

MCA
Summary of Legislation
March 2012

Mechanic's Lien Amendments Pass House

A significant rewrite of the Pennsylvania Mechanic's Lien law passed the House in March. **House Bill 1602** makes changes to sections of the lien law that affect both residential and non-residential construction as well as the priority of lien rights. For subcontractors that perform residential construction, the bill is a game ender. Under the provisions of House Bill 1602, subcontractors would be barred from filing a lien against a property that is the residence of the owner once the owner paid the prime contractor in full.

For non-residential construction, the bill sets up a process under which the owner may file a notice of commencement which would trigger a requirement for subcontractors to file a notice of furnishing. If subcontractors fail to file the notice of furnishing, they lose their lien rights. The notice of furnishing must be filed within 20 days of commencement of the subs work. The bill does provide an option to file the notices electronically. Finally, the bill alters the priority of liens by adding refinancing to the list of liens that subordinates a mechanic's lien.

Efforts were made on the House floor to amend the bill so that the new notices were not required or did not result in subcontractors losing their lien rights. Those amendments were defeated along straight party line votes with all Republicans voting against the pro-subcontractor amendments and all Democrats voting to support them. The bill is now in the Senate which will return to voting session on April 30th. The Senate has indicated to our lobbyists that the residential changes contained in the legislation are viewed favorably. However, it is not yet clear when or if the bill will be considered in the Senate.

Prevailing Wage Vote Fails to Materialize, Again

Despite a statewide media and lobbying blitz by local governments, the chamber of commerce and conservative elected officials, the much ballyhooed vote on a bill to raise the threshold in the prevailing wage act never happened. The well financed and highly coordinated public relations campaign was intended to sway moderate Republicans and conservative Democrats in the House to vote to raise the threshold to \$125,000. It didn't work. In fact, the issue became a source of deep division in the majority (Republican) caucus. Prevailing wage changes could still be voted on in May or June, or any time before this legislative session ends on November 30th. For now though, the House appears to be further away from passing the bill than it was a few months away.

Schools Seek Elimination of Multiple Prime Bidding

The House Education Committee approved a bill that would allow school districts to build using a single prime. Unlike the now defunct Mandate Waiver Program, the school district wouldn't even have to apply for a waiver. Any district that wanted to build single prime could make a unilateral decision to do so. In essence, the bill exempts school projects from separations act. House Bill 2028 was reported from committee on a party line vote (Republicans in favor, Democrats opposed). There was discussion at the committee about amending the bill so that both single and multiple prime bids are solicited and requiring the district to use the least expensive option. In the end though, no such amendment was offered in committee. It is likely that such an amendment will be offered if the bill comes before the full House for a vote.

Legislative Activity

The following bills were acted on by the General Assembly this month.

BIDDING / CONTRACTING

[HB 2022](#) RE: Pennsylvania Business Permitting Portal Act (by Rep. Mike Peifer, et al)
Establishes the Pennsylvania Business Permitting Portal to provide a single online access point to aid existing and potential business owners in completing the necessary permit applications associated with establishing and operating a business in Pennsylvania. Provides for functions of the portal and requires the Department of Community and Economic Development to work with other agencies to determine whether their permits can be obtained through the

portal. Establishes the Pennsylvania Business Permitting Portal Advisory Board and provides for its composition and duties.

Received in the Senate and referred to Senate Community, Economic & Recreational Development Committee, 3/6/2012

[HB 2028](#) RE: Separations Act (by Rep. Garth Everett, et al)

Amends Public School Code, in grounds and buildings, to allow work in excess of \$10,000 to be done on a single contract, the Separations Act shall not apply. The Board of Trustees and contractors of charter school are not subject to the Separations Act.

Reported as amended from House Education Committee, read first time, and laid on the table, 3/29/2012

[HB 2273](#) RE: Contracting Requirements (by Rep. Sheryl Delozier, et al)

Amends Title 62 (Procurement), in contracts for public works, adding that no specification for a contract shall be written in such a manner as to contain proprietary, exclusionary or discriminatory requirements other than those based upon performance unless such requirements are necessary to test or demonstrate a specific feature or to provide for necessary interchangeability of parts or equipment. For each part or piece of equipment, the specifications shall include a listing of at least two brand names or trade names of comparable quality or utility and a statement that equivalent parts or equipment will be given equal consideration.

Introduced and referred to House State Government Committee, 3/26/2012

[SB 405](#) RE: Mercantile or Business Privilege Taxes (By Sen. Pat Browne, et al)

Amends the Local Tax Enabling Act to limit a local taxing authority's ability to levy a mercantile or business privilege tax to only where such transactions take place. A taxpayer may exclude such gross receipts from any tax on or measured by such gross receipts which is imposed by a jurisdiction in which the taxpayer maintains a base of operations. Where a business has more than one base of operations, the taxes collected by a local jurisdiction may be only for the local base of operations. Pertinent definitions are provided.

Reported as committed from House Finance Committee, read first time, and laid on the table, 3/26/2012

Removed from the table, 3/27/2012

Read Second time and rereferred to House Appropriations Committee, 3/28/2012

[SB 623](#) RE: Veteran-owned Small Businesses (by Sen. Tommy Tomlinson, et al)

Amends Title 62 (Procurement) to add an additional chapter providing for contracting with veteran-owned small businesses. Definitions are provided and the Department of General Services is given the power to promulgate rules and regulations in the area. Each purchasing agency shall set a participation-rate for veteran-owned small businesses at five percent. Duties are given to the department and provisions relating to progress payments are provided for. Reports on the matter are due to the House and Senate Veterans Affairs and Emergency Preparedness Committees. Provides for compliance with federal law, where the two conflict.

Reported as amended from Senate Appropriations Committee, 3/5/2012

Read Second time, 3/7/2012

Amended on Senate floor, read third time, and passed Senate, 3/13/2012 (48-0)

Received in the House and referred to House Veterans Affairs & Emergency Preparedness, 3/16/2012

BUDGET RELATED BILLS

[HB 2175](#) RE: Redevelopment Assistance Capital Projects (RACP) (By Rep. Mike Turzai, et al)

Amends a variety of Redevelopment Assistance Capital Projects (RACP) provisions contained within the Capital Debt Enabling Act. Among them, it transfers from the existing act the definition of "applicant" to make it a defined term. "Capital projects" is amended to include five categories and to clarify that infrastructure can be funded as a part of the capital project. Types of eligible projects are expanded to include stormwater infrastructure and tunnels can be funded if they are associated with an economic development project. A minimum 50-percent private match is required for state funding and the Budget Office can give preference to projects with at least 75-percent private funding. Upon enactment, the RACP debt limit would be cut from \$4.05 billion to \$3.5 billion, and would then decrease incrementally until it reaches \$1.5 billion sometime after 2020. No redevelopment assistance capital project may be approved in the period between the date of the general election at which the governor-elect was elected and the third Tuesday of January next following the election. All projects not authorized as of December 31, 2011, would expire and need to be re-listed in compliance with the updated requirements of the act. Requires projects to be submitted to the General Assembly as a single piece of legislation and approved by the General Assembly. Also requires certain reports on the projects to the General Assembly. Provides for disclosure of approved projects on a publicly accessible website.

Reported as committed from House Appropriations Committee, amended on House floor, read third time, and pass House, 3/12/2012 (184-9)

[SB 1480](#) RE: Capital Budget Act of 2012-2013 (by Sen. Jake Corman, et al)

Appropriates the following sums for capital projects: \$995,000,000 for buildings and structures (general and special funds); \$40,000,000 for furniture and equipment (general and special funds); \$210,000,000 for transportation assistance projects (general fund); \$345,000,000 for redevelopment assistance projects (general fund); and \$85,000,000 for bridge projects (general fund or motor license fund).

Introduced and referred to Senate Appropriations Committee, 3/30/2012

Reported as committed from Senate Appropriations Committee, and read first time, 4/2/2012

Read Second time, and recommitted to Senate Appropriations Committee, 4/3/2012

EMPLOYMENT

None

ENVIRONMENTAL BUILDING STANDARDS

None

HEALTH CARE REFORM

NONE

LOCAL/STATE GOVERNMENT/REGULATIONS

[HB 1602](#) RE: Mechanics' Lien (by Rep. Tom Killion, et al)

Amends the Mechanics' Lien Law further providing for formal notice by subcontractor to the prothonotary of the Court of Common Pleas of the relevant jurisdiction as condition precedent to beginning construction. Requires the owner to post a copy of the notice for the duration of the project. Further provides a subcontractor shall lose the right to a lien with respect to an improvement to a residential property when the owner has paid the full contract price to the contractor. Form of the notice is provided for and a model notice given. Further provides for priority of lien.

Amended on House floor, read Second time and rereferred to House Appropriations Committee, 3/27/2012

Reported as committed from House Appropriations Committee, read third time, and passed House, 3/28/2012 (190-6)

[SB 1136](#) RE: High-Performance State Government Buildings Standards Act (By Sen. John Rafferty, et al)

Requires the design, construction and renovation of certain state buildings to comply with specified energy and environmental building standards. The bill outlines minimum criteria for high-performance building standards. The Department of General Services, in consultation with the Department of Environmental Protection, shall develop and issue regulations for compliance.

Reported as amended from Senate Environmental Resources and Energy Committee and read first time, 4/2/2012

PREVAILING WAGE

[HB 1543](#) RE: "Public Work" Definition (By Rep. Duane Milne, et al)

Amends the Pennsylvania Prevailing Wage Act to exclude work on land held or owned by nonprofit historical organizations or land conservancies from the definition of "public work."

Removed from the table, 3/28/2012

TRANSPORTATION

[HB 3](#) RE: Public-Private Transportation Partnerships (By Rep. Rick Geist, et al)

Amends Title 74 (Transportation) adding a chapter providing for public-private transportation partnerships and making a related repeal.

Reported as committed from House Appropriations Committee, 4/4/2012

[HB 1915](#) RE: Capital Projects (by Rep. Karen Boback, et al)

Supplements Act entitled "an Act providing for the adoption of capital projects related to the repair, rehabilitation or replacement of highway bridges to be financed from current revenue or by the incurring of debt and capital projects related to highway and safety improvement projects to be financed from current revenue of the motor license fund," itemizing public highway projects to be constructed by the department of transportation from current revenue in the Motor License Fund. The bill estimates the useful life of each project to be 30 years, and appropriates all moneys

received from the federal government for the construction of the public highway projects specifically itemized. Stipulates funding from the act for any project is available only to the extent that federal funds are not available for such project.

**Reported as amended from House Transportation Committee, read first time, and laid on the table, 3/13/2012
Removed from the table, 3/14/2012**

Read second time, and rereferred to House Appropriations Committee, 3/27/2012

Reported as committed from House Appropriations Committee, read third time, and passed House, 3/28/2012 (193-3)

HB 2242 RE: The Capital Budget Act of 2011 for Highways Damaged by Hurricane Irene and Tropical Storm Lee (by Rep. Matt Baker, et al)

Itemizes \$66,783,000 to be expended for highway capital budget projects for flood-damaged highways to be financed from revenue from the Motor License Fund.

Introduced and referred to House Transportation Committee, 3/12/2012

Reported as amended from House Transportation Committee, read first time, and laid on the table, 3/26/2012

Removed from the table, and rereferred to House Appropriations Committee, 3/27/2012

Reported as amended from House Appropriations Committee, 3/29/2012 H

Read second time, and rereferred to House Appropriations Committee, 4/2/2012

Reported as committed from House Appropriations Committee, read third time, and passed House, 4/3/2012 (193-1)

HB 2269 RE: Mass Transit Funding (by Rep. Harry Readshaw, et al)

Amends the State Lottery Law requiring the Secretary of Revenue to annually conduct at least 12 lotteries for the purpose of providing a source of funds for the repayment of indebtedness on bonds issued for the development of mass transit as economic development projects by a government agency or authority. The price of each ticket or share for lotteries conducted for this purpose shall be \$5. Also provides for the identification of special lotteries; deposit of revenues; and unclaimed prize money.

Introduced and referred to House Gaming Oversight Committee, 3/19/2012

UNEMPLOYMENT/WORKERS COMP

None

Upcoming meetings of Interest

WEDNESDAY - 4/4/12

House Environmental Resources and Energy Committee

10:00 a.m., Room 205, Ryan Office Building

Joint informational meeting with the House Finance Committee to gain a perspective on the impact small streams may have in contributing to flooding conditions within the Commonwealth; the processes in place and the issues surrounding the maintenance of these streams; possible improvements to the system of stream maintenance and funding issues. Representatives from PA DEP, PA Association of Township Supervisors and the PA Association of Conservation Districts will offer their viewpoint on these topics.

Thursday, April 19, 2012

L&I UNIFORM CONSTRUCTION CODE REVIEW AND ADVISORY COUNCIL MEETING

The Uniform Construction Code Review and Advisory Council will hold a meeting on **Thursday, April 19, 2012**, at 10 a.m. at the Department of Labor and Industry, 651 Boas Street, Room E-100, Harrisburg. For more information visit www.dli.state.pa.us or contact Edward Leister at (717) 783-6304.

DCED: PROPOSED RULEMAKING: PUBLIC HEARING ON ADOPTION OF THE BUILDING STANDARDS AND PROPOSED AMENDMENTS TO THE INDUSTRIALIZED HOUSING AND COMPONENTS PROGRAM

The Department of Community and Economic Development advised a public hearing will be held regarding the adoption of the building standards as provided for in 12 Pa. Code § 145.44 (relating to adoption and effective dates—code amendments), on May 3, 2012, from 10 a.m. to 12 p.m. in Hearing Room 4, Commonwealth Keystone Building, 400 North Street, Harrisburg. A copy of the proposed regulations may be obtained by contacting Lisa Smink, (717) 720-7417, lsmink@pa.gov.

2012 SPRING SENATE SESSION SCHEDULE

April 2, 3, 30
May 1, 2, 7, 8, 9, 21, 22, 23
June 4, 5, 6, 11, 12, 13, 18, 19, 20, 25, 26, 27, 28, 29

2012 SPRING HOUSE SESSION SCHEDULE

April 2, 3, 4, 30
May 1, 2, 7, 8, 9, 21, 22, 23
June 4, 5, 6, 11, 12, 13, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29

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

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