

MCA
Summary of Legislation
January 2009

Mandate Waiver Task Force Recommends Two Way Bidding

The Task Force studying mandate waivers that allowed school districts to use single prime construction conducted its final meeting on Monday January 12. Votes on final recommendations were taken at this time. The central issue of debate was whether school districts would be required to bid projects using both single and multiple primes if a waiver was granted. The Task Force members favoring bidding the project both ways moved to vote on that proposal before any of the other recommendations. Senator Andy Dinniman moved that the Belfanti/Tartaglione recommendation be adopted, and the motion was seconded by Representative Gene DiGirolamo. That motion passed 9-2 and even received votes from the Secretary of Education who is thought to be pro-waiver. The recommendation is that the any future waivers of the multiple prime requirements mandate that the school district would solicit both multiple and single prime bids and accept the lowest responsible bid option. The two no votes were from Senators Gordner and Piccola.

A number of other recommendations were also voted on to be included in the Task Force's final report. The final report will be available for review in a couple of weeks. A recommendation to suggest that the Legislature should eliminate the construction waivers when the mandate waiver program sunsets in June of 2010 fell 1 vote short of adoption.

Keep in mind that the Task Force can only make recommendations. Legislative recommendations must still be voted on by the Legislature, and in most cases, the Legislature does not enact these suggestions. Likewise, the Department of Education is not bound to abide by the recommendation to require school districts receiving a waiver to bid the projects both ways. Thus, the future of the waiver program is still not entirely clear. The following shows the recommendations and votes for each proposal. This is not an official report. Minority opinions on some of these issues may be added once the official report is released.

Recommendation #1

Re: Requirement to Bid Both Ways

Vote: Yes-9; No-2

Any and all future waivers of multiple-prime construction issued by the Department will be limited to the extent that districts must solicit single-prime bids as well as multiple-prime bids with the district utilizing the least expensive/most responsible bid option.

Recommendation #2

Re: Application for Mandate Waivers

Vote: Yes-11; No-0

Amend the School Code so that no school district shall receive a mandate waiver if it is delinquent in filing an evaluation of a previously granted waiver under Section 751 or 751.1 or its final Plan Con filing, as applicable. In addition, Plan Con reimbursement will be withheld for districts that fail to file reports as required, until such time as the reports are adequately filed. The Department of Education is encouraged to conform its policy to act in the manner recommended here.

Recommendation #3

Re: Evaluation of Approved Mandate Waivers

Vote: Yes-11; No-0

The evaluation form for 751 and 751.1 waivers should be revised to collect additional information on savings, project chronology, conformity with the uniform construction code and information regarding change orders (to include rationale for those change orders). The due date for the evaluation is three years from the date of the waiver approval. If necessary, additional reports should be submitted every year thereafter until the project is complete.

Recommendation #4

Re: Gathering Additional Information

Vote: Yes-6; No-5

The Department should provide assistance to districts in collecting data allowing for an accurate analysis and comparison to be completed on costs/savings of single-prime contracting vs. multiple-prime contracts for similar projects. Subsequently, the Department would determine the most appropriate way to report and present the information to the General Assembly and interested school districts.

Recommendation #5

Re: Updating Bid Thresholds

Vote: Yes-6; No-5

Update bid thresholds:

1. Work completed by school personnel from \$4,000 to \$25,000;
2. Any project not completed by school personnel and costing between \$10,000 and \$25,000 can only be completed after the district obtains three competitive quotes;
3. Projects costing more than \$25,000 should require the district to advertise and solicit bids;
4. Each of the three thresholds should be automatically updated annually based on the Building Cost Index used to update Act 34 thresholds.

Recommendation #6

Re: Disclosure of Subcontractors for a Single Prime Project

Vote: Yes-11; No-0

Require prime contractors on school construction projects bid using a waiver of 751 and identify on bid forms those subcontractors with work (including labor and materials) exceeding \$10,000. On these projects, the prime contractor shall be required to employ the subcontractors identified on the bid form. All subcontractors so identified shall be paid directly by the district for labor and materials costs as certified by the prime contractor and subcontractor.

Recommendations Discussed but Not Passed

Re: Discontinuing the Waiver of Section 751 and 751.1 of the School Code

Vote: Yes-5; No-6

If the legislature reauthorizes the Mandate Waiver Program after it sunsets in June 2010, Sections 751 and 751.1 should be added to the list of non-waiveable sections of the School Code.

McCall and Smith Announce House Committee Chairs

State House Speaker Keith McCall, D-Carbon, formally appointed his caucus' committee chairmen to serve during the 2009-10 legislative session. Minority Leader Sam Smith later also announced the Republican Chairs. House Committees will officially reorganize on Monday, January 26, 2009. Official House Rules, which haven't been introduced yet, will determine membership. The temporary House Rules (HR 1), adopted on January 6th, will be in effect for 30 days.

"House committees are an absolutely vital link in the process from turning a good idea into a law," McCall said.

"From holding public hearings across the state to helping make a good proposal into a great piece of legislation to be voted on by the full membership, these chairmen -- and chairwomen -- have a big responsibility. I know they and the committees they lead will be up to the task."

Below is a list of Democrat chairman appointments, with their Republican counterparts:

- Aging & Older Adult Services Committee – Rep. Phyllis Mundy, D-Luzerne, Timothy Hennessey
- Agriculture & Rural Affairs Committee – Rep. Mike Hanna, D-Clinton/Centre, Samuel Rohrer, R-Berks
- Appropriations Committee – Rep. Dwight Evans, D-Phila., Mario Civera, R- Delaware
- Children & Youth Committee – Rep. Louise Williams Bishop, D-Phila., Dennis O'Brien, R- Phila.
- Commerce & Economic Development Committee – Rep. Peter Daley, D-Fayette/Washington, Dick Hess
- Committee on Committees – Rep. Larry Curry, D-Montgomery/Phila., Richard Geist, R- Blair
- Consumer Affairs Committee – Rep. Joseph Preston Jr., D-Allegheny, Robert Godshall, R- Montgomery

- Education Committee – Rep. Joseph Roebuck, D-Phila., Paul Clymer, R- Bucks
- Environmental Resources & Energy Committee – Rep. Camille "Bud" George, D-Clearfield, Scott Hutchinson
- Finance Committee – Rep. David Levdansky, D-Allegheny/Washington, David Argall (R-Schuylkill)
- Game & Fisheries Committee – Rep. Edward Staback, D-Lackawanna/Wayne, Craig Dally (R- Northampton)
- Gaming Oversight Committee – Rep. Dante Santoni, D-Berks, Curt Schroder (R- Chester)
- Health & Human Services Committee – Rep. Frank Oliver, D-Phila., Matthew Baker (R-Bradford)
- Insurance Committee – Rep. Tony DeLuca, D-Allegheny , Nicholas Micozzie (R- Delaware)
- Intergovernmental Affairs Committee – Rep. W. Curtis Thomas, D-Phila., Chris Ross (R-Chester)
- Judiciary Committee – Rep. Thomas Caltagirone, D-Berks, Ronald Marsico (R- Dauphin)
- Labor Relations Committee – Rep. Robert Belfanti, D-Columbia/Montour/Northumberland, Gene DiGirolamo (R-Bucks)
- Liquor Control Committee – Rep. Robert Donatucci, D-Phila., John Taylor (R- Phila)
- Local Government Committee – Rep. Robert Freeman, D-Northampton, Julie Harhart (R- Northampton)
- Professional Licensure Committee – Rep. Mike McGeehan, D-Phila., Bill Adolph (R- Delaware)
- State Government Committee – Rep. Babette Josephs, D-Phila., Kerry Benninghoff R- Centre)
- Tourism & Recreational Development Committee – Rep. Thaddeus Kirkland, D-Delaware, Stephen Barrar (R-Delaware)
- Transportation Committee – Rep. Joe Markosek, D-Allegheny, Richard Geist (R- Blair)
- Urban Affairs Committee – Rep. Frank Dermody, D-Allegheny, John Perzel (R- Phila)
- Veterans Affairs & Emergency Preparedness Committee – Rep. Tony Melio, D-Bucks, Russell Fairchild (R-Union)

Legislative Activity – New Bills Introduced

HB 77 RE: CDL Qualifications (by Rep. Scott Perry, et al)

Amends Title 75 (Vehicles) further providing for commercial driver's license qualification standards by removing language that permits the test to be administered in Spanish as well as English.

Referred to House Transportation Committee, 1/27/2009

SB 21 RE: Green Work Force Training Act (by Sen. Shirley Kitchen, et al)

Provides for the establishment of the Green Work Force Training Program in the Department of Labor and Industry to promote job training related to the energy efficiency and renewable energy industries. The department, in consultation with the Department of Environmental Protection and related organizations, would establish minimum training requirements necessary for an applicant to be considered for a grant under the program. Grants would be awarded to enable eligible entities to carry out training that leads to the development of an energy efficiency and renewable energy industries work force. The bill provides for use of and limitations on grant funds. Additionally, the bill provides for reports by grant recipients and the department. \$25,000,000 shall be transferred from the Commonwealth Financing Authority to a restricted receipt account in the State Treasury for disbursement by the Department of Labor and Industry for purposes of funding grants. The moneys transferred by the authority shall derive from the proceeds of any bonds issued by the authority for alternative energy and other energy-related projects. The department shall annually disburse \$5,000,000 of the amounts transferred for the purpose of funding grants. "Eligible entity" is defined as an educational institution or a labor organization. "Eligible individual" includes any of the following who is a resident of PA: (1) An individual who is an employee of an industry impacted by Federal and State energy and environmental policy; (2) An individual in need of updated training related to the energy efficiency and renewable energy industries; (3) A veteran or a past or present member of a reserve component of the Armed Forces; (4) An unemployed individual; (5) A low-income individual; or (6) A formerly incarcerated or adjudicated nonviolent offender. "Eligible industry" is defined as an energy efficiency or renewable energy industry.

Referred to Senate Labor and Industry Committee, 1/20/2009

Spring 2009 Session Schedules

SENATE SESSION SCHEDULE FOR JANUARY – JUNE 2009

February 2, 3, 4, 9, 10, 11

March 9, 10, 11, 16, 17, 18, 23, 24, 25, 30, 31

April 1, 20, 21, 22, 27, 28, 29

May 4, 5, 6, 11, 12, 13

June 1, 2, 3, 8, 9, 10, 15, 16, 17, 22, 23, 24, 25, 26, 29, 30

HOUSE SESSION SCHEDULE FOR JANUARY – JUNE 2009

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March 9, 10, 11, 16, 17, 18, 23, 24, 25, 30, 31

April 1, 20, 21, 22, 27, 28, 29

May 4, 5, 6, 11, 12, 13

June 1, 2, 3, 8, 9, 10, 15, 16, 17, 22, 23, 24, 25, 26, 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>.