

MCA
Summary of Legislation
April 2010

Mandate Waiver Program in Spotlight

The Pennsylvania Department of Education's power to waive the multiple primes bidding requirement is expected to sunset on June 30th of this year, but legislative action could extend it. The waiver program that was established as part of the Educational Empowerment Act of 2000 allows school districts to get waivers from a wide range of mandates required under the school code. The reality has been that school districts have primarily sought out waivers of construction requirements, the separate primes requirement in particular. Earlier this month, the Senate Education committee reported out Senate Bill 1192 which addresses the Empowerment Act reauthorization. Interestingly, that bill does not extend the waiver program. In other words, the bill in its present form would end waivers for construction and everything else for that matter after June 30th.

Another point worth noting about Senate Bill 1192 is a section dealing with charter schools. In the original version of the legislation, charter schools would be exempt from complying with the Prevailing Wage law, the U.S. Steel Procurement Act and the Separations Act. However, before the bill was reported, an amendment by Senator Andrew Dinniman stripped those provisions from the bill. That amendment and the bill were passed by the committee with only one dissenting vote. While the bill has a long way to go before final enactment, it appears that the Senate has little appetite for waivers.

On the House side, an attempt was made to extend the mandate waiver program that allows for single prime bidding in school construction. The amendment was to be offered to Senate Bill 441, a bill that amends the public school code but is unrelated to the waiver program. If adopted, the amendment would not have passed through any committees but would only need to pass the House and then be agreed to by the full Senate before being sent to the Governor for his action. Fortunately, our lobbyists were successful in getting the vote on the amendment delayed so that it cannot be considered until May 3rd at the earliest. The timing of the amendment looked as if its proponents were attempting to pass the amendment with as little scrutiny as possible. With the extra time to prepare, the amendment now appears likely to be defeated if it is even offered. Expect more legislative maneuvers by single prime advocates at least until June 30th when the waiver program sunsets.

Plumbing Licensing Bill Advancing in Senate

Legislation that would establish a statewide license for plumbers and plumbing contractors is poised to pass the Senate sometime in May. Senate Bill 288, introduced by Senator Ted Erickson, establishes a licensing board and program that would be administered under the Department of Labor and Industry. While many municipalities have licensing programs, there is no statewide licensing of plumbing contractors. Industry groups have been trying to get legislation like this enacted for more than 20 years. At this writing, the bill is on third consideration in the Senate. While the House still needs to pass it, there is a sense that passage by the Senate has been the major obstacle.

Rendell Calls for Special Legislative Session to Address Transportation Funding

Governor Edward G. Rendell announced this month that he will call a special session of the General Assembly to address transportation funding following the federal government's refusal to allow Pennsylvania to toll Interstate 80. The recent decision by the U.S. Department of Transportation to deny Pennsylvania's application to toll I-80 will significantly reduce transportation funding, the Governor said.

"We have to deal with the fallout of this decision; there is no way that we can just do nothing," Governor Rendell said. "I'm going to call a special session of the legislature to address our transportation challenges. We'll look at every option on the table. This is a dire situation with significant consequences."

Act 44 of 2007 called for the tolling of I-80 and additional revenue from the Pennsylvania Turnpike to provide \$532 million per year for road and bridge repairs and \$414 million per year for public transit agencies across the state. Without I-80 toll revenues, funding for roads and bridges will be cut by about \$300 million per year. This means

PennDOT will not be able to repair about 100 bridges and 300 miles of roads each year. Funding for 73 public transit systems that provide more than 400 million rides a year to residents in all 67 counties will drop by \$160 million per year, resulting in service cuts and fewer capital improvement projects. Despite record state and federal investments in highways and bridges in the past seven years, Pennsylvania still has approximately 5,600 structurally deficient bridges - the highest number of any state - and approximately 6,000 miles of roads that are in need of repair.

"The people of Pennsylvania understand there is no free ride. They know what happened in Minneapolis and New Orleans," he added. "People understand that if they want safe bridges, good roads, and potholes eliminated, you cannot wait for the pothole fairy to do it - you've got to pay for it."

The Governor set the date of May 4 for the beginning of the special session. He will address a joint session of the General Assembly on that day.

Legislative Activity

[HB 687](#) RE: Guaranteed Energy Savings Contracts (by Rep. Frank Dermody, et al) (PN 760) 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.

Reported as committed from Senate State Government Committee, and read first time, 4/13/2010

[HB 1196](#) RE: Code Administrator Appeals (By Rep. Scott Boyd, et al) (PN 3518) Amends PA Construction Code Act further providing that a board of appeals shall consider variance requests, requests for extensions of time and appeals of decisions of code administrators. The bill outlines requirements for code administrator appeals.

Reported as amended from Senate Labor and Industry Committee, and read first time, 4/13/2010

[HB 1502](#) RE: Employee Verification (by Rep. John Galloway, et al) (PN 3556) Amends Title 62 (Procurement), in contracts for public works, requiring verification of Social Security numbers of all employees of public works contractors contracting with the Commonwealth for purposes of wage reporting and employment eligibility. The bill prescribes penalties and establishes good faith immunity, stipulating that a contractor or subcontractor that relies in good faith on NVS and EVP procedures to verify employee SSNs shall be immune from sanctions in the event incorrect information is provided.

Reported as amended from House Appropriations Committee, 4/19/2010

[HB 1503](#) RE: Construction Industry Employment Verification Act by Rep. John Galloway, et al) (PN 3557) Requires construction industry employers to verify the Social Security numbers of all employees for purposes of wage reporting and employment eligibility. The bill provides for powers and duties of the Department of Labor & Industry, prescribes penalties and establishes good faith immunity, stipulating that a contractor or subcontractor that relies in good faith on NVS and EVP procedures to verify employee SSNs shall be immune from sanctions in the event incorrect information is provided.

Reported as amended from House Appropriations Committee, 4/19/2010

[HB 2108](#) RE: Whistleblower Law (by Rep. Brian Ellis, et al) Amends the Whistleblower Law further providing for the definitions of "employee" and "employer," for enforcement and for penalties. "Employer" is redefined as a public body or any of the following which receives money from a public body to perform work or provide services: (1) an individual; (2) a partnership; (3) an association; (4) a corporation for profit; or (5) a corporation not for profit. Regarding enforcement, the bill states a court shall also award a prevailing complainant all or a portion of the costs of litigation, including reasonable attorney fees and witness fees. Penalties are increased to \$10,000 and suspension from public service for up to seven years. The bill protects employees who report wrongdoing or waste by a public body or waste by any employer.

Reported as committed from House Appropriations Committee, amended on House floor, and read second time, 4/21/2010

Read third time and passed House, 4/26/2010 (187-0)

[HB 2290](#) RE: R-CAP Spending Limit (by Rep. Dwight Evans, et al)

(PN 3275) Amends Capital Facilities Debt Enabling Act further providing for appropriation for and limitation on redevelopment assistance capital projects by stating that the maximum amount of redevelopment assistance capital projects undertaken by the commonwealth for which obligations are outstanding shall not exceed, in aggregate, \$4,250,000,000.

Received in the Senate and referred to Senate Finance Committee, 4/12/2010

[SB 288](#) RE: Plumbing Contractors Licensure Act (by Sen. Ted Erickson, et al)
(PN 1864) Provides for plumbing contractor licensure, establishes the State Board of Plumbing Contractors and provides for their powers and duties, and establishes fees, fines and civil penalties. The State Board of Plumbing Contractors within the Department of Labor & Industry shall be created and charged with various duties including regulating the licensing of individuals engaged in providing plumbing services, contracting with a professional testing organization to administer tests to qualified applicants for licensure, maintaining a registry of licensees, providing for its contents, and ensuring various reporting requirements are met. Individuals who are not licensed could not provide plumbing services and only master plumbers could use the title "licensed plumbing contractor" and the abbreviation "L.P.C.", subject to certain exceptions. Qualifications for various classes of plumbers are further provided for under the act as are disciplinary options. Reciprocity with other states is also provided for, subject to certain conditions. The sum of \$85,000 shall be appropriated to the department for the payment of costs associated with this bill. This amount shall have to be repaid by the board within three years of the beginning of issuance of licenses. Provides that the act does not authorize the board or a municipality to adopt plumbing standards outside the relevant provisions of the Pennsylvania Construction Code. Also the bill creates a restricted account in the State Treasury which shall be known as the Plumbing Contractors Licensure Account. Beginning July 1, 2010, and thereafter, all moneys collected by the board shall be paid into the account.

Reported as amended from Senate Appropriations Committee, 4/19/2010

Read second time, 4/21/2010

[SB 1147](#) RE: Use of Social Security Numbers (by Sen. Bob Robbins, et al)
Amends the Social Security Number Privacy Act further providing for use of Social Security numbers alternatives by allowing an individual's drivers license or identification card to be used in place of a Social Security card when a Commonwealth agency or municipality electronically issues or renews a professional license or certification, occupational license or certification or recreational license, application and renewal forms.

Rereferred to Senate Appropriations Committee, 4/20/2010

New Bills Introduced

The following bills have been introduced since the last report.

[HB 2396](#) RE: Prototypical School Facility Designs (By Rep. Seth Grove, et al)
(PN 3493) Amends the Public School Code providing for the establishment of a central clearinghouse of prototypical school facility designs for access by school entities. The Department of Education must review and evaluate submitted plans for inclusion in the clearinghouse using certain standards. The bill requires the Legislative Budget and Finance Committee after the fifth year of operation to conduct a study of the department's program to determine the savings incurred by school entities that have participated in the program.

Introduced and referred to House Education Committee, 4/7/2010

[HB 2419](#) RE: PCC Structure Exemptions (by Rep. Tina Pickett, et al)
(PN 3436) Amends the Pennsylvania Construction Code to exclude from the provisions of the code structures which are all of the following: (1) Used for the direct, seasonal sale of agricultural, horticultural and food products; (2) Open on at least one side; (3) Operated by a farmer whose products make up not less than 50% of the commodities being sold; and (4) Less than 1,000 square feet and temporary in nature if not located on a farmer's property.

Introduced and referred to House labor Relations Committee, 4/15/2010

[HR 761](#) RE: Support for PLAs (by Rep. Marc Gergely, et al)
Resolution offering the support and recommendation of the House of Representatives for the use of project labor agreements for all publicly funded or guaranteed public works construction, alteration, renovation, demolition, excavating and paving projects in this Commonwealth.

Introduced and referred to House Labor Relations Committee, 4/22/2010

[SB 1291](#) RE: Solar Energy (by Sen. Dave Argall, et al)

(PN 1830) Amends The Fourth to Eighth Class and Selective County Assessment Law adding language providing no panels or modules, pumps, support structures, hardware or other equipment used to generate solar electric energy, solar thermal hot water, heating or cooling using a geothermal energy system, or other energy system that utilizes alternative energy shall be included in determining the value of real estate nor shall the installation of alternative energy devices be cited as the reason to reassess a property.

Introduced and referred to Senate Finance Committee, 4/9/2010

[SB 1295](#) RE: State Apprenticeship and Commission Training Act (by Sen. Mike Folmer, et al)
Establishes the State Apprenticeship and Training Commission; providing for the transfer of functions of the State Apprenticeship and Training Council; providing the powers and duties of the executive director; establishing the State Apprenticeship Advisory Council.

Introduced and referred to Senate Labor and Industry Committee, 4/5/2010

[SB 1312](#) RE: Health Insurance Optional Participation (By Sen. Mike Folmer, et al)
(PN 1828) Amends Title 40 (Insurance) to provide that, even though eligible, no resident of the commonwealth is required to buy health insurance under any plan, even insurance plans sponsored by the Federal Government. The bill is not applicable to people voluntarily applying for a State-administered program or students who attend an institution of higher education which requires the student to have health insurance. The bill does not impair any individual or family from contracting for the purchase of health insurance

Introduced and referred to Senate Banking and Insurance Committee, 4/8/2010

Upcoming Meetings of Interest

WEDNESDAY - 5/26/2010

House Labor Relations Committee

10:00 a.m., Room 60, East Wing

To consider: [HB 1349](#) (Killion) – An Act providing for licensing of elevator contractors, mechanics and inspectors; and imposing duties on the Department of Labor and Industry.

TUESDAY - 6/8/2010

Senate Republican Policy Committee

9:00 a.m., Room 156 Main Capitol

Joint public hearing with the Senate Finance Committee on the proposal to expand the PA Sales and Use Tax

2010 SENATE SESSION SCHEDULE

May 3, 4, 5, 24, 25, 26

June 7, 8, 9, 14, 15, 16, 21, 22, 23, 28, 29, 30

2010 HOUSE SESSION SCHEDULE

May: 3, 4, 5, 24, 25, 26

June: 7, 8, 9, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 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>