

MCA

Summary of Legislation

July 2009

Budget Stalemate Continues, Though “Progress” Made

Nearly a month after the end of the fiscal year, the House, Senate and Governor Rendell are still in fierce negotiations and public relations battles over the 2009-2010 spending plan for Pennsylvania. As the budget year ended, negotiators faced the dilemma of how to close a more than \$3 Billion budget deficit as they planned for the coming year. Senate Republicans began the year stating they had no voted to increase taxes, and have thus far held firm to that stance. Rendell and House Democrats have demanded that most existing programs be funded at similar levels to the past year, and have advocated a shifting array of taxes and other “revenue enhancements” to meet the needs of a state in which unemployment hovered in the 10% range for the first time in decades. Both sides have dug in, and each passed competing budgets outlining their spending priorities, the Senate passed **SB 850** in May, and the House more recently passed **HB 1416**, each on almost entirely party line votes. As the stalemate continued, the Senate amended the House budget bill, largely ignoring a House Republican plan that had been narrowly defeated in the House, and sent theirs back to the House. In response, Democrats teamed with a large contingent of angry House Republicans and defeated the bill, sending it to conference committee.

At this writing, the bill is in the hands of the six members of the Conference Committee, Reps. Todd Eachus, Dwight Evans and Sam Smith, and Sens. Dominic Pileggi, Jake Corman and Jay Costa. These six, who have been the primary negotiators all along, plus a few other caucus leaders, will pick up the dialogue now, and work to present a compromise budget agreement to put in front of the rest of the General Assembly. “Stopgap” legislation is also being discussed. That could resume government’s ability to pay workers and providers, perhaps at current levels, until the “real” budget is completed. Until then, the State government, and all who do business with it, are left to find ways to operate.

Mechanic’s Lien Bill Advances

A bill that amends the Mechanic’s Lien law is making its way through the House having already passed the Senate. Senate Bill 563 broadens the definition of what constitutes a residential property. Under the current law, contractors and subcontractors may still waive their lien rights if the project is a residence and the contract is worth less than one million dollars. This legislation changes the definition of “residential” to include any single family home or town home of 3 stories or less not including the basement.

There was a technical amendment added to bill before it was passed by the House Labor Relations Committee. The bill has since been referred to the House Appropriations committee and could be passed by the full House in the coming weeks. None of the current changes in this bill effect commercial construction.

Mandate Waiver Update

Efforts to eliminate the waivers of multiple prime bidding for school districts continue. School districts continue to request waivers so that they can build using a single prime contractor. But earlier this year, the Mandate Waiver Task Force recommended that any such waivers require that the district bid the project as both a single and multiple prime and to take the lower cost option. The language from that recommendation has been included in two school code bills presently in the House, HB 11 and HB 12. The same provision is also being discussed as part of the overall budget negotiations. And, similar language is contained in Senate Bill 1048 which was just introduced by Senator Andy Dinniman. While the momentum seems to be positive, there is a distinct possibility that there will not be a school code bill passed in conjunction with the state budget this year. And of course, there is no certainty that the Legislature will pass a budget anytime soon.

Legislative Activity

[HB 444](#) RE: High-Performance, State-Funded Buildings Standards Act (by Rep. Matt Smith, et al)

Requires the design, construction and renovation of buildings that receive a State appropriation to comply with specified energy and environmental building standards as well as facilities owned by Commonwealth agencies. The Department of General Services shall annually report to the Senate and House Environmental Resources and Energy Committees.

Reported as amended House Appropriations Committee, 7/6/2009

Amended on the House floor, and read second time, 7/8/2009

Read Third time and Passed House, 7/13/2009 (180-17)

Received in the Senate and referred to Senate Environmental Resources and Energy Committee, 7/17/2009

[HB 687](#) RE: Guaranteed Energy Savings Contracts (by Rep. Frank Dermody, et al)

Amends Title 62 (Procurement), in guaranteed energy savings contracts, amending the definition of "energy conservation measure" to include technology upgrades designed to reduce water and wastewater consumption or operating costs, and inserting water and wastewater-related provisions into language relating to contract procedures and provisions.

Laid on the table and removed from the table, 7/20/2009

[HB 1416](#) RE: General Appropriation Act of 2009 (By Rep. Dwight Evans, et al)

FY 2009-2010 budget.

Reported as amended from House Appropriations Committee, read first time, and **rereferred to House Rules Committee, 7/13/2009**

Reported as committed from House Rules Committee, 7/15/2009

Read second time, 7/16/2009

Read third time and passed House, 7/17/2009 (104-95)

Received in the Senate and referred to Senate Appropriations Committee, 7/17/2009

as committed with a negative recommendation from Senate Appropriations Committee and read first time, 7/18/2009

Read second time, 7/19/2009

Amended on Senate floor, read third time, and passed Senate, 7/20/2009 (31-19)

Received as amended in House and rereferred to House Rules Committee, and re-ported with a negative recommendation from House Rules Committee, 7/21/2009

House non-concurred in Senate amendments 7/21/2009 (150-49)

House non-concurred in Senate amendments 7/21/2009 (150-49)

Senate insists on its amendments non-concurred in the House, and appoints conference committee: Pileggi, Corman, J. Costa, 7/27/2009

House insists on its nonconcurrence in Senate amendments, and appoints conference committee members: D. Evans, Eachus, S. Smith, 7/28/2009

Conference committee meeting held, 7/29/2009, 7/30/2009

[HB 1900](#) RE: UC Disclosures (by Rep. Bob Belfanti, et al)

Amends Unemployment Compensation Law stating unemployment compensation is confidential and may be disclosed only as outlined in the legislation and shall not be competent evidence and shall not be used in any action or proceeding in any court or other tribunal. The bill provides for the safeguarding of the information and penalties.

Introduced and referred to House Labor Relations committee, 7/24/2009

Reported as amended from House Labor Relations Committee, read first time, and rereferred to House Rules Committee, 7/28/2009

[SB 195](#) RE: Industrialized/Commercial Modular Buildings (by Sen. Mike Waugh, et al)

Amends the Industrialized Housing Act adding definitions for "industrialized/commercial modular building" and "industrialized/commercial building module" and authorizing the Department of Community and Economic Development to enter into a multistate agreement for the purpose of regulating the construction of industrialized/commercial modular buildings. The department shall adopt regulations to administer the program.

Passed House, 6/29/2009 (200-0)

Re-reported on concurrence as committed Senate Rules and Executive Nominations Committee, 7/1/2009

Senate concurred in House amendments 7/2/2009 (48-0)

Approved by the Governor 7/6/2009. Act No. 13 of 2009

[SB 563](#) RE: Mechanics' Lien Law (By Sen. Pat Browne, et al)

Amends the Mechanics' Lien Law further providing the definition of "residential property" (changed from "residential building"), by stating it means property on which there is or will be constructed a residential building not more than three stories in height, not including any basement level, regardless of whether any portion of that basement is at grade level, or which is zoned or otherwise approved for residential development on which there is or will be constructed a residential building not more than three stories in height, not including any basement level, regardless of whether any portion of that basement is at grade level, planned residential development or agricultural use, or for which a residential subdivision or land development plan or planned residential development plan has received preliminary, tentative or final approval on which there is or will be constructed a residential building not more than three stories in height, not including any basement level, regardless of whether any portion of that basement is at grade level. Additionally, the bill provides for waiver of lien by claimant by stating a contractor or

subcontractor may waive his right to file a claim against residential property by a written instrument signed by him or by any conduct which operates equitably to estop such contractor from filing a claim.

Passed Senate, 6/30/2009 (49-0)

Received in the House and referred to House Labor Relations Committee, 7/1/2009

Reported as amended House Labor Relations Committee, read First time, and laid on the table, 7/28/2009

Removed from the table and rereferred to House Appropriations Committee, 7/29/2009

[SB 693](#) RE: Transportation Infrastructure (by Sen. John Rafferty, et al)

Amends Title 74 (Transportation) adding a part entitled Transportation Infrastructure. The bill establishes that a proprietary public entity has full authority to enter into a transportation development agreement with an authorized development entity or entities governing the development or operation of all or any portion of a transportation facility, with exceptions. The bill authorizes certain project activities, and stipulates that the Transportation Commission shall serve as the primary repository for all materials relating to the review and approval of transportation development agreements that involve transportation facilities that receive funding from the Commonwealth or result in the proprietary public entity disposing of or relinquishing its control over the transportation facilities. The bill outlines rules governing solicited and unsolicited proposals, negotiations, federal credit assistance, adverse interests, and confidentiality of records.

Reported as committed from Senate Appropriations Committee, 7/14/2009

Read second time, 7/15/2009

[SB 850](#) RE: The General Appropriations Act of 2009 (By Sen. Jake Corman)

The Senate Republicans 2009-10 budget. Provides from the General Fund for the expenses of the Executive, Legislative and Judicial Departments of the Commonwealth, the public debt and the public schools for the fiscal year July 1, 2009, to June 30, 2010, 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, 2009; to provide appropriations from the State Lottery Fund, the Energy Conservation and Assistance Fund, 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 Payment Fund, the Banking Department Fund, the Firearm Records Check Fund, the Ben Franklin Technology Development Authority Fund and the Tobacco Settlement 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, 2009, to June 30, 2010; to provide appropriations from the Motor License Fund for the fiscal year July 1, 2009, to June 30, 2010, for the proper operation of the several departments of the Commonwealth and the Pennsylvania State Police authorized to spend Motor License Fund moneys; to provide for the appropriation of Federal funds to the Executive Department of the Commonwealth and for the payment of bills remaining unpaid at the close of the fiscal year ending June 30, 2009; to provide for the additional appropriation of Federal and State funds from the General Fund, from the State Lottery Fund and from the Tobacco Settlement Fund for the Executive Department of the Commonwealth for the fiscal year July 1, 2008 to June 30, 2009, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 2008; and making interfund transfers for the fiscal year July 1, 2008, to June 30, 2009.

Passed Senate, 5/6/2009 (30-20)

Reported with a negative recommendation House Appropriations Committee, read first time, and laid on the table, 7/13/2009

[SB 951](#) RE: Prevailing Wage Act Violations (By Sen. Chuck McIlhinney, et al)

Amends the Pennsylvania Prevailing Wage Act further providing for remedies and penalties by stipulating that in the event that the secretary shall determine that any person or firm has failed to pay the prevailing wages and that such failure was intentional, the secretary is authorized to assess and collect administrative penalties up to five times the amount of underpayment of wages for the first offense, up to ten times the amount of underpayment of wages for a second offense and, if a third violation occurs within ten years from the first notice, the secretary shall notify all public bodies of the name of the person or firm and no contract shall be awarded to the person or firm or to any firm, corporation or partnership in which the person or firm has an interest until three years have elapsed from the date of the notice of the third offense.

Rereferred to Senate Appropriations Committee, 7/9/2009

New Bills Introduced

The following bills have been introduced since the last report.

[HB 11](#) RE: School Code Changes (by Rep. Jim Roebuck, et al)

Amends the Public School Code, in duties and powers of boards of school directors, establishing parent involvement programs and policies in school districts; in school finances, **providing for workers' compensation**, and further providing for annual budget and for limitation on certain unreserved fund balances; **in grounds and buildings**,

further providing for referendum or public hearing required prior to construction or lease; providing for certification of teachers by the National Board for Professional Teaching Standards; in certification of teachers, further providing for certificates qualifying persons to teach and for kinds of State certificates; providing for residency certificates, and further providing for disqualifications; in pupils and attendance, providing for use of seclusion; further providing for compulsory school attendance and for exceptions to compulsory attendance; providing for interview reports for withdrawing and illegally absent students; further providing for cost of tuition and maintenance of certain exceptional children in approved institutions and in the four charter schools for education of the deaf and blind; and providing for emergency permits at approved private schools and chartered schools for the deaf and blind; in school health services, further providing for possession and use of asthma inhalers and epinephrine and auto-injectors; in charter schools, further providing for funding for charter schools, for academic degrees and for annual reports and assessments; in education empowerment act, **further providing for education empowerment districts and for mandate waiver program;** in educational improvement tax credit, further providing for definitions, for tax credit and for limitations; in transfers of credits between institutions of higher education, further providing for duties of public institutions of higher education, for transfer and articulation oversight committee and for participation by independent institutions of higher education or State-related institutions; in funding for public libraries, providing for state aid for 2009-2010; in reimbursement by Commonwealth and between school districts, further providing for definitions, for basic education funding for student achievement and for accountability to Commonwealth taxpayers, and for payments to intermediate units; and providing for special education funding for student achievement and instruction of eligible students in regular classrooms and for special education accountability to Commonwealth taxpayers.

Introduced and referred to House Education Committee, 7/20/2009

[HB 12](#) RE: School Code changes (by Rep. Jim Roebuck, et al)

Amends Public School Code, in duties and powers of boards of school directors, establishing parent involvement programs and policies in school districts; in school finances, providing for workers' compensation, and further providing for annual budget and for limitation on certain unreserved fund balances; **in grounds and buildings, further providing for referendum or public hearing required prior to construction or lease;** providing for certification of teachers by the National Board for Professional Teaching Standards; in certification of teachers, further providing for certificates qualifying persons to teach and for kinds of State certificates; providing for residency certificates, and further providing for disqualifications; in pupils and attendance, providing for use of seclusion; further providing for compulsory school attendance and for exceptions to compulsory attendance; providing for interview reports for withdrawing and illegally absent students; further providing for cost of tuition and maintenance of certain exceptional children in approved institutions and in the four charter schools for education of the deaf and blind; and providing for emergency permits at approved private schools and chartered schools for the deaf and blind; in school health services, further providing for possession and use of asthma inhalers and epinephrine and auto-injectors; in high schools, further providing for academic degrees; in charter schools, further providing for funding for charter schools and for annual reports and assessments; in education empowerment act, further providing for education empowerment districts and for mandate waiver program; in educational improvement tax credit, further providing for definitions, for tax credit and for limitations; in transfers of credits between institutions of higher education, further providing for duties of public institutions of higher education, for transfer and articulation oversight committee and for participation by independent institutions of higher education or State-related institutions; in funding for public libraries, providing for state aid for 2009-2010; in reimbursement by Commonwealth and between school districts, further providing for definitions, for basic education funding for student achievement and for accountability to Commonwealth taxpayers, and for payments to intermediate units; and providing for special education funding for student achievement and instruction of eligible students in regular classrooms and for special education accountability to Commonwealth taxpayers.

Introduced and referred to House Education Committee, 7/24/2009

[HB 1808](#) RE: Pennsylvania Construction Code Act (By Rep. Ron Buxton, et al)

Amends the Pennsylvania Construction Code Act further providing for revised or successor codes by adding that the department shall not promulgate regulations adopting the 2009 ICC International Building Code or the 2009 International Residential Code, and the regulations adopting the 2006 versions of those codes shall remain in effect until December 31, 2012, and until such time as the department shall adopt the 2012 triennial versions of those codes.

Introduced and referred to House Labor Relations Committee, 7/1/2009

[HB 1809](#) RE: Pennsylvania Construction Code Act (By Rep. Ron Buxton, et al)

Amends the Pennsylvania Construction Code Act further providing for adoption by regulations by adding that all ICC codes adopted by department regulations as part of the Uniform Construction Code other than the International Building Code and International Residential Code shall be part of the Uniform Construction Code only to the extent referenced by the International Building Code or International Residential Code. Additionally, the bill provides for

changes in Uniform Construction Code by adding that any ordinance requiring fire sprinkler systems in residential buildings adopted or enacted on or after July 1, 1999, shall provide for the design and installation of such systems consistent with the provisions of the International Residential Code (2009) or its successor triennially. The bill provides for municipal ordinances requiring automatic fire sprinkler systems and for exemptions relating to automatic fire sprinkler systems.

Introduced and referred to House Labor Relations Committee, 7/1/2009

[HB 1857](#) RE: UCC Review and Advisory Council (by Rep. Michael McGeehan, et al)

Amends the Pennsylvania Construction Code Act further providing for the duties of the Uniform Construction Code Review and Advisory Council by adding the council shall inform the department of any code provisions that should be added to the Uniform Construction Code by May 1 of the year of issuance of the latest triennial code issued by the International Code Council. Also adds language providing the council may recommend provisions to meet the intent of this Act.

Introduced and referred to House Labor Relations Committee, 7/14/2009

[HB 1876](#) RE: Community Paper of Mass Dissemination (by Rep. John Hornaman, et al)

Amends Title 45 (Legal Notices) defining "community paper of mass dissemination" and stating any government unit may, at its discretion, authorize publication in a community paper of mass dissemination in substitution of publication in a newspaper of general circulation.

Introduced and referred to House Judiciary Committee, 7/20/2009

[HB 1892](#) RE: KOZ work (By Rep. Bob Belfanti, et al)

Amends Keystone Opportunity Zone, Keystone Opportunity Expansion Zone and Keystone Opportunity Improvement Zone Act, providing for work performed. **The bill requires that such work is subject to the Prevailing Wage Act.**

Introduced and referred to House Labor Relations Committee, 7/24/2009

[HB 1894](#) RE: Mechanics Lien (by Barb McIlvaine Smith, et al)

Amends Mechanics' Lien Law further providing for notices by subcontractors as a condition precedent.

Introduced and referred to House Labor Relations Committee, 7/24/2009

[SB 1001](#) RE: Residential Sprinklers (by Sen. Bob Robbins, et al)

Amends the Pennsylvania Construction Code Act requiring any ordinance requiring fire sprinkler systems in residential buildings shall provide for the design and installation of such systems consistent with the provisions of the International Residential Code (2009) or its successor triennial revisions; providing exemptions to the fire sprinkler requirement;

Introduced and referred to Senate Labor and Industry Committee, 7/6/2009

[SB 1048](#) RE: Mandate Waivers (by Sen. Andrew Dinniman, et al) Amends the Public School Code further providing for mandate waiver program requiring that the evaluation shall also include information on savings, projects, chronology, conformity with the Uniform Construction Code and information regarding change orders, including the rationale for such change orders. The Department of Education shall not grant a waiver if the school district has failed to solicit multiple prime and single prime construction bids and has not awarded the contract to the lowest responsible bidder.

Introduced and referred to Senate Education Committee, 7/23/2009

Remaining Summer 2009 Session Schedules

SENATE SESSION SCHEDULE FOR JULY 2009

July 27, 28, 29

HOUSE SESSION SCHEDULE FOR JULY 2009

July 29, 30, 31

More days may be added as needed to pass the FY 2009-2010 state budget.

Copies of all bills of interest can be accessed via the Internet at:

<http://www.legis.state.pa.us/WU01/LI/BI/billroom.htm>.