

MCA
Summary of Legislation
September 2016

Bill to Exempt Projects from Multiple Prime Bidding Positioned for Vote

Legislation that would exempt compliance with the Separations Act has been moved to the tabled calendar for the PA House of Representatives, a sign that the bill may be voted before the end of October. House Bill 2113 allows certain public works projects to be done as Public Private Partnerships (P3) and specifically exempts any such projects from multiple prime bidding as required under the Separations Act. Eligible projects include schools, government buildings, water and waste water treatment plants just to name a few.

The bill had resided in the House Rules committee but was reported to the full House in late September. Even though there are only 7 voting days scheduled for the rest of this year, a vote could occur as soon as October 17th when the House returns to Harrisburg. You are strongly encouraged to contact your state House of Representative member and ask for a “no” vote on House Bill 2113. Here is a link to the Concerned Contractors web site where you can do that electronically. www.concernedcontractors.com

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.

Removed from the table, read second time, and rereferred to Senate Appropriations Committee, 9/26/2016

[HB 2113](#) RE: Public-Private Partnership (P3) Pilot Program (by Rep. Eli Evankovich, et al)

Amends Title 62 (Procurement) establishing the Public-Private Partnership (P3) Pilot Program and the State Public-Private Partnership Board, tasked with overseeing the development and implementation of P3s in Pennsylvania. Provides for 16 authorized pilot projects outlined in the bill Further provides that **approved pilot projects are exempt from the Pennsylvania Separations Act and associated statutes**. The addition of 62 Pa.C.S. 4701 and 4702 are effective immediately; the remainder of the bill is effective in 90 days.

Reported as committed from House Rules Committee and laid on the table, 9/19/2016

[HB 2354](#) RE: Prompt Payment (by Rep. Jamie Santora, et al)

Amends the Contractor and Subcontractor Payment Act further providing for owner's payment obligations and for contractors' and subcontractors' payment obligations. If payment is not received by a contractor or subcontractor as required, the contractor shall have the right to suspend performance of any work, without penalty, until payment is received in full.

Introduced and referred to House Commerce Committee, 9/20/2016

[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.

Removed from the table, 9/26/2016

Read second time, 9/27/2016

Read third time, and passed Senate, 9/28/2016 (50-0)

[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.

Reported as committed from Senate Appropriations Committee, and read second time, 9/28/2016

Budget Related Bills

NONE

Environmental Building Standards

[HB 1103](#) RE: High Tunnels (by Rep. David Zimmerman, et al)

Amends the Storm Water Management Act defining "high tunnel" and exempting high tunnels from the act. A municipality that has adopted a watershed storm water plan or enacted a local ordinance or regulation that regulates high tunnels prior to the effective date shall amend the plan, ordinance or regulation in order to comply.

Reported as amended from Senate Environmental Resources and Energy Committee, and read first time, 9/27/2016

[HB 2302](#) RE: Drinking Water Contamination Mitigation Act (by Rep. Kathy Watson, et al)

A supplement to the act entitled "An act providing for the establishment, implementation and administration of the Pennsylvania Infrastructure Investment Authority; imposing powers and duties on a board of trustees; transferring the rights, powers, duties and obligations of the Water Facilities Loan Board to the Pennsylvania Infrastructure Investment Authority; providing for the issuance of notes and bonds; providing for financial assistance and for a comprehensive water facilities plan; authorizing a referendum to incur indebtedness; making an appropriation; and making repeals," providing for additional projects to mitigate contamination of sources of drinking water. The bill adds the Drinking Water Contamination Mitigation Act which is intended to supplement efforts by the Federal Government, the Commonwealth and municipalities to provide equipment necessary to mitigate contamination of sources of drinking water contaminated in connection with the former Naval Air Station Joint Reserve Base Willow Grove, now known as the Horsham Air Guard Station, but impacting the ground water and aquifer in the area by authorizing the authority to fund grants for projects that install updated infrastructure to ensure clean drinking water in the township. Nothing in this act or any other law shall be construed to prohibit the authority from being reimbursed by the Federal Government.

Introduced and referred to House Finance Committee, 9/20/2016

Local/State Government/Regulations

[HB 568](#) RE: Review of the International Construction Code By the RAC (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.

Re-reported on concurrence as amended from House Rules Committee, 9/27/2016

Galloway motion to recommit bill to House Labor Committee fails, and House concurred in Senate amendments as amended by the House, 9/28/2016 ([107-86](#))
Received as amended in Senate and rereferred to Senate Rules and Executive Nominations Committee, 9/28/2016

[HB 782](#) RE: Third Party Agencies (by Rep. Doyle Heffley, et al)
Amends the Pennsylvania Construction Code Act adding language allowing permit applicants, in a municipality which has designated one third party agency for exclusive enforcement of the Uniform Construction Code, to use a third party agency of their choosing if the alternative third party agency remits a surcharge to the municipality. Allows the municipality the ability to establish the surcharge amount, via ordinance, as a percentage of up to ten percent of the total fee charged by the alternative third party agency. If no ordinance is enacted the surcharge amount is one percent. Requires the permit applicant to notify the municipality and the exclusive third party if its intent to utilize an alternative third party agency; notification shall provide the name of the third party agency and appropriate contact information for the agency. Before commencing work on the project, the alternative third party agency shall be required to notify the municipality and its exclusive third party agency that it is performing code enforcement services on a project. The alternative third party agency shall be required to provide, on the date of issuance, a copy of the building permit issued for the project and approve plans, to the municipality and its exclusive third party agency. Also requires that a permit applicant utilize the services of the third party agency they select for the duration of a project. Allows the Department of Labor and Industry to issue regulations to establish or clarify procedures necessary to effectuate the intent of the legislation.

Reported as committed from House Rules Committee, and laid on the table, 9/19/2016

Removed from the table, 9/21/2016

Amended on the House floor, read second time, and rereferred to House Appropriations Committee, 9/26/2016

Reported as committed from House Appropriations Committee, 9/27/2016

[HB 2308](#) RE: Utility Line Protection Law (by Rep. Bob Godshall, et al)
Amends Underground Utility Line Protection Law extending the expiration by one year to December 31, 2017.
Reported as committed from House Consumer Affairs Committee, read first time, and laid on the table, 9/20/2016

Removed from the table, 9/21/2016

Read second time, and rereferred to House Appropriations Committee, 9/26/2016

Reported as committed from House Appropriations Committee, 9/27/2016

[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.

Filed, not yet referred, 9/29/2016

[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.

Reported as committed from Senate Appropriations Committee, 9/26/2016

Read third time and passed Senate, 9/27/2016 (34-14)

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 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 Chapter 89 and replacing it 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; and actions by members. 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.

Reported as amended from Senate Judiciary Committee and read first time, 9/26/2016

Prevailing Wage

NONE

Professional Licensure

[HB 2296](#) RE: Elevator Contractor and Mechanic Licensure Act (by Rep. Gerald Mullery, et al)

Requires an elevator mechanic's license to be issued to a person erecting, constructing, altering, replacing, maintaining, removing or dismantling and elevator and the person must be working under the direct supervision of a sole proprietor, firm or corporation that is an elevator contractor. Provides for the duties of the Department of Labor and Industry. Contractor licenses are also provided for. The procedure for issuing a license is provided for and the license may be renewed biennially. During emergencies, elevator contractors shall respond to ensure the public safety. Continuing education is provided for along with the application process, procedure, and qualifications for licensing. Section 301 relating to licensing shall take effect upon the effective date of regulations promulgated by the department under the act or three years after the date of enactment, whichever is earlier.

Introduced and referred to House Professional Licensure Committee, 9/2/2016

Local/Property Tax Reform

NONE

Mandate Waivers

NONE

Mechanic's Lien

NONE

School Construction

NONE

Transportation

NONE

Unemployment Comp

[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.
Filed, not yet referred, 9/29/2016

Worker's Comp

[HB 1141](#) RE: Worker's Comp (by Rep. Stan Saylor, et al)
Amends Workers' Compensation Act requiring insurers to accept electronic billing by January 1, 2017; imposing certain penalties for failure to implement an updated Workers' Compensation fee schedule by January 10 annually; requiring the establishment of a bona fide provider network agreement between physicians/insurers/employers and third parties and requiring that physicians receive notice of such agreements; prohibiting the use of threats or coercion in soliciting discounted reimbursements; and authorizing providers to access certain claim information.
Public hearing held in House Labor and Industry Committee, 9/13/2016

Workforce Development

[HB 1952](#) RE: Apprenticeship and Training Act (by Rep. Steve Mentzer, et al)
Amends the Apprenticeship and Training Act further providing for administration; providing for supervision; and abrogating a regulation. Regulations may not require more than one supervisor for each apprentice or trainee.
Reported as committed from House Rules Committee, and laid on the table, 9/19/2016

[HR 102](#) RE: Technical Education and Career Readiness (by Rep. Stan Saylor, et al)
A Resolution authorizing the House Education Committee to establish the select subcommittee on Technical Education and Career Readiness to investigate, review and make recommendations concerning career training programs to ensure opportunity to pursue meaningful career. The subcommittee shall reports its finding with its recommendations for any appropriate legislation or other action to the House Education Committee and to the House by November 30, 2016.
Public hearing held in House Select Committee, 9/16/2016

[SB 1360](#) RE: Statutory Construction of Wage and Hour Laws Act (by Sen. Lisa Baker, et al)
Provides for the statutory construction of The Minimum Wage Act of 1968 by eliminating certain differences between the state and federal law. This act shall take effect December 1, 2016, or immediately, whichever is later.
Introduced and referred to Senate Labor and Industry Committee, 9/6/2016
Reported as committed from Senate Labor and Industry Committee and read first time, 9/26/2016

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/>

TUESDAY - 10/4/16

House Republican Policy Committee

10:00 a.m., Colony Factory Homes, 20510 Paint Blvd., Shippensburg

Hearing on jobs, economy and manufactured homes

WEDNESDAY - 10/5/16

House Finance Committee

10:00 a.m., Bensalem Township Building, Council Chambers, 2400 Byberry Road, Bensalem

Public hearing on: [HB 2142](#) (Stephens) - Amends the Sterling Act providing for municipal tax reimbursement.

2016 SENATE SESSION SCHEDULE

October 17, 18, 19, 24, 25, 26

November 16

2016 House Fall Legislative Schedule

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>