

MCA
Summary of Legislation
January 2013

Hearing Set For Return Of Waivers

Legislators that want to bring back the defunct mandate waiver program for schools have introduced new legislation, **House Bill 135**, to do just that. Now the House Education Committee has scheduled a public hearing for **March 12** to hear testimony on reviving the school mandate waivers. You may recall that the most popular waivers were to allow single prime construction, much to the dismay of the subcontractor community. Since the waiver program officially sunsetted on June 30th of 2010, numerous bills have been introduced to bring it back, at least in so far as the multiple primes waivers are concerned. So far, none of those bills have passed. This latest effort is ominous as it follows a recent announcement by the Secretary of Education supporting mandate relief for school districts. While there was no specific mention of which mandates are targeted, it's no secret that separate primes and prevailing wage top the school boards association's wish list. There is ample evidence that separate primes costs less and that case will need to be made again as this issue heats up.

Mechanic's Lien Sooner Than Later

The Pennsylvania Legislature spent a fair amount of time last session attempting to enact amendments to the mechanic's lien law. Several bills were considered, voted on and one even passed the House. No changes were enacted though as several key issues remain controversial. Of particular controversy is the proposal to create a new process that requires subcontractors to file a notice of furnishing in order to retain their lien rights. That provision is being pushed by general contractors. Other interest groups representing banks and land title interests are supporting changes in the law too. They want to change the order of priority of liens that are filed and that provision is also controversial. Add to those groups the realtors association which is lobbying for changes to the law that would provide greater protection for home owners from liens filed on residential projects ([HB 473](#) and [SB 145](#)). Rumor has it that bills which address only the home owners' issue may receive quick consideration by the Labor and Industry committees in the House and Senate. While there is general agreement on the home owners' topic, bills that amend the mechanic's lien law are targets for the other amendments. It is entirely possible, if not probable, that the general contractors and banks will seek amendments to any mechanic's lien legislation that is considered for a vote.

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.

Introduced and referred to House Finance Committee, 1/17/2013

[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.

Introduced and referred to House State Government Committee, 1/22/2013

[HB 243](#) RE: Cost-Benefit Analysis (by Rep. Scott Petri, et al)

Amends Title 62 (Procurement) stipulating a contract involving property, real, personal or mixed of any kind or description or any contract for personal services where the consideration involved is \$50,000 or more shall not be implemented and no supplies, services or construction may be accepted or work begun until a cost-benefit analysis of the contract is completed by the purchasing agency. Provides for exceptions and for publication via the Treasury Department.

Introduced and referred to House State Government Committee, 1/23/2013

[HB 324](#) RE: Separations Act (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.

Introduced and referred to House Education Committee, 1/24/2013

[HB 396](#) RE: Separations Act Minimum Bid Requirement (By Rep. Mark Keller, et al)

Amends the Separations Act increasing the minimum bid requirement to \$100,000 subject to an annual adjustment to be made by the Department of Labor and Industry in correlation to the consumer price index. The bill disallows evasion of these requirements by certain prohibited means.

Introduced and referred to House Urban Affairs Committee, 1/29/2013

[SB 228](#) RE: Mentor-Protégé Program (by Sen. LeAnna Washington, et al)

Amends Title 62 (Procurement) further providing for the definition of "small business;" establishing a statewide bonding program; providing guidelines for a Mentor-protége program; establishing a small business reserve for the purpose of increasing economic opportunities for small and disadvantaged businesses; requiring each agency to set aside ten percent of its moneys available for procurement into a small business reserve for award to qualified small and disadvantaged businesses.

Introduced and referred to Senate State Government Committee, 1/23/2013

[HCO 686](#) (co-sponsor memo) RE: Construction Projects (by Rep. Eli Evankovich)

Further defines extension of approved state and local building permits for construction projects.

BUDGET RELATED BILLS

[HB 160](#) RE: Highway/Bridge Funding (by Rep. Jerry Knowles, et al)

Amends The Administrative Code to ensure federal funding received for highway and bridge construction or improvement is expended solely for those purposes, and no federal funds are expended, directly or indirectly, for purposes of, or in connection with, rapid transit and rapid transit authorities, unless such purpose is specifically authorized by federal law as to those funds.

Introduced and referred to House Transportation Committee, 1/17/2013

[SB 132](#) RE: Gasoline Tax for Highway Construction (by Sen. Stewart Greenleaf, et al)

Joint Resolution proposing an amendment to the Pennsylvania Constitution authorizing the funding of development, construction, reconstruction, maintenance and repair of mass public transportation through gasoline taxes and motor license fees.

Introduced and referred to Senate Transportation Committee, 1/14/2013

ENVIRONMENTAL BUILDING STANDARDS

[HB 34](#) RE: High-Performance, State Buildings Standards Act (By Rep. Kate Harper, et al)

Provides for the creation of high-performance building standards. All building projects or a renovation that is larger than 20,000 gross square feet and at least 90 percent total square feet of a building in facilities owned by a Commonwealth agency shall meet or exceed the prescribed level of achievement under the high-performance building standard outlined in the legislation. The Department of General Services shall promulgate rules and regulations for compliance and shall report annually to the legislature.

Introduced and referred to House Environmental Resources and Energy Committee, 1/8/2013

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.

Introduced and referred to House Labor and Industry Committee, 1/15/2013

Reported as committed from House Labor and Industry Committee, read first time, and laid on the table, 1/16/2013

Removed from the table read second time, and rereferred to House Appropriations Committee, 1/23/2013

[HB 154](#) RE: Flood Hazard Mitigation Act (By Rep. Scott Petri, et al)

Authorizes the acquisition of property by local government units to mitigate flood hazards.

Introduced and referred to House Environmental Resources and Energy Committee, 1/17/2013

[HB 235](#) RE: Hiring of Illegal Aliens (by Rep. Anthony DeLuca, et al)

Amends Title 18 (Crimes and Offenses) to prohibit employers from hiring illegal aliens by making the penalty the suspension or revocation of the employer's professional license and a civil fine of \$5,000.

Introduced and referred to House Judiciary Committee, 1/22/2013

[HB 343](#) RE: 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.

Introduced and referred to House Environmental Resources and Energy Committee, 1/24/2013

Cosponsorship Memos

[SCO 376](#) RE: Plumber Licensing (By Sen. Tim Solobay)

Provides for statewide licensing of plumbing contractors.

[SCO 407](#) RE: Apprenticeship Program (by Sen. Mike Folmer, et al)

MANDATE WAIVERS

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

Amends the Public School Code reestablishing the mandate waiver program. To be eligible for the waiver, school entities must apply to the Department of Education with information detailing that the waiver will allow them to improve their instructional program or operate in a more, effective, efficient, or economical manner.

Introduced and referred to House Education Committee, 1/16/2013

MECHANIC'S LIEN

[HB 473](#) RE: Notice by Subcontractor (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.

Introduced and referred to House Labor and Industry Committee, 1/30/2013

[SB 145](#) RE: Subcontractor Rights (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.

Introduced and referred to Senate Labor and Industry Committee, 1/15/2013

PREVAILING WAGE

[SB 272](#) RE: Threshold (by Sen. Lloyd Smucker, et al)

Amends the Pennsylvania Prevailing Wage Act further defining "public work" by increasing the projected cost threshold from \$25,000 to \$200,000.

Introduced and referred to Senate Labor and Industry Committee, 1/18/2013

[SB 273](#) RE: County Wage Rate (by Sen. Lloyd Smucker, et al)

Amends the Pennsylvania Prevailing Wage Act further providing for duty of secretary by adding that the minimum wage rate shall be equal to the average hourly occupational wage for each county as determined from wage information submitted by employers on quarterly unemployment compensation tax returns.

Introduced and referred to Senate Labor and Industry Committee, 1/18/2013

[SB 274](#) RE: "Maintenance Work" (by Sen. Lloyd Smucker, et al)

Amends the PA Prevailing Wage Act further defining "maintenance work" to include 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 service; (3) Widening of existing alignment which does not result in additional lanes or new shoulders; and (4) Bridge cleaning, washing, resurfacing with blacktop, minor nonstructural repairs or improvements and painting, except when combined with complete bridge rehabilitation.

Introduced and referred to Senate Labor and Industry Committee, 1/18/2013

Cosponsor Memos

[HCO 363](#) RE: Projects Subject to Prevailing Wage (by Rep. Fred Keller)

Requires a majority of a Public Works project be financed by public moneys before the project is subjected to the Prevailing Wage Act. **Filed 1/2/2013**

[HCO 382](#) RE: Exemptions from Prevailing Wage (by Rep. Duane Milne)

Exempts from the requirements of the Prevailing Wage Act on projects on property owned or held by historic organizations or land conservancies. **Filed 1/3/2013**

[HCO 450](#) RE: County Wage Rate (By Rep. Ron Miller)

Requires Secretary of Labor & Industry utilize occupational wage data as basis for establishing prevailing wage rates & requires rates be established on county-by-county basis. **Filed 1/7/2013**

[HCO 462](#) RE: Benefits Under Prevailing Wage Act (by Rep. Ron Miller)

Ensures accountability with respect to how fringe benefits are calculated and paid under the Prevailing Wage Act. **Filed 1/7/2013**

[HCO 593](#) RE: Prevailing Wage Not Applied to Hospitals (by Rep. Matt Baker)

Amends Prevailing Wage to clarify that it does not apply to public works involving projects by or on behalf of entities subject to the Health Care Facilities Act. **Filed 1/10/2013**

[SCO 614](#) RE: School District Prevailing Wage Bills (by Sen. Mike Waugh)

Two bills regarding prevailing wage and school districts. **Filed 1/29/2013**

TRANSPORTATION

See Budget Bills

UNEMPLOYMENT/WORKERS COMP

[HB 158](#) RE: Preference for Training Programs (By Rep. Kevin Haggerty, et al)

Amends the Workforce Development Act providing for preference for training programs by stating that Pennsylvania National Guard and reserve component members who have been ordered to active Federal or State service would be given a preference for placement in any program under this act for a period of one year after

discharge from active duty. Also, their spouses would be given a preference for placement in any program under this act.

Introduced and referred to House Labor and Industry Committee, 1/17/2013

[HB 360](#) RE: Tax Credit for New Jobs (By Rep. W. Curtis Thomas, et al)

Amends Tax Reform Code further providing for the Tax Credit for New Jobs by making editorial changes and providing for priority consideration for certain applications for the tax credit and caps each company's ability to claim the credit at \$100,000 annually. Requires reports on the tax credit and for notification about the credit to be made to prescribed entities. Provides for an article detailing The Keystone Job Training Tax Credit. The article provides definitions and allows any entity providing job training to be able to claim the tax credit so long as enumerated qualifications are met. The credit shall be in the amount of \$1,500 per trainee, not to exceed \$100,000 in the taxable year. Provides for application for the tax credit to the Department of Revenue and further provides for priority consideration of certain applications. Provides for limitations on the credit, repayment, and for penalties.

Introduced and referred to House Finance Committee, 1/29/2013

[SB 235](#) RE: Job Creation Programs (by Sen. John Yudichak, et al)

Amends the Administrative Code adding that the Department of Labor and Industry shall have the power and duty to administer various job creation programs in consultation with the Department of Community and Economic Development, Department of Education, or Department of Public Welfare, where appropriate. The bill provides for related repeals.

Introduced and referred to Senate Labor and Industry Committee, 1/31/2013

[SB 326](#) RE: Minimum Wage (by Sen. Tina Tartaglione, et al)

Amends the Minimum Wage Act stipulating that beginning January 1, 2013, and each succeeding January 1 thereafter, the minimum wage shall be increased by an annual cost-of-living adjustment calculated by applying the percentage change in the most recent officially reported CPI-U.

Introduced and referred to Senate Labor and Industry Committee, 1/28/2013

Cosponsor Memos

[SCO 370](#) RE: jobs initiative bill package (by Sen. Bob Mensch)

A series of bills called his jobs initiative bill package. **Filed 1/2/2013**

[SCO 538](#) RE: Undocumented Workers (by Sen. Bob Mensch)

Prohibits undocumented, illegal workers from collecting workers' compensation benefits. **Filed 1/18/2013**

Upcoming meetings of Interest

MONDAY - 2/4/13

House Environmental Resources and Energy Committee

12:00 p.m., Room B31 Main Capitol

To consider: [HB 34](#) (Harper) – An Act requiring design, construction & renovation of certain State-owned or State-leased buildings to comply with specified energy & environmental building standards; & providing for powers & duties of DGS.

WEDNESDAY - 2/6/13

House Finance Committee

9:45 a.m., Room 60, East Wing

To consider: [HB 159](#) (Barbin) - Amends the Tax Reform Code providing for the Vets First Tax Credit Program to honor veterans for their service to our country and provide incentives for their employment.

THURSDAY- 2/28/13

L&I: UNIFORM CONSTRUCTION CODE REVIEW AND ADVISORY COUNCIL MEETING

The Department of Labor and Industry gave notice that the Uniform Construction Code Review and Advisory Council will hold a meeting **Thursday, February 28, 2013**, at 10 am at the Department of Labor and Industry, 651 Boas Street, Room E-100, Harrisburg.

TUESDAY - 3/12/13

House Education Committee

9:00 a.m., Room G-50, Irvis Office Building

Public hearing on: [HB 135](#) (Truitt) - Amends the Public School Code of 1949, in preliminary provisions, providing for mandate waiver program.

2013 SENATE SESSION SCHEDULE

February	4, 5, 6, 11, 12, 13
March	11, 12, 13, 18, 19, 20
April	8, 9, 10, 15, 16, 17, 29, 30
May	1, 6, 7, 8, 9, 13, 14
June	3, 4, 5, 10, 11, 12, 17, 18, 19, 24, 25, 26, 27, 28

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

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