

MCA
Summary of Legislation
March 2013

House Education Committee Eyes Return of Waivers

For contractors that are active in the school construction market, the mandate waiver program brings back bad memories of school districts circumventing the multiple primes requirements under the Public School Code and building under the single prime model. The law that allowed for these “waivers” for school districts on a project-by-project basis terminated in 2010. On March 12th, the PA House Education committee held a public hearing on **House Bill 135** which would bring the old waiver program back to life. Originally purported to provide a mechanism to allow local districts with more control over what happens in the classroom, it quickly became apparent that the most popular waivers were for ways to end-run construction bidding requirements. The dozens of waivers of the multiple primes requirement infuriated the specialty contracting community to such an extent that litigation and a massive lobbying effort followed the program until its ultimate demise.

The public hearing was for school districts and other public agency representatives to express their opinions on resurrecting the program. Not surprisingly, the school districts would like to do just that. The areas they identified as the most beneficial to waive were: prevailing wage, separations act, and economic furloughs. Of the three, only separate primes could be waived under the old law. John Wanner submitted written testimony on behalf of the subcontractor industry. The House Education committee didn't tip its hand on whether or not this legislation would receive further action. One thing that was clear, however, was that not all of the committee members favor the waiver program and that any effort to include construction waivers would be met with resistance.

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.

Removed from the table, 3/12/2013

Amended on House floor, read second time, and Rereferred to House Appropriations Committee, 3/13/2013

Reported as committed from House Appropriations Committee, read third time, and passed House, 3/18/2013 (193-0)

[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.

Removed from the table, 3/12/2013

[HB 1016](#) RE: Construction Workplace Misclassification Act (by Rep. Tom Caltagirone, et al)

Amends the Construction Workplace Misclassification Act to make it a violation for an employer, officer, or agent to be convicted of an offense under 18 Pa.C.S. 4107 (relating to deceptive or fraudulent business practices) that is reasonably related to the two traditional violations related to misclassification. The bill provides for increased grading of the offense and debarment from contracting with the Commonwealth for a period of five years following a violation.

Introduced and referred to House Labor and Industry Committee, 3/18/2013

[HB 1059](#) RE: Contractor and Subcontractor Payment Act (By Rep. Neal Goodman, et al)

Amends the Contractor and Subcontractor Payment Act further providing for owner's payment obligations and for contractor's and subcontractor's payment obligations by adding that a contractor or subcontractor may, after providing seven days' written notice to the party failing to make the required payment, suspend performance of a

construction contract without penalty for breach of contract if: (1) required payment has not been made by the owner; (2) a written statement of the withheld amount and the reason for the withholding has not been provided by the owner; or (3) a good faith effort to resolve the reason for withholding has not been made by the owner.

Introduced and referred to House Labor and Industry Committee, 3/25/2013

[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 committed from Senate Local Government Committee, and read first time, 3/12/2013

Read second time, and rereferred to Senate Appropriations Committee, 3/19/2013

[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 committed from Senate Local Government Committee, and read first time, 3/12/2013

Read second time, and rereferred to Senate Appropriations Committee, 3/19/2013

Co-sponsorship memos filed

[SCO 842](#) (Vance) - Adds a new chapter to the Procurement Code on local government unit roofing projects.

Filed, 3/8/2013

[SCO 868](#) (Vaugh) - Gives school districts another option to use single prime contractors.

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.

Reported as committed from House Finance Committee, read first time, and laid on the table, 3/12/2013

Removed from the table, 3/13/2013

[HB 998](#) RE: Rebuild Pennsylvania Infrastructure Assistance Act (By Rep. Scott Petri, et al)

Authorizes the incurring of indebtedness, with approval of the electors by referendum, of \$400,000,000 for the acquisition, repair, construction, reconstruction, rehabilitation, extension, expansion and improvement of PA Infrastructure. The bill stipulates all bonds sold under the act are to be appropriated on a continuing basis to PENNVEST for the purpose of making loans and grants.

Introduced and referred to House Commerce Committee, 3/14/2013

[SB 640](#) RE: Prototypical School Facility Design Clearinghouse (by Sen. Mike Vaugh, et al)

Amends the Public School Code, in grounds and buildings, providing for a prototypical school facility design clearinghouse to be established and maintained by the Department of Education. In order to receive the State reimbursement factor, a school entity must use a prototype design in the construction of school facilities, with exceptions. The Legislative Budget and Finance Committee shall conduct a study of the program to determine the savings incurred by school entities that have participated in the program after the conclusion of the fifth year.

Introduced and referred to Senate Education Committee, 3/8/2013

[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.

Introduced and referred to Senate Appropriations Committee, 3/13/2013

Reported as committed from Senate Appropriations Committee, and read first time, 3/18/2013

Read second time, and recommitted to Senate Appropriations Committee, 3/19/2013

ENVIRONMENTAL BUILDING STANDARDS

NONE

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.

Laid on the table, 3/13/2013

[HB 868](#) RE: Regulatory Review Act (by Rep. Dan Moul, et al)

Amends Regulatory Review Act further providing for definitions and detailing that if a standing committee of either legislative chamber disapproves of a regulation, an administrative agency may either withdraw the regulation or revise and resubmit the regulation to the standing committees and the Independent Regulatory Review Commission. If a regulation is disapproved a second time, the agency must withdraw the regulation and is disallowed from promulgating it. The legislation requires the approval of both legislative standing committees before a regulation may be promulgated.

Introduced and referred to House State Government Committee, 3/11/2013

[HB 1063](#) RE: Fire Sprinkler Contractor Licensing Act (by Rep. John Taylor, et al)

Requires licensure of any individual or organization engaging in the business of planning, design, installation or service of fire sprinkler equipment or systems, unless the individual is an employee who is working under the supervision of an individual or organization that is licensed. The legislation requires certification by NICET and for the organization to meet NICET certification requirements. It also provides for duties of subcontractors relating to licensure and exemptions while further detailing license application process and procedure. Licensing qualifications and qualified designs of sprinkler systems are also detailed in the Act. The bill also provides requirements related to reciprocity, transfer of licenses, and temporary licenses as well as penalties and violations.

Introduced and referred to House Labor and Industry Committee, 3/25/2013

[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 Local Government Committee, and read first time, 3/12/2013

Read second time, and rereferred to Senate Appropriations Committee, 3/20/2013

Co-sponsorship memos filed

[SCO 897](#) (McIlhinney) - Amends PA Construction Code Act.

Filed, 3/20/2013

MANDATE WAIVERS

NONE

MECHANIC'S LIEN

NONE

MINIMUM WAGE

[HB 1039](#) RE: Minimum Wage Raise (by Rep. Mark Cohen, et al)

Amends the Minimum Wage Act increasing the minimum wage to \$8.75 an hour beginning 30 days after enactment of the bill. Beginning January 1, 2015, and each succeeding January thereafter, the minimum wage shall be increased by an annual cost-of-living adjustment calculated by applying the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U).

Introduced and referred to House Labor and Industry Committee, 3/20/2013

[HB 1057](#) RE: Minimum Wage (by Rep. Mark Cohen, et al)

Amends the Minimum Wage Act to increase Pennsylvania's minimum wage to \$9 per hour. The legislation provides for an annual adjustment for the minimum wage based upon the consumer price index.

Introduced and referred to House Labor and Industry Committee, 3/25/2013

PREVAILING WAGE

[HB 999](#) RE: Prevailing Wage in Keystone Zones (by Rep. Ron Marsico, et al)

Amends the Keystone Opportunity Zone, Keystone Opportunity Expansion Zone and Keystone Opportunity Improvement Zone Act stating that the Pennsylvania Prevailing Wage Act shall not apply to a project in a keystone opportunity zone for construction, reconstruction or alteration.

Introduced and referred to House Labor and Industry Committee, 3/14/2013

Co-sponsorship memos filed

[HCO1564](#) (Marsico) - Requires that at least 15% of a construction project be paid for by public monies before it is covered by the Prevailing Wage Act.

Filed, 3/21/2013

TRANSPORTATION

See Budget Bills

UNEMPLOYMENT/WORKERS COMP

Co-sponsorship memos filed

[SCO 906](#) (Stack) - Provides a \$4,000 tax credit for each veteran employed for 6 months or more.

Upcoming meetings of Interest

THURSDAY - 4/11/13

House Labor and Industry Committee

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

Public hearing on: HB 473 (Killion) - Amends Mechanics' Lien Law further providing for definitions; and providing for State Construction Notices Directory and for notice of commencement and furnishing requirements.

2013 HOUSE SESSION SCHEDULE

April	8, 9, 10, 15, 16, 17, 22, 23, 24
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

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

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

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