

## MCA Summary of Legislation October 2016

### House and Senate Wrap Up Legislative Business, Head Home to Campaign

In a typical whirlwind end of session flurry, the General Assembly passed numerous bills on a variety of subjects, including further expansions of the sale of beer and liquor, internet gaming, and guns, while they fell a vote or two short of doing more legislation on pensions, animal cruelty and others, some for purely political reasons, and some just because they ran out of time before the election recess. Both chambers will return in November, for ostensibly ceremonial and organizational purposes for next session, but there is an outside chance of a few bills that only require a final chamber vote to get to the Governor may be considered. Below is a rundown of bills of interest to the construction industry, as usual, that were acted on this month. At this writing, the Governor has several bills on his desk, but had yet to take action. Gov. Wolf did veto one bill, [SB 562](#), which made numerous substantive changes to how regulations are considered and approved. The votes in both chambers were largely party line, with the Democrats voting against it in both the House and Senate, so an override is unlikely.

Bills that had been moving on the Capitol Budget and RCAP did not make it to the finish line, either. There has been some talk of a mid-year, supplemental budget being proposed, to shore up what already appears to be a fairly substantial revenue shortfall, leading into the Governor FY 2017-18 budget presentation in February, but none emerged this past month, and it would be difficult to pass one in a brand new legislature next spring. Look for more proposals from the Governor and others for additional revenue next year, though, and further discussion of the “structural deficit” going forward.

### Seasonal Workers UC Bill Becomes Law

[HB 319](#), an Unemployment Compensation bill sponsored by Rep. Jerry Knowles (R-Schuylkill) that fixes a loophole in the UC law for seasonal workers enacted in Act 60 of 2012, has been passed by the General Assembly and signed into law. As you may be aware, Act 60 implemented measures to reduce approximately \$4 billion in debt to the federal government and address the long-term solvency of PA's unemployment compensation. However, a flaw in Act 60 has resulted in approximately 44,000 seasonal workers being disqualified from collecting unemployment compensation. Seasonal workers who earned 50.5% of their annual income or more in one quarter of the year have been ineligible for benefits since the enactment of Act 60. Prior to Act 60, the limit was 63%. According to the Governor's press release announcing his signing of the bill, “this percentage was prohibitively high and left many individuals and families of seasonal workers without this important financial bridge to cover leaner work months.” Lowering that bar to 37 percent of wages earned outside the highest quarter, removes a significant barrier to receiving benefits and will allow Pennsylvania families and workers to receive what they have earned – a stable and reliable unemployment insurance benefit.

To pay for this change, the legislation adopts several cost saving changes to ensure that Pennsylvania's UC trust fund remains financially solvent. They include:

- An across the board 2% reduction (reset) in benefits – \$44 million in annual savings
- Slowed growth in future benefits.

To ensure that the fund's health continues to improve a series of triggers have been included to address any decline or stalled growth of the funds reserves. The new law also includes several updates to the law's fraud provisions to further protect the integrity of the system.

### PA One Call Extended for One Year

Pennsylvania's One Call utility damage prevention law, which mandates excavators to call the state's One Call system at least three business days prior to excavation to ensure no damage to underground lines is done, has been extended for another year. **Senate Bill 1235**, which amends the Underground Utility Line Protection Law to extend its life for another year, passed the House and Senate this past month, and was signed into law by Gov. Tom Wolf

on November 4. The law now is reset to expire on December 31, 2017, unless it is extended again next year by statute. This effort was supported by small oil and gas operators, contractors, surveyors, among others.

The bill was in limbo for much of session, and made it to the Governor on the last voting day after legislative leaders agreed on a compromise. The bill did not address significant changes to the law that the House was seeking. As a result, the law was given only a 1 year extension, much shorter than is normally the case. Had the law been allowed to expire, excavators would no longer have been required to call the system which alerts utilities to mark their lines before the digging takes place. SB 1235 is now **Act 160 of 2016**

## **Legislative Activity**

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

### **Bidding / Contracting**

[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.

**Reported as committed from Senate Appropriations Committee, 10/19/2016**

**Read third time and passed Senate, 10/26/2016 (47-0)**

[SB 344](#) RE: Bonds (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.

**Received in the House and referred to House State Government Committee, 10/4/2016**

[SB 1313](#) RE: Guaranteed Energy Savings Contracts (by Sen. Don White, et al)

Amends Title 62 (Procurement), in contract clauses and preference provisions, further providing for definitions and adding that grants, subsidies or other payments from the Commonwealth to a governmental unit shall not be reduced as a result of energy conservation measure cost savings obtained as a result of a guaranteed energy savings contract during the life of the contract. Requires the contract to expressly state the financial obligations that an energy savings company will require users to pay upon a declaration of savings.

**Amended on Senate floor, 10/17/2016**

**Read third time, and passed Senate, 10/18/2016 (50-0)**

**Received in the House and referred to House State Government Committee, 10/19/2016**

### **Budget Related Bills**

[HB 928](#) RE: Limitation on Redevelopment Assistance Capital Projects (by Rep. Steve Mentzer, et al)

In capital facilities, further providing for appropriation for and limitation on redevelopment assistance capital projects and for administration of redevelopment assistance capital projects. Adds that beginning July 1, 2018, and each July 1 thereafter until the sum of the outstanding obligations for redevelopment assistance capital projects equals \$2,950,000,000, the sum of the maximum amount of outstanding obligations for redevelopment assistance projects shall be decreased by \$50,000,000. Grant agreements shall include a signed affidavit stating that the applicant will hold at least one public informational meeting for the project and an additional public informational meeting as necessary, as required by the bill. Effective immediately.

**Removed from the table, 10/17/2016**  
**Amended on Senate floor, 10/24/2016**

[HB 930](#) RE: Redevelopment Assistance Capital Projects (RACP) Debt Ceiling (by Rep. Tarah Toohil, et al)  
Amends the Capital Facilities Debt Enabling Act reducing the Redevelopment Assistance Capital Projects (RACP) Debt ceiling by \$475 million. Adds language providing that the maximum amount of additional public improvement projects released for funding by the Commonwealth in a fiscal year shall not exceed \$350 million and the maximum amount of additional redevelopment assistance capital projects released for funding by the Commonwealth in a fiscal year shall not exceed \$125 million. Also provides for carry-forward. Effective in 60 days.

**Removed from the table in Senate, 10/17/2016**

[SB 1292](#) RE: Capital Budget Act of 2016-2017 (by Sen. Patrick Browne, et al)  
Provides for the capital budget for the fiscal year 2016-2017 with a total appropriation of \$1,110,000,000. Effective October 1, 2016, or immediately, whichever is later.

**Reported as committed from House Appropriations Committee, read first time, and laid on the table, 10/19/2016**

**Removed from the table, 10/24/2016**

**Read second time and referred to House Appropriations Committee, 10/25/2016**

**Reported as committed from House Appropriations Committee, 10/26/2016**

[SB 1341](#) RE: Performance-based Budgeting Act (by Sen. Bob Mensch, et al)  
Provides for performance-based budgeting; establishes the Performance-based Budget Board, an independent board to review the performance-based budget plans of State agencies and make recommendations on how each agency's programs may be made more transparent, effective and efficient and provides for its powers and duties; and confers powers and imposing duties on the Independent Fiscal Office. Each agency shall receive a performance-based budget review no less often than once every five years. In order to implement this schedule, beginning in 2018, approximately 20 percent of agencies shall be subject to performance-based budget plan review each year. Within 30 days of receipt of the board's recommendations, the Independent Fiscal Office shall review the recommendations and prepare a report that approves or disapproves the recommendations.

**Public hearing held in House Appropriations Committee, 10/25/2016**

[SB 1362](#) RE: E-Cig Floor Tax (by Sen. Tom Killion, et al)  
Amends the Tax Reform Code, in tobacco products tax, further providing for floor tax by stipulating that the tax shall be paid and reported on a form prescribed by the department within 180 (increased from 90) days of the effective date of the provision.

**Rereferred to Senate Appropriations Committee, 10/17/2016**

## **Environmental Building Standards**

[HB 2387](#) RE: Erosion and Sediment Control (by Rep. David Zimmerman, et al)  
An Act providing for an erosion and sediment control permit, for compliance, for an annual report and for duties of the Department of Environmental Protection.

**Introduced and referred to House Environmental Resources and Energy Committee, 10/3/2016**

[SR 385](#) RE: State Environmental Regs Study (by Sen. Michele Brooks, et al)  
A Resolution directing the Joint State Government Commission to conduct a study to analyze and identify which environmental laws and regulations of this Commonwealth have more stringent standards than Federal law requires.

**Adopted 10/18/2016 (27- 21)**

**Transmitted as directed, 10/24/2016**

[SR 421](#) RE: Federal Floodplain Management Regulations By Sen. David Argall, et al)  
A Resolution urging the President and the Congress of the United States to review the changes to the Federal floodplain management regulations that negatively impact our blighted communities.

**Reported as amended from Senate Urban Affairs and Housing Committee, 10/19/2016**

**Adopted, 10/26/2016 (48-0)**  
**Transmitted as directed, 10/31/2016**

## **Local/State Government/Regulations**

[HB 568](#) RE: (RAC) Review (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 which shall be composed of council members and nonvoting technical advisory members and shall be limited to 12 members. 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.

**Re-reported on concurrence as amended from Senate Rules and Executive Noms Committee, 10/25/2016**  
**Senate concurred in House amendments to Senate amendments, with further amendments, 10/26/2016**  
**Received as amended in House and rereferred House Rules Committee, 10/26/2016**

[HB 2388](#) RE: Prototypical School Facility Design Clearinghouse (by Rep. Tedd Nesbit, et al)

Amends Public School Code, in grounds and buildings, providing for a prototypical school facility design clearinghouse.

**Introduced and referred to House Education Committee, 10/4/2016**

[SB 562](#) RE: IRRC Process Changes (by Sen. John Gordner, et al)

Amends the Regulatory Review Act requiring that within five days of receipt of proposed regulations, the chair of the pertinent oversight committee must provide a paper or electronic copies to each member of the committee for their review. Empowers committee chairs to hold hearings on the proposed regulations or to hold meetings for the purpose of adopting official comments by a majority vote of the members of the committee. Also requires chairs to distribute a copy of final form regulations to each member of the committee within five days. Stipulates time periods for review or action by the committees will be either for a period of 14 calendar days or six legislative days, whichever is longer; committees may have the Independent Regulatory Review Commission remove from its agenda final form regulations which the committee either disapproves or requests additional time for review; and removes the requirement that agency statements of purpose be published in the Pennsylvania Bulletin. Lays out guidelines for action following the commission's review process. Effective in 60 days.

**Reported as committed from House Appropriations Committee, read third time, and passed House, 10/26/2016 (109-81)**

**Received as amended in Senate and rereferred to Senate Rules and Executive Nominations Committee, Re-reported on concurrence as committed Senate Rules and Executive Nominations Committee, and Senate concurred in House amendments, 10/26/2016 (31-16)**

**Signed in the Senate and House, 10/27/2016**

**In the hands of the Governor, 10/27/2016. Last day for Governor's action, 11/6/2016**

**Vetoed by the Governor, 10/28/2016. Veto # 6.**

[SB 805](#) RE: Utilities Energy and Conservation Programs (by Sen. Lisa Boscola, et al)

Amends Title 66 (Public Utilities) establishing an energy and conservation program to require electric distribution companies to adopt and implement cost-effective energy efficiency and conservation plans to reduce energy demand and consumption within the service territory of each electric distribution company in the commonwealth. Outlines requirements of the program and provides for exemptions.

**Removed from the table, 10/18/2016**

**Amended on House floor and read second time, 10/24/2016**

**Read third time, and passed Senate, 10/25/2016 (35-13)**

**Received in the House and referred to House Consumer Affairs Committee, 10/26/2016**

[SB 840](#) RE: Automated Speed Enforcement Systems (by Sen. Dave Argall, et al)

Amends Title 75 (Vehicles), in preliminary provisions, further providing for definitions; and, in rules of the road in general, further providing for speed timing devices and providing for automated speed enforcement systems. The bill provides for automated speed enforcement in active work areas, which shall expire in five years.

**Amended on Senate floor, read third time, and passed Senate, 10/18/2016 (48-0)**

**Received in the House and referred to House Transportation Committee, 10/19/2016**

[SB 1235](#) RE: One Call System (by Sen. Lisa Baker, et al)

Amends the Underground Utility Line Law further providing for definitions, for duties of facility owners, for duties of the One Call System, for duties of excavators, for duties of designers, for duties of project owners and for penalties; providing for enforcement, for underground utility line protection fund and for compliance; and further providing for One Call System authority and for expiration. Expiration of the act is extended through 2021. Portions of the bill are effective immediately and the remainder is effective in 180 days.

**Received in the House and referred to House Consumer Affairs Committee, 10/3/2016**

**Reported as amended from House Consumer Affairs Committee, read first time, and laid on the table, 10/18/2016**

**Removed from the table, 10/19/2016**

**Read second time and referred to House Appropriations committee, 10/25/2016**

**Reported as committed from House Appropriations Committee, 10/25/2016**

**Read third time and passed House, 10/26/2016 (195-0)**

**Received as amended in Senate and rereferred Senate Rules and Executive Nominations Committee, Re-reported on concurrence as committed from Senate Rules and Executive Nominations Committee, and Senate concurred in House amendments, 10/26/2016 (47-0)**

**Signed in the House and Senate, and In the hands of the Governor, 10/27/2016.**

**Approved by the Governor 11/4/2016 (Act No. 160 of 2016)**

## **Liability**

[HB 1398](#) RE: Partnerships and LLC's (by Rep. Adam Harris, et al)

Amends Titles 15 (Corporations and Unincorporated Associations) and 54 (Names) modernizing the law on limited liability partnerships, general partnerships, limited partnerships and limited liability companies; and making conforming changes with respect to associations, corporations, unincorporated nonprofit associations and business trusts by doing the following: As to general provisions, making conforming changes by revising provisions on application of title, definitions, defense of usury, tax clearance of certain fundamental transactions and fee schedule. As to entities generally, making conforming changes by revising requirements for foreign association names. As to entity transactions, making conforming changes by revising provisions on regulatory conditions and required notices and approvals, nature of transactions, approval by limited partnership, effect of merger, statement of division and effectiveness, effect of division and effect of domestication. As to foreign associations, making conforming changes by revising provisions on governing law. As to corporations, making conforming changes by revising provisions on distributions by business corporations and by adding provisions on derivative actions and the use of special litigation committees by business corporations and nonprofit corporations. As to partnerships generally: extensively revising provisions on: interchangeability of partnership, limited liability company and corporate forms of organization; and ownership of certain professional partnerships; and adding a provision on failure to observe formalities. As to limited liability partnerships: extensively revising provisions on: scope; definitions; limitation on liability of partners; extraterritorial application of subchapter; foreign registered limited liability partnerships; and annual registration; and adding provisions on: distributions; and dissolution. As to general partnerships, repealing existing Chapter 83 and replacing it with a new Chapter 84 relating to: general provisions; nature of partnership; relations of partners to persons dealing with partnership; relations of partners to each other and to partnership; transferable interests and rights of transferees and creditors; dissociation; dissociation as partner if business not wound up; and dissolution and winding up. As to limited partnerships, repealing existing Chapter 85 and replacing it with a new Chapter 86 relating to: general provisions; formation and filings; limited partners; general partners; contributions and distributions; dissociation; transferable interests and rights of transferees and creditors; dissolution and winding up; and actions by partners. As to limited liability companies: repealing existing Subchapters A, B, C, D, E, F, I and K of Chapter 89 and replacing them with a new Chapter 88 relating to: general provisions; formation and filings;

relations of members and managers to persons dealing with limited liability company; relations of members to each other and to limited liability company; transferable interests and rights of transferees and creditors; dissociation; dissolution and winding up; actions by members; and benefit companies; and revising provisions on restricted professional companies. As to unincorporated nonprofit associations, making conforming amendments by revising provisions on ownership and transfer of property. As to business trusts, making conforming changes by revising provisions on application and effect of chapter and liability of trustees and beneficiaries. As to names, revising provisions on register established. Effective in 90 days.

**Rereferred to Senate Appropriations Committee, 10/17/2016**

**Reported as amended from Senate Appropriations Committee, 10/18/2016**

**Laid on the table, 10/24/2016**

**Removed from the table, and read second time, 10/25/2016**

**Read third time, and passed Senate, 10/26/2016 (48-0)**

**Received as amended in House and rereferred to House Rules Committee, re-reported on concurrence as committed from House Rules Committee, and House concurred in Senate amendments, 10/27/2016 (185-0)**

**Signed in the House, 10/27/2016**

### **Prevailing Wage**

NONE

### **Professional Licensure**

NONE

### **Local/Property Tax Reform**

NONE

### **Mandate Waivers**

NONE

### **Mechanic's Lien**

NONE

### **School Construction**

NONE

### **Transportation**

NONE

### **Unemployment Comp**

[HB 319](#) RE: Seasonal Workers (by Rep. Jerry Knowles, et al)

Amends Unemployment Compensation Law providing for additional benefit eligibility for seasonal workers and authorizing a three-month amnesty program. Increases the reserve ratio factor for certain employers. Further provides for decision of referee by requiring the proceeding before the referee to be recorded by an audio recording and to make such a record available to the parties and their attorneys. Also for benefit years beginning after December 31, 2016, all benefits shall be reduced by 2 percent and reduces the maximum weekly benefit from \$573 to \$561 through 2019. Further provides for new solvency triggers and adds additional provisions relating to fraud and other bad acts in the unemployment compensation system. Changes to benefit eligibility and benefit amounts apply to benefit years after December 31, 2016; changes to provisions affecting employer contributions applies to employer contribution on wages paid on or after January 1, 2017; provisions relating to audio recording are effective in 60 days; the provisions relating to fraud and other bad acts take effect in 180 days; and the remainder shall take effect immediately.

**Reported as committed from Senate Appropriations Committee, 10/19/2016**

**Amended on Senate floor, 10/25/2016**

**Read third time, and passed Senate, 10/26/2016 (39-8)**

**Received as amended in House and rereferred to House Rules Committee, re-reported on concurrence as committed from House Rules Committee, and House concurred in Senate amendments, 10/26/2016 (161-30)**  
**Signed in the House and Senate**  
**Approved by the Governor, 11/3/2016. Act No. 144 of 2016**

[HB 2382](#) RE: Determination of Compensation Appeals (by Rep. Lee James, et al)  
Amends the Unemployment Compensation Law, in determination of compensation, appeals, reviews and procedure, further providing for determination of compensation appeals and for decision of referee and appeals.

**Introduced and referred to House Labor and Industry Committee, 10/3/2016**

**Reported as committed from House Labor and Industry Committee, read first time, and laid on the table, and removed from the table, 10/17/2016**

**Amended on House floor, read second time, and Rereferred to House Appropriations Committee, 10/19/2016**

**Reported as committed from House Appropriations Committee, read third time, and passed House, 10/24/2016 (171-16)**

**Received in the Senate and referred to Senate Labor and Industry Committee, 10/26/2016**

### **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**

November 9 (non-voting) 16

### **2016 House Fall Legislative Schedule**

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>