Jesse Topper, et al)
Amends the Pennsylvania Prevailing Wage Act amending the definition of "public body" exempting Pennsylvania school districts and any authority, instrumentality, or agency established by a school district from the requirements of the Act.

Introduced and referred to House Education Committee, 3/4/2015

Press conference held, 4/1/2015

TRANSPORTATION

NONE

WORKER'S COMP

[HB 816](#) RE: Construction Workplace Misclassification Act (by Rep. Tom Caltagirone, et al)
Amends the Construction Workplace Misclassification Act to make it a violation for an employer, officer, or agent to be convicted of an offense under 18 Pa.C.S. 4107 (relating to deceptive or fraudulent business practices) that is reasonably related to the two traditional violations related to misclassification. The bill provides **for increased grading of the offense and debarment from contracting** with the Commonwealth for a period of five years following a violation.

Introduced and referred to House Labor and Industry Committee, 3/23/2015

WORKFORCE DEVELOPMENT

NONE

Upcoming meetings of Interest

TUESDAY - 4/7/15

House Commerce Committee

10:00 a.m., Room 205, Ryan Office Building

Public hearing on: [HB 726](#) (Tobash) - Amends the Contractor & Subcontractor Payment Act further providing for application of act, for owner's payment obligations, for owner's withholding payment, for errors, for retainage, withholding payment & penalty & attorney fee.

MONDAY - 4/20/15

House Environmental Resources and Energy Committee

10:00 a.m., Room 8E-B, East Wing

Public hearing on Chapter 78 - Oil & Gas Regulations

2015 SENATE SESSION SCHEDULE

April	13, 14, 15, 20, 21, 22
May	4, 5, 6, 11, 12, 13
June	1, 2, 3, 8, 9, 10, 15, 16, 17, 18, 22, 23, 24, 25, 26, 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/cfdocs/legis/home/session.cfm>