

MCA
Summary of Legislation
April 2013

Bills Aim To Cut Separate Primes from School Code

On April 17th, the House Education Committee reported out two bills designed to circumvent the multiple primes requirement in the Public School Code. **House Bill 324** enables school districts to build single prime at their discretion. **House Bill 135** brings back the mandate waiver program that was phased out in 2010. At first glance HB 135 makes it appear that separate primes can't be waived, but on closer inspection it is a sham. The wording in the bill allows for "base amounts" to be waived which means that school districts can get waivers for the threshold of when separate primes applies. For example, a district planning to build a \$40 million school could apply for a waiver of the threshold so that separate primes didn't apply until the construction cost was \$50 million dollars. This end run would take us back to the days when dozens of school projects received waivers and were built single prime.

Either bill could be voted on by the full House when it returns to session the week of May 8th. Members are urged to ask their state Representatives to vote "no" on both bills.

Mechanic's Lien Gathering Momentum

The Senate Labor and Industry committee passed a bill that amends the Mechanic's Lien law by adding additional protections for homeowners and new provisions requested by banks. The homeowner's provision simply says that if an owner that occupies the residence pays the prime contractor in full, subcontractor liens are barred.

The bankers' piece is more problematic. That provision would give lending institutions priority over mechanic's liens when there is a refinancing of the project. Concerns on how this might work to a contractor's detriment have been discussed for several months now, but a final resolution to the problem is still not at hand. Negotiations between our attorneys and those of the bankers' and land title associations are ongoing. But in the meantime, Senate Bill 145 is on the move in the Senate.

In the other chamber, the **House Labor and Industry** committee held a public hearing on **House Bill 473**. That legislation sets up a process under which owners can file a notice of commencement which in turn would require subcontractors to file a notice of furnishing in order to keep their lien rights. No action was taken on the bill other than the hearing, but a similar bill passed the House last year. Stay tuned...

Prevailing Wage Back on the Radar

For a time it looked as if the PA House had given up on making changes to the Prevailing Wage Act after numerous unsuccessful attempt during the last 2 years. If recent committee action by the House Labor and Industry committee is any indication, the issue is still very much alive. That committee moved to bills forward in April. One bill increases the threshold of when prevailing wages must be paid from the current \$25,000 trigger to \$100,000. The other bill makes certain road milling projects exempt from prevailing wage requirements by adding them to the definition of maintenance. The vote was straight party line with Republicans for and Democrats against on both bills. Whether or not the full House takes up either bill remains to be seen. Last legislative session the critical mass needed to pass these types of bills never materialized. Still, the issue involving road milling bears close watching given the current discussions involving new transportation funding.

Legislative Activity

The following bills of interest to the construction industry were acted on by the General Assembly in the past month.

BIDDING / CONTRACTING

[HB 159](#) RE: Vets First Tax Credit Program (By Rep. Bryan Barbin, et al)

Amends the Tax Reform Code adding a chapter establishing the Vets First Tax Credit Program to honor veterans for their service to our country and provide incentives for their employment. A taxpayer that employs a veteran in a new or vacant position for at least five years shall qualify for a Vets First tax credit against the taxpayer's qualified tax liability. The tax credit shall be \$4,000 for each veteran hired from and after the start date and shall be available annually through the end of year three so long as the veteran has been continuously employed in the eligible job from the date hired until the end of year three. The Department of Revenue shall annually report on the tax credit.

Received in the Senate and referred to Senate Finance Committee, 4/3/2013

[HB 201](#) RE: Bid Review by Former Employees (by Rep. George Dunbar, et al)

Amends Title 62 (Procurement) regarding the evaluation of competitive sealed proposals by providing no individual who has been employed by an offeror within the last two years may participate in the evaluation of proposals.

**Amended on the House floor, read second time, and rereferred to House Appropriations Committee, 4/8/2013
Reported as committed from House Appropriations Committee, amended on House floor, read third time, and passed House, 4/9/2013 (201-0)**

Received in the Senate and referred to Senate State Government Committee, 4/15/2013

[HB 324](#) RE: Separations Act in School Construction (by Rep. Garth Everett, et al)

Amends the Public School Code, in grounds and buildings, further providing for work to be done under contract let on bids and exceptions; in charter schools; in Thaddeus Stevens College of Technology and in State System of Higher Education, stipulating the Separations Act shall not apply to any person, entity, contract or activity provided for by the section. The bill provides for related repeals.

Reported as amended from House Education Committee, read first time, and laid on the table, 4/17/2013

[SB 583](#) RE: Establishing Bid Amount Thresholds (by Sen. John Eichelberger, et al)

Amends the Economic Development Financing Law establishing bid amount thresholds for authorities operating under the Act.

Reported as amended from Senate Appropriations Committee, 4/8/2013

Read third time and passed Senate, 4/10/2013 (50-0)

Received in the House and referred to House Local Government Committee, 4/15/2013

[SB 591](#) RE: Monetary Limits for Equipment Purchases (by Sen. Randy Vulakovich, et al)

Amends the Fiscal Code, in Local Government Capital Project Loan Fund provisions, further providing for assistance to municipalities by increasing certain monetary limits for equipment purchases. Loans made for the purchase of equipment shall be for a period not to exceed the useful life of the equipment and loans made for the purchase, construction, renovation or rehabilitation of facilities shall be for a period of not more than fifteen (increased from ten) years. In the ranking of applications, the department may give priority to projects that promote municipal cooperation.

Reported as amended from Senate Appropriations Committee, 4/8/2013

Read third time and passed Senate, 4/10/2013 (50-0)

Received in the House and referred to House Local Government Committee, 4/15/2013

[SB 753](#) RE: Bid Disclosure (by Sen. John Eichelberger, et al)

Amends Title 62 (Procurement), in general provisions, to require the disclosure of certain enumerated information regarding accepted bid contracts on a department's or independent agency's publicly accessible website.

Introduced and referred to Senate State Government Committee, 4/15/2013

[SB 754](#) RE: Bidder Campaign Disclosures (by Sen. John Eichelberger, et al)

Amends Title 62 (Procurement), in source selection and contract formation, to require vendors and contractors of the Commonwealth to disclose campaign contribution amounts as part of the bidding process of a Commonwealth contract.

Introduced and referred to Senate State Government Committee, 4/15/2013

[SB 755](#) RE: Bidder Disclosures (by Sen. John Eichelberger, et al)

Amends Title 62 (Procurement), in contract clauses and preference provisions, to require contractors, as part of the bid process, to disclose a list of the contractor's subcontractors.

Introduced and referred to Senate State Government Committee, 4/15/2013

[SB 756](#) RE: Disclosures of Contributions (by Sen. Mike Stack, et al)

Requires members of task forces and advisory commissions established by the governor to report campaign contributions made to the governor.

Introduced and referred to Senate State Government Committee, 4/15/2013

[SB 758](#) RE: Governor's Code of Conduct Act (by Sen. Mike Stack, et al)

Provides for definitions and details prohibited acts by the governor, lieutenant governor, and executive agency heads as they relate to accepting gifts. The act regulates honoraria, supplementary employment, gifts, the misuse of office equipment and supplies, and political activity. The legislation also provides for exceptions and enforcement provisions.

Introduced and referred to Senate State Government Committee, 4/15/2013

[SB 789](#) RE: School Construction Contracts (by Sen. Lisa Boscola, et al)

Amends the Public School Code, in the State System of Higher Education, to require all construction contracts be reviewed under the Commonwealth Attorneys Act and to require the contracts to be public with the Treasury Department as required under Chapter 17 of the Right-to-Know Law.

Introduced and referred to Senate Education Committee, 4/1/2013

[SB 852](#) RE: Applicability of the Separations Act (by Sen. Mike Waugh, et al)

Amends the Public School Code, in grounds and buildings, further providing for work to be done under contract let on bids and exceptions by adding that certain work up to \$18,500 may be done under a single contract; and limiting the applicability of the Separations Act relating to charter school requirements, the Thaddeus Stevens College of Technology, and the State System of Higher Education. The bill makes related repeals.

Introduced and referred to Senate Education Committee, 4/16/2013

BUDGET RELATED BILLS

[HB 784](#) RE: Permit Extensions (by Rep. Eli Evankovich, et al)

Amends The Fiscal Code, in permit extensions, by adding that any approval by a government agency that is granted for or in effect between the beginning of the extension period and July 2, 2013, whether obtained before or after the beginning of the extension period, the running of the period of the approval shall be automatically suspended until July 2, 2016. Any government approval granted after July 2, 2013, shall not be extended beyond the normal approval periods of the government agency without the permission or approval of the government agency. The extension period shall be the maximum approval period authorized and shall supersede the normal time period for approvals relating to development.

Amended on House floor, read second time, and rereferred to House Appropriations Committee, 4/9/2013

Reported as committed from House Appropriations Committee, read third time, and passed House, 4/10/2013 (199-0)

Received in the Senate and referred to Senate Local Government Committee, 4/16/2013

[HB 883](#) RE: Income Tax Reporting (by Rep. Gordon Denlinger, et al)

Amends Tax Reform Code, in sales tax, to remove provisions relating to local receivers of use tax. In personal income tax, the bill further provides for definitions and details the taxation of partnerships to where the taxation shall be determined at the partnership level and penalties for the individual partners for partnerships underreporting income by more than \$1 million. Similarly, individual shareholders in S-Corps are liable for S-Corps that underreport income by more than \$1 million. The legislation provides for the filing of partnership, estate, and fiduciary tax returns and the maintenance of certain enumerated records by these entities. The bill also provides for the division of income. In corporate net income tax, the legislation provides for a reduction of the corporate net income tax starting in 2015 to 6.99 percent by 2025 and applying at that rate each year thereafter. The legislation also increases the penalties for corporations failing or neglecting to pay their taxes. The bill removes the exemption for poverty.

Introduced and referred to House Finance Committee, 4/17/2013

[HB 1197](#) RE: Pennsylvania Turnpike Commission (By Rep. Donna Oberlander, et al)

Amends The Administrative Code establishing the Bureau of Toll Administration within the Department of Transportation; providing for the assumption by the Department of Transportation of the functions of the Pennsylvania Turnpike Commission, for assumption by the Commonwealth of the financing functions of the commission, for transfer to the Department of Transportation and State Treasurer of land, buildings, personal

property and employees of the commission, for the abolition of the commission and the offices of Turnpike Commissioner; and making an inconsistent repeal of various acts relating to the Pennsylvania Turnpike.

Introduced and referred to House Transportation Committee, 4/16/2013

[SB 680](#) RE: Capital Budget Project Itemization Act of 2012-2013 (by Sen. Jake Corman, et al)

Provides for the capital budget for the fiscal year 2012-2013; itemizes public improvement projects, furniture and equipment projects, transportation assistance projects, redevelopment assistance capital projects, flood control projects, Keystone Recreation, Park and Conservation Fund projects, Environmental Stewardship Fund projects, State forestry bridge projects, State ATV/Snowmobile Fund projects and Manufacturing Fund projects to be constructed or acquired or assisted by the Department of General Services, the Department of Community and Economic Development, the Department of Conservation and Natural Resources, the Department of Environmental Protection or the Department of Transportation, together with their estimated financial costs; authorizes the incurring of debt without the approval of the electors for the purpose of financing the projects to be constructed, acquired or assisted by the Department of General Services, the Department of Community and Economic Development, the Department of Conservation and Natural Resources, the Department of Environmental Protection or the Department of Transportation; states the estimated useful life of the projects; and makes appropriations.

Reported as amended from Senate Appropriations Committee, 4/15/2013

ENVIRONMENTAL BUILDING STANDARDS

[HB 343](#) RE: EQB Water Well Construction Standards (By Rep. Ron Miller, et al)

Amends Title 27 (Environmental Resources) adding a new chapter authorizing the Environmental Quality Board to establish water well construction standards through the adoption of rules and regulations by the Department of Environmental Protection. Provides for water well construction standards; decommissioning of abandoned wells; water well completion reports; and inspections. Also provides for the powers and duties of the EQB and DEP under this new chapter and for penalties for violations of this new chapter.

Public hearing held in House Environmental Resources and Energy Committee, 4/17/2013

LOCAL/STATE GOVERNMENT/REGULATIONS

[HB 124](#) RE: Industrialized/ Commercial Modular Buildings (By Rep. Ryan Aument, et al)

Amends the Industrialized Housing Act regarding industrialized/ commercial modular buildings and industrialized/commercial building modules to provide the department with the power and authority to regulate the identification, inspection and assembly and certification in a similar manner as industrialized housing through the use of uniform standards. The bill also provides that the department has authority over installation standards.

Removed from the table, 4/15/2013

Re-referred to Senate Appropriations Committee, 4/17/2013

[HB 484](#) RE: Swimming Pools (By Rep. Rob Kauffman, et al)

Amends Pennsylvania Construction Code Act stipulating a swimming pool or spa may not be filled with water until the barrier requirements of the act are met and during construction of a swimming pool, temporary barriers shall be erected as required by department regulations.

Reported as committed from House Labor and Industry Committee, read first time, and laid on the table, 4/16/2013

[HB 1209](#) RE: UCC Review and Advisory Council (by Rep. Pat Harkins, et al)

Amends the Pennsylvania Construction Code to establish a process of separate review and adoption of statewide commercial building codes and residential building codes. The legislation provides for the powers and duties of the Amends the Pennsylvania Construction Code to establish a process of separate review and adoption of statewide commercial building codes and residential building codes. The legislation provides for the powers and duties of the UCC Review and Advisory Council.

Introduced and referred to House Labor and Industry Committee, 4/16/2013

[SB 351](#) RE: Storm Water Management (by Sen. Ted Erickson, et al)

Amends Title 53 (Municipalities Generally), in municipal authorities, further providing for purposes and powers by including storm water management planning and projects.

Reported as committed from Senate Appropriations Committee, 4/15/2013

Read third time and passed Senate, 4/16/2013 (49-1)

Received in the House and referred to House Local Government Committee, 4/17/2013

[SB 441](#) RE: Plumbing Contractors Licensure Act (By Sen. Ted Erickson, et al)

Creates a state plumbers licensing program; establishes minimum standards that individuals must meet in order to obtain a state license, and a plumbing contractor's licensure board to issue licenses, develop regulations, and administer the provisions of the Act. Provides for other guidelines including reciprocity with other states, renewals, violations and penalties.

Reported as committed from Senate Consumer Protection & Prof. Licensure Committee, and read first time, 4/16/2013

[SB 802](#) RE: Boiler Standards (by Sen. Jake Corman, et al)

Amends the Boiler and Unfired Pressure Vessel Law to update the standards applied to boilers by adopting the 2010 and 2011 national codes and allowing the Department of Labor and Industry to update those codes in the future by regulation. Allows for private inspection of boilers and unfired pressure vessels and allows the code to expand the scope to include new types of technology.

Introduced and referred to Senate Labor and Industry Committee, 4/4/2013

Co-sponsorship memos filed

[SCO 973](#) (Argall) - Provides for local option to provide exemption for sprinkler system in R-3 and R-4 classified buildings.

Filed, 4/12/2013

LIABILITY

[SB 749](#) RE: Exception to Joint and Several Liability (by Sen. Stewart Greenleaf, et al)

Amends Title 42 (Judiciary), adding an exception to joint and several liability in civil actions and proceedings where a person under 18 years of age has a beneficial interest.

Introduced and referred to Senate Judiciary Committee, 4/3/2013

MANDATE WAIVERS

[HB 135](#) RE: Mandate Waiver Program (by Rep. Dan Truitt, et al)

Amends the Public School Code, in preliminary provisions, providing for mandate waiver program by adding that a board of school directors may adopt a resolution to apply to the Department of Education for a waiver of any provision of the code, the regulations of the State Board of Education, or the standards of the Secretary of Education if the waiver will enable the school district to improve its instructional program or operate in a more effective, efficient or economical manner. A board of school directors may contact the intermediate unit (IU) of which it is a member to propose that the intermediate unit apply for a on behalf of all of the intermediate unit's member school districts. The bill outlines the duties of the department in developing the waiver application process and approving applications and provides for adoption of waiver by school districts or IUs. After five years, a waiver applicant shall submit an evaluation to the department and when the evaluation indicates an improvement in student performance, instructional program or school operations, the waiver shall be renewed. The bill provides for provisions which cannot be waived.

Reported as amended from House Education Committee, read first time, and laid on the table, 4/17/2013

MECHANIC'S LIEN

[HB 473](#) 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. Notice must be given within 15 days of commencement of the construction. Form of the notice is provided for and a model notice given. A petition for a claim from a lien for a construction project must be filed within four months after completion of the work.

Public hearing held in House Labor and Industry Committee, 4/11/2013

[SB 145](#) RE: Mechanics' Lien Law (By Sen. Kim Ward, et al)

Amends the Mechanics' Lien Law to detail instances where subcontractors do not have the right to the lien and further details when a lien may be discharged against a residential property owner.

Reported as amended from Senate Labor and Industry Committee, and read first time, 4/16/2013

Read second time, 4/17/2013

MINIMUM WAGE

[SB 858](#) RE: Minimum Wage (by Sen. Christine Tartaglione, et al)

Amends the Minimum Wage Act increasing the minimum wage to \$9.00 by January 1, 2015. Starting on January 1, 2016, the minimum wage will be tied to the rate of inflation as determined by the Consumer Price Index.

Introduced and referred to Senate Labor and Industry Committee, 4/18/2013

PREVAILING WAGE

[HB 665](#) RE: Prevailing Wage (by Rep. Ron Marsico, et al)

Amends the Pennsylvania Prevailing Wage Act by adding that "public work" includes combination maintenance/rehabilitation/ reconstruction projects where non-maintenance items exceed fifteen percent of the total project cost; and "maintenance work" includes the following actions taken on roads: (1) replacement in kind, or compliance with current Department of Transportation design criteria and standards, of guide rails, curbs, pipes, line painting and other related road equipment; (2) repair of pavement surface by laying bituminous material up to three and a half inches thick or up to 420 pounds per square yard on asphalt pavement, cement concrete or other hard surface, including associated milling, and related work raising existing paved shoulders to new grade; or patching of cement concrete surface to include joint spalling and repair work; (3) widening of existing alignment which does not result in additional lanes or new shoulders; and (4) bridge cleaning, washing, resurfacing with blacktop, minor non-structural repairs or improvements and painting except when combined with complete bridge rehabilitation. Provides anti-retaliation protection for workers, and prohibits dividing projects to circumvent the act.

Reported as amended from House Labor and Industry Committee, read first time, and laid on the table, 4/16/2013

[HB 796](#) RE: Prevailing Wage (by Rep. David Millard, et al)

Amends the Prevailing Wage Act raising the threshold from \$25,000 to \$100,000. Provides anti-retaliation protection for workers, and prohibits dividing projects to circumvent the act.

Reported as amended from House Labor and Industry Committee, read first time, and laid on the table, 4/16/2013

[HB 1095](#) RE: Prevailing Wage (By Rep. Stephen Bloom, et al)

Amends the PA Prevailing Wage Act adding language providing act shall have no application during the time period after June 30, 2013, and before July 1, 2016.

Introduced and referred to House Labor and Industry Committee, 4/3/2013

[HB 1155](#) RE: Prevailing Wage (by Rep. Ron Miller, et al)

Amends Prevailing Wage Act adding a new section requiring the Secretary of Labor and Industry to require contractors, trustees, or third parties managing the administration of fringe benefit payments under a collective bargaining agreement to maintain accurate records of fringe benefit payments made to each worker. The records must contain a clear description of each item for which funds were allocated in a fringe benefit payment and the secretary must be provided access to the records. Also adds a section providing for the right of workmen to challenge a fringe benefit payments allocation and for remedies and penalties. A contractor or labor organization may not discriminate against a workman on assignment to work to public project based on his contribution to or his failure to contribute to a fund for political activity.

Introduced and referred to House Labor and Industry Committee, 4/9/2013

TRANSPORTATION

See Budget Bills

UNEMPLOYMENT/WORKERS COMP

NONE

Upcoming meetings of Interest

2013 HOUSE SESSION SCHEDULE

May	6, 7, 8, 13, 14, 15
June	3, 4, 5, 10, 11, 12, 17, 18, 19, 20, 24, 25, 26, 27, 28

2013 SENATE SESSION SCHEDULE

May

1, 6, 7, 8, 9, 13, 14

June

3, 4, 5, 10, 11, 12, 17, 18, 19, 24, 25, 26, 27, 28

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

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