

MCA
Summary of Legislation
July 2016

Governor Allows GA Bill to Become Law Without Signature, Revenue Package Signed

As we reported in the previous report, at the end of June the House and Senate passed a spending plan, but not the mechanisms to pay for it. After giving the General Assembly 10 more days to come up with a way to fully fund the spending plan they passed “on time,” only to see that plan not also be sent to him, Gov. Tom Wolf set yet another precedent in PA budget politics, by allowing the 2016-17 General Appropriations (GA) bill, [SB1073](#) , to become law without his signature. The Governor also let last year’s budget be enacted without his signature, but the legislature had passed the connected legislation outlining how that money would be spent. This year those vehicles had not passed with regard to the newly commenced Fiscal Year, causing concern among many observers, including in the General Assembly, as to the constitutionality of his action, given a requirement that he only approve a budget that is certifiably balanced. Estimates are that the spending plan passed by the General Assembly will be more than \$1 Billion more than available revenues would support, but passage of SB 1073, at least allowed for money to flow to the various agencies and programs, up until it runs out, later in the fiscal year. Faced with essentially a Hobson’s choice, legislative leaders and the Governor, crafted a package of revenue “enhancements”, such as tobacco taxes, and other new revenue, along with shifts of non-general Fund monies to cover the remaining portion of the spending, and amended the package into several bills that were in position for quick passage. Governor Wolf, and many legislators and interest groups, had campaigned against one-time, non-sustainable revenue shifts, but in the end, the votes for more sustainable, broad-based taxes were not there, particularly in the House. The package, along with other issues of importance to various legislators, were spread over other bills, amending the Tax Code ([HB 1198](#)), the Fiscal Code ([HB 1605](#)), and the Public School Code ([HB 1606](#)). A Public Welfare Code bill had also been passed the previous month along with the spending plan. The leaders were able to cobble together the votes to pass these bills, and adjourned for the summer. A very limited number of session days are scheduled for the fall, and little of major import is expected to be done before the election in November, though the budget does call for additional revenue from internet casino gaming, to the tune of \$100 million, so the leadership must find those votes before they return in the latter part of September.

CFA Finally Meets, Approves \$158 Million in Applications

The long-awaited meeting of the Commonwealth Financing Authority finally occurred on July 1, resulting in the approval of approximately \$158 million in pending investments. DCED Secretary Dennis Davin thanked the members and the audience for their patience and understanding over the delays. He committed to holding meetings every other month going forward, to keep these projects moving. Deputy Secretary Scott Dunkelberger noted the Plan Con program will result in \$850 million in bonds, via a resolution, at a taxable rate of less than 5.99%. He announced small water/sewer plan funding of \$24 million, and \$12 million for pipeline infrastructure. He then read through the list of application approved by category, referring to handouts that were distributed to the public at the end of the meeting.

Governor's Office Publishes Regulatory Agenda

Executive Order 1996-1 requires all agencies under the jurisdiction of the Governor to submit for publication an agenda of regulations under development or consideration. These agendas represent the agencies’ current intentions regarding future regulations. The agendas are generally published on the first Saturdays in February and July. The agendas are compiled to provide members of the regulated community advanced notice of regulatory activity. The following agency agendas were published in the July 9, 2016, issue of the *Pennsylvania Bulletin*. When they actually are published we will report on that publication, with instructions on how and when to comment.

Regulation Being Considered	Proposed Date of Promulgation	Need and Legal Basis for Action	Agency Contact
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Department of Community and Economic Development (DCED)

<p>Minority Business Development Authority 12 Pa. Code Chapter 81 (#4-98)</p>	<p>Spring of 2016, as Proposed</p>	<p>Proposed changes to the Minority Business Development Authority regulations seek to eliminate those sections of the existing regulations which impede the Pennsylvania Minority Business Development Authority's ability to be flexible and responsive to its target market by easing loan program requirements, such as requiring loan recipients to commit to "full-time" management of the company, and allowing more flexibility in setting loan amount caps, interest rates, job creation criteria, etc. The regulations were originally submitted on November 5, 2014 as Final-Omitted Regulations. The Final-Omitted Regulations were withdrawn and were submitted as Proposed Regulations. The Proposed Regulations were approved by the Office of General Counsel on April 26, 2016, and by the Office of Attorney General on May 12, 2016. They will now be submitted to the standing committees in the House and Senate and to IRRC.</p>	<p>Timothy Anstine (717) 720-7312</p>
<p>Industrial Housing and Components 12 Pa. Code Chapter 145 (#4-95)</p>	<p>Summer 2016, as Final</p>	<p>Proposed changes to the Industrial Housing and Components regulations have gone through the proposed regulatory process and final regulations were submitted to OGC on February 1, 2016. The changes seek to bring the regulations into compliance with a recent amendment to the Industrialized Housing Act, which extended the current standards and procedures to include commercial buildings, and to further strengthen and clarify the Department's role in monitoring the production and installation of industrialized housing in the Commonwealth.</p>	<p>Mark A. Conte (717) 720-7416</p>
<p>Local Earned Income Tax (Act 32 of 2008 Regulations) 12 Pa. Code Chapter 151 (#4-97)</p>	<p>Fall 2016, as Proposed</p>	<p>The proposed regulation interprets and makes specific the provisions of the Local Tax Enabling Act, as provided in Chapter 5 of the act (53 P.S. § 6924.501 et seq.). The proposed regulation establishes procedures to supplement the implementation of the act which will facilitate consolidated collection of local income taxes in this Commonwealth. The proposed regulations were approved by the Office of General Counsel on May 17, 2016 and are currently under review with the Office of Attorney General.</p>	<p>Lori Irwin (717) 720-7311</p>

Department of Environmental Protection (DEP)

<p>Water Quality Management Fee Amendments 25 Pa. Code Chapter 91</p>	<p>Quarter 3, 2016, EQB Consideration, as Proposed</p>	<p>This rulemaking proposes to amend fees related to water quality management permitting. Chapter 91 establishes, among other things, a water quality management (WQM) permitting program for the construction of sewage and industrial waste treatment facilities and for land application of sewage and industrial wastes. (Pennsylvania Clean Streams Law)</p>	
<p>NPDES Program Fee Amendments 25 Pa. Code Chapter 92a</p>	<p>Quarter 3, 2016, EQB Consideration, as Proposed</p>	<p>This rulemaking proposes to amend the fee schedule for NPDES permit applications. Chapter 92a updated the fee schedule for NPDES permit applications for persons to discharge pollutants from point sources into surface waters (see 25 Pa. Code § 92a.26). In addition, Chapter 92a introduced an annual fee for certain facilities authorized to discharge pollutants by individual NPDES permits (see 25 Pa. Code § 92a.62). DEP began its Chapter 92a annual invoicing and fee collection program in December 2010. DEP is required by 25 Pa. Code §§ 92a.26(h) and 92a.62(e) to provide a written review of the fees to the EQB at least once every three years. On February 18, 2014 DEP's Office of Water Management presented a Chapter 92a fee</p>	

analysis to the EQB. The analysis highlighted that despite the fee increase in 2010, revenue continues to fall well short of expenses, and nearly \$10 million per year is being drawn from DEP's General Fund to carry out the following program activities administered by DEP's Bureau of Clean Water (BCW) and implemented by DEP's Clean Water Program in six regional offices. (Pennsylvania Clean Streams Law)

Administration of Sewage Facilities Planning and Permitting Programs and Standards for Onlot Sewage Treatment Facilities
25 Pa. Code Chapters 71, 72 and 73

Quarter 4, 2016, EQB Consideration, as Proposed

This rulemaking proposes to create 25 Pa. Code Chapters 71a, 72a and 73a, replacing the current Chapters 71, 72 and 73. The proposed amendments would provide necessary updates and clarity to the regulations to address environmental and public health and safety issues. (Pennsylvania Sewage Facilities Act, Clean Streams Law)

Legislative Activity

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

Bidding / Contracting

[HB 1202](#) RE: Highway Construction (by Rep. John Taylor, et al)

Act repealing the act of May 28, 1943 (P.L.796, No.333), entitled "An act establishing as state highways, certain county highways and requiring their construction, repair and maintenance as such."

Laid on the table (Pursuant to Senate Rule 9), 7/12/2016

[HB 1653](#) RE: Diverse and Disadvantaged Businesses (by Rep. Donna Oberlander, et al)

Amends Title 62 (Procurement) adding a chapter providing for diverse and disadvantaged businesses. "Diverse and disadvantaged businesses" is defined as a minority-owned business, a woman-owned business, or a veteran-owned business. The department shall establish a process to verify a diverse or disadvantaged business as Pennsylvania home state-certified for the purpose of other state or national disadvantaged business programs. The department shall also verify a business that has been certified as a diverse or disadvantaged business by a third party organization. Requires the department to compile, maintain and make available source lists of businesses verified by the department as a diverse or disadvantaged business for the purpose of encouraging procurement from those businesses.

Laid on the table, 7/13/2016

[SB 930](#) RE: Diverse or Disadvantaged Businesses (by Sen. Patrick Stefano, et al)

Amends Title 62 (Procurement) providing for certification of woman-owned business, minority-owned business or veteran-owned business. Includes relevant definitions and requires the department to establish a process to verify a diverse or disadvantaged business as Pennsylvania home state-certified for the purpose of other state or national disadvantaged business programs, and to verify that a business that has been certified as a diverse or disadvantaged business by a third-party organization recognized by the department. Provides for notice and list requirements. The department may promulgate regulations governing the certification.

Laid on the table, 7/13/2016

Budget Related Bills

[HB 1198](#) RE: 2016-17 Revenue Package (by Sponsor withdrew)

Amends the Tax Reform Code, in sales and use tax: further providing for definitions, for exclusions, for discount and for crimes. In personal income tax: further providing for definitions, for classes of income and for tax withheld; providing for contributions for tuition account programs; and further providing for requirement of withholding tax, for information statement, for time for filing employers' returns, for payment of taxes withheld, for employer's

liability for withheld taxes, for employer's failure to withhold, for declarations of estimated tax and for citation authority. In corporate net income tax: further providing for reports and payment of tax; providing for amended reports; and further providing for enforcement, rules and regulations and inquisitorial powers of the department. In bank and trust company shares tax: further providing for imposition, for ascertainment of taxable amount and exclusion of United States obligations, for apportionment and for definitions. In gross receipts tax: further providing for imposition. In realty transfer tax: further providing for definitions, for exempt parties and for excluded transactions. In cigarette tax: further providing for incidence and rate, for floor tax, for stamp as evidence, for commissions on sales and for disposition of certain funds. **Imposing a tobacco products tax.** In research and development tax credit: further providing for time limitations. In film production tax credit: making editorial changes; further providing for definitions and for limitations; providing for reissuance of film production tax credits, for concert rehearsal and tour; and providing for video game production. **Establishing the coal refuse energy and reclamation tax credit. Establishing the waterfront development tax credit.** In tax credit for new jobs: further providing for definitions and for tax credits. **In city revitalization and improvement zones:** further providing for definitions and for establishment of contracting authority; providing for contracting authority duties; further providing for approval, for functions of contracting authorities, for qualified businesses, for funds, for reports, for calculation of baseline, for certification, for transfers, for restrictions, for transfer of property, for Commonwealth pledges and for guidelines; and providing for review. **Establishing the Manufacturing and Investment Tax Credit.** In neighborhood assistance tax credit: further providing for definitions, for tax credit and for grant of tax credit. In neighborhood improvement zones: further providing for definitions and for funds; and providing for taxes, for property assessment and for exceptions. In Keystone Special Development Zone Program: further providing for tax credit. Providing for keystone opportunity zones, keystone opportunity expansion zones and keystone opportunity improvement zones. Providing for mixed-use development tax credit, the Mixed-use Development Program and Mixed-use Development Program Fund. Providing for Keystone Innovation Zones. In malt beverage tax: further providing for limited tax credits. In inheritance tax: further providing for definitions, for transfers not subject to tax and for deductions not allowed. In procedure and administration: further providing for petition procedure. Providing for table game taxes. Establishing the computer data center equipment incentive program. Providing for a tax amnesty program. Making related repeals. Further providing for preemption of local government tax. Directing the Office of Attorney General to attempt to obtain the consent of participating manufacturers under the Master Settlement Agreement for amendments.

Senate insisted on its amendments non-concurred in the House, and Senate appointed conference committee: Corman, Brown &

Hughes, 7/13/2016

House insists on its non-concurrence in the amendments of the Senate, and House appointed conference committee: Reed, Adolph, Dermody. 7/13/2016

Conference report presented in the House, and House adopted conference committee report, 7/13/2016 (116-75)

Conference report presented in the Senate, and Senate adopted conference report, 7/13/2016 (28-22)

Signed in the House and Senate, 7/13/2016

Approved by the Governor, 7/13/2016. Act No. 84 of 2016

HB 1605 RE: Fiscal Code (by Rep. Lee James, et al)

Amends the Fiscal Code to provide for the fiscal year 2016-17 budget implementation and for restrictions on appropriations for funds and accounts and for other changes. Increases the cost to the retailers cigarette minimum pricing provision from 6 to 7 percent; extends the sunset date for the Pennsylvania Cancer Control, Prevention and Research Act to June 30, 2016; adds a new section allowing the State Treasurer to obtain possession of unredeemed and unclaimed US Savings Bonds on behalf of Pennsylvania residents; extends certain Redevelopment Assistance Capital budget programs; requires the Commonwealth Finance Agency to transfer \$50 million from the First Industries Program to the Business in Our Sites Program and to transfer \$25 million from the Building Pennsylvania program to the Business in Our Sites Program; reduces the statutory annual transfer from the Oil and Gas Lease Fund to the Marcellus Legacy Fund for transfer to the Environmental Stewardship Fund; adds a new section providing the Oil and Gas Conservation Law shall not apply to or affect any well or wells that do not penetrate the Onodaga horizon; updates provisions relating to the Heritage Age Program and requires the Department of Conservation and Natural Resource (DCNR) to adopt goals, guidelines and policies for the program; and establishes a certificate of public convenience to be issued by the Public Utility Commission for transportation network companies. Provides no amount of the surplus in the General Fund for fiscal year 2015-16 may be transferred to the Budget Stabilization Reserve Fund. Allows the State Worker's Insurance Board to invest in financial institutions that

are designated as a minority depository institution or community development financial institution. Provides for the distribution of Tobacco Settlement Fund payments for fiscal year 2016-27. Establishes a formula to provide equal weekly transfers to be deposited in the Pennsylvania Race Horse Development Restricted Receipt Account. Transfers \$2.5 million from the sale of liquor and alcohol to the Department of Drug and Alcohol Programs; establishes the Natural Gas Infrastructure Development Fund in the Commonwealth Finance Authority; and transfers \$12 million from the Alternative Energy Investment Act High Performance Buildings Program to the new fund. Provides implementing language for specific line items in the General Appropriation Act of 2016. Adds language requiring the fee for any slot machine or table games license issued in fiscal year 2016-17 to be paid in full no later than June 30, 2017. Raises the DCNR per acre payment in lieu of taxes from \$3.60 to \$6.00; institutes a series of caps on the amount of funding the Pennsylvania State Police can draw from the Motor License Fund and extends the Wine and Spirits Wholesale and Retail Privatization Commission until June 30, 2017. The provisions relating to the State Treasurer shall take effect in 60 days and the remainder shall take effect immediately.

Reported as amended from Senate Appropriations Committee, read third time, and passed Senate, 7/13/2016 (45-5)

Received as amended in House and to rereferred House Rules Committee, Re-reported as committed from House Rules Committee, and House concurred in Senate amendments, 7/13/2016 (124-66)

Signed in the House and in the Senate, and Approved by the Governor, 7/13/2016. Act. No. 85 of 2016

[HB 1606](#) RE: School Code (by Rep. Jim Christiana, et al)

Amends Public School Code requiring the Department of Education to post certain financial information related to public school entities on its website. **Also requires the Public School Building Construction and Reconstruction Advisory Committee to review and report on whether the Commonwealth should implement a comprehensive public school building safety program.** Adds a new section requiring the State Board of Education to establish a 17-member advisory committee to identify and issue a report regarding redundant, overly burdensome or unnecessary public school entity data collection requirements. Also adds a new section requiring school districts to post policies that are required to be adopted under state or Federal law on their websites. Further provides for bereavement leave; substitute teachers; provision vocational education certificates; continuing professional education; special education funding; and diabetes care and management. Establishes the Drug and Alcohol Recovery High School Pilot Program to provide instruction for student in grades 9-12 who are in recovery from drug or alcohol abuse or addiction. Also provides for administrative partnerships; computer science/information technology credits; charter school pension and social security credits; charter school pension and school employees' Social Security; charter and cyber charter school aid ratio; career and technical education equipment grants; and for community college trustees and for funding. Requires a school district that receives education access program funding equal to or in excess of \$2 million in any one year to be identified as a financial watch school district and receive technical assistance from the Department of Education. Further provides for alternative education program applications; reestablishing the rural regional college for underserved counties; libraries; Ready-to-Learn Block Grants; hybrid learning grants; and assignment of pupils in a school district of the First Class A. Allows the department to use up to \$4.5 million in undistributed funds to assist school districts in financial distress or identified for financial watch status. **Reenacts the Education Improvement Tax Credit and the Opportunity Scholarship Tax Credit.** The provisions relating to school districts posting policies on their websites, to substitute teachers, and computer science/ information technology credits shall take effect in 60 days. The remainder shall take effect immediately.

Reported as amended from Senate Appropriations Committee, read third time, and passed Senate, 7/13/2016 (47-3)

Received as amended in House and to rereferred House Rules Committee, Re-reported as committed from House Rules Committee, and House concurred in Senate amendments, 7/13/2016 (172-18)

Signed in the House and in the Senate, and Approved by the Governor, 7/13/2016. Act. No. 86 of 2016

[SB 1073](#) RE: General Appropriation Act of 2016 (By Sen. Pat Browne, et al)

Provides from the General Fund for the expenses of the Executive and Judicial Departments, the State Government Support Agencies and the General Assembly of the Commonwealth, the public debt and the public schools for the fiscal year July 1, 2016, to June 30, 2017, 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, 2016; to provide appropriations from the State Lottery Fund, the Tobacco Settlement Fund, the Aviation Restricted 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 Account Guaranteed Savings Program Fund, the Banking Fund, the

Firearm Records Check Fund, the Ben Franklin Technology Development Authority Fund, the Home Improvement Account, the Cigarette Fire Safety and Firefighter Protection Act Enforcement Fund, the Insurance Regulation and Oversight Fund, the Pennsylvania Racehorse Development Restricted Receipt Account, the Justice Reinvestment Fund, the Multimodal Transportation Fund, the State Racing Fund and the ABLE Savings Program 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, 2016, to June 30, 2017; to provide appropriations from the Motor License Fund for the fiscal year July 1, 2016, to June 30, 2017, for the proper operation of several departments of the Commonwealth and the Pennsylvania State Police authorized to spend Motor License Fund money; to provide for the appropriation of Federal funds to the Executive and Judicial Departments of the Commonwealth and for the payment of bills remaining unpaid at the close of the fiscal year ending June 30, 2016; and to provide for the additional appropriation of Federal and State funds from the General Fund, the State Lottery Fund and the Tobacco Settlement Fund for the Executive and Legislative Departments of the Commonwealth for the fiscal year July 1, 2015, to June 30, 2016, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 2015. Effective July 1, 2016, or immediately, whichever is later.

Became law without Governor's signature 7/12/2016 (Act: 16A)

Environmental Building Standards

[HB 1394](#) RE: Storm Water Facilities (by Rep. Mark Mustio, et al)

Amends Title 8 (Boroughs & Incorporated Towns) authorizing a borough to assess reasonable and uniform fees for storm water management activities and facilities without the need to establish a municipal authority. Also authorizes the enactment and enforcement of ordinances to govern and regulate the planning, management, implementation, construction and maintenance of storm water facilities. regulate the planning, management, implementation, construction and maintenance of storm water facilities. Provides for any of the assessment to be collected by the treasurer and requires the municipalities to specify in the ordinance the frequency of the payments. A borough shall consider providing exemptions and credits for properties that have already installed and are maintaining storm water facilities. Restricts storm water fees assessed by a borough to the amount necessary to meet the necessary requirements of the Federal Water Pollution Control Act and requires boroughs to consider and provide appropriate exemptions or credits for properties which have installed and are maintaining storm water facilities that meet best management practices and are approved or inspected by the borough.

Laid on the table, 7/13/2016

Local/State Government/Regulations

[HB 568](#) RE: RAC Reviews (by Rep. Eli Evankovich, et al)

Amends the Pennsylvania Construction Code Act revising the procedures for review of the International Construction Code by the Uniform Construction Code Review and Advisory Council (RAC). Clarifies the RAC process shall be put in place for review of updated sections of the International Construction Code every three years. Adds two members to the RAC, increases the members' terms from two to three years, and provides for the reimbursement of RAC members for expenses. Further provides for the creation of technical advisory committees and creates an accelerated process for re-review of 2015 terms. Also provides for delay in future code adoption processes following any new additions to the International Construction Code and for an expedited process for unopposed sections. In addition, changes are made to building permit fees. The amendment of section 902 (c) relating to uncertified buildings over which the department does not have jurisdiction is effective in 60 days and the remainder is effective immediately.

Read third time and passed Senate, 7/11/2016 (45-3)

Received as amended in House and rereferred House Rules Committee, 7/11/2016

Liability

NONE

Prevailing Wage

NONE

Professional Licensure
NONE

Local/Property Tax Reform
NONE

Mandate Waivers
NONE

Mechanic's Lien
NONE

School Construction
NONE

Transportation
NONE

Worker's Comp
NONE

Workforce Development
NONE

Upcoming meetings of Interest

Some House Committee meetings and session can be viewed online at: <http://www.pahousegop.com/>
Senate Committee meetings and session can be streamed at: <http://www.pasenategop.com/>

2016 SENATE SESSION SCHEDULE

September 26, 27, 28
October 17, 18, 19, 24, 25, 26
November 16

2016 House Fall Legislative Schedule

August 18 (Non-Voting)
September 19, 20, 21, 26, 27, 28
October 17, 18, 19, 24, 25, 26
November 14, 15

Copies of all bills of interest can be accessed via the Internet at:
<http://www.legis.state.pa.us/cfdocs/legis/home/session.cfm>