

MCA
Summary of Legislation
October 2013

Transportation Funding Delayed Again

Despite lots of talk and media coverage, the PA House of Representatives again put off any votes on legislation that would address the Commonwealth's transportation funding problem. House leaders from both parties are talking about the issue which in and of itself represents progress. Previously, House Democratic leaders complained that they were not engaged in negotiating details of the funding bill even though they were expected to provide roughly half the votes to pass it. That situation has apparently been resolved. Democrats feel that progress is being made on the overall funding level and mass transit funding in particular. Mass transit funding has been a key issue for the House Democrats.

Even though there still isn't a final agreement on how much to spend and how to generate the revenue, the improved dynamic is good news. The bad news is that House Republicans continue their efforts to roll prevailing wage law changes into the transportation issue. Both the Speaker of the House and the Governor have made attempts at convincing labor leaders to agree to prevailing wage changes as a necessary condition to pass the funding bill. At best, those efforts have met with mixed results. Politically speaking, adding prevailing wage reforms into the mix loses far more votes than it gains. Even the broad based industry coalition supporting increased funding has taken a stance to oppose any mention of prevailing wage in the funding bills.

The House returns to voting session on November 12. **Senate Bill 1** or another transportation bill could be voted as early as that week, but if the vote hinges on inclusion of prevailing wage changes, it's hard to imagine that it will pass. A more likely scenario is that no vote is taken once again.

P3 Expansion Bill Would Cut Separate Contracts

Last session, the PA legislature passed a Public Private Partnership (P3) bill that permits the state to enter into agreements with private entities to fund what had been strictly public projects. These P3 projects are typically transportation related and contain a provision that allows the private entity to recoup its investment via tolls or fees. That legislation mandated that any such projects would need to comply with the state prevailing wage law, the separations act and the steel products procurement act. Recently **Representative Eli Evankovich** circulated a memo indicating that he will be introducing legislation to allow for P3 projects by local governments and school districts for the construction of sewer facilities, water treatment facilities, school buildings, etc. A major difference though between his bill and the bill passed last session is that separate contracts would not apply. In the memo, Evankovich wrote "It is important to note that my legislation specifically excludes P3 projects from the requirements of the PA Separations Act, and other associated local government statutes". This legislation is supported by the State Chamber of Commerce and the local government associations. Expect a robust legislative fight when this bill begins to move.

State Legislature Votes to Reform Redevelopment Assistance Capital Projects (RACP) Process

This past month the General Assembly passed legislation to reduce the borrowing capacity of the Redevelopment Assistance Capital Projects (RACP) program, the commonwealth grant program administered by the Office of the Budget for the acquisition and construction of regional economic, cultural, civic and historical improvement projects, by \$600 million. The current \$4.05 billion RACP debt ceiling will drop to \$3.45 billion once Governor Corbett signs the bill. In addition to reducing the overall debt (and debt service) in the program, the legislation also puts new controls in place to create a transparent and objective review and approval process, including the listing of projects on the internet for public scrutiny.

[HB 493](#), sponsored by Rep. Matt Gabler (R-Elk), also codifies current policies used by the Corbett budget office. These policies include a scoring system, a public comment period and other standards for projects. The project must have a useful life of greater than five years and cost more than \$100,000. The total project cost must be at least \$1,000,000. There is also a provision in the legislation for a "community asset project," which provides significant benefit or improvement to a community. The term includes a cultural, recreational and historical project and any other project of civic significance. The project must have a 50 percent match at the time of application. The Governor is required to annually submit a capital budget bill for consideration by the legislature. A redevelopment

assistance capital project may not receive funds unless the project was itemized in a capital project itemization bill or a capital budget bill, enacted within ten years of the date the project was approved.

The current project list can be viewed on the Governor's website. A new capital itemization bill, [SB 680](#), has also passed both chambers, and is awaiting the Governor's signature. For more information, see the [Governor's RACP website](#).

The mailing address for all RACP correspondence is now:
Redevelopment Assistance Capital Program
18th Floor, Harrisstown 2
333 Market Street
Harrisburg, PA 17101-2210

Steven Heuer is the newly appointed Director of the Bureau of Revenue Capital and Debt, which oversees this program.

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 1527](#) RE: Steel and Blast Furnace Slag Aggregates Act (by Rep. Eli Evankovich, et al)

Amends Title 62 (Procurement), in contract clauses and preference provisions, to provide an additional chapter providing for the Steel and Blast Furnace Slag Aggregates Act, which requires the Department of Transportation to develop uniform standards in the use of slag aggregates in highway construction. The bill also requires department approval of the use of materials and suppliers as well as requires uniform inspection. The legislation outlines permitted uses of slag aggregates by contractors and provides for notice, restrictions, and prohibitions on the use of slag aggregates. Effective in 60 days.

Reported as committed from House Rules Committee, and laid on the table, 9/23/2013

Removed from the table, 9/24/2013

Read second time, and rereferred to House Appropriations Committee, 9/25/2013

Reported as committed from House Appropriations Committee, 9/30/2013

Read third time, and passed House, 10/1/2013 (182-13)

Received in the Senate and referred to Senate State Government Committee, 10/16/2013

[HB 1805](#) RE: Public Access to Procurement Information (By Rep. Margo Davidson, et al)

Amends Title 62 (Procurement) adding language amending the definitions of Commonwealth agency, contracting officer, executive agency, independent agency, purchasing agency, State-affiliated agency, and supplies and adds definitions of competitive procurement, contracting agency, judicial agency, legislative agency, lobbying, lobbying firm, and lobbyist. Adds a new section pertaining to public access to procurement information. Also amends the sections pertaining to procurement responsibility; competitive electronic bidding; competitive sealed proposals; emergency procurement; and competitive procurement on a multiple award basis.

Introduced and referred to House State Government Committee, 10/23/2013

[SR 207](#) RE: Costs of PA's Public Construction Laws (by Sen. Mike Folmer, et al)

Resolution directing the Joint State Government Commission to conduct a comprehensive study of the costs and efficiencies of the requirements under Pennsylvania's public construction laws.

Introduced and referred to Senate State Government Committee, 10/15/2013

BUDGET RELATED BILLS

[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 2013-2014; itemizing public improvement projects, furniture and equipment projects, transportation assistance projects, redevelopment assistance capital projects, flood control projects, Keystone Recreation, Park and Conservation Fund projects, State forestry bridge projects, State ATV/Snowmobile Fund projects, Pennsylvania Fish and Boat Commission projects, Manufacturing Fund projects, Oil and Gas Lease Fund projects, Environmental Stewardship Fund projects, highway bridge projects and State Stores Fund current revenue 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, the Department of Transportation or the Pennsylvania Fish

and Boat Commission, together with their estimated financial costs; authorizing 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, the Department of Transportation or the Pennsylvania Fish and Boat Commission; stating the estimated useful life of the projects; and making appropriations.

Recommitted to House Appropriations Committee, 10/15/2013

Reported as amended from House Appropriations Committee, 10/21/2013

Amended on House floor, read third time, and passed House, 10/22/2013 (187-15)

Received as amended in Senate and rereferred Senate Rules and Executive Nominations Committee, 10/22/2013

Re-reported on concurrence as committed from Senate Rules and Executive Nominations Committee, and Senate concurred in House amendments, 10/23/2013 (50-0)

Signed in the Senate and House, and In the hands of the Governor, 10/23/2013

Last day for Governor's action, 11/2/2013

ENVIRONMENTAL BUILDING STANDARDS

[HB 1672](#) RE: State Agency Green Technology Implementation Act (By Rep. Ron Miller, et al)

Provides for the testing of new, environmentally beneficial and energy efficient technologies within various state agencies. The secretary of the Department of General Services is authorized to direct a state agency, with the approval of the governor, to test certain technology, products or processes that promote energy conservation or efficiency on a trial basis. The testing agency shall maintain records, proprietary information is exempt from the Right to Know Law, and the testing period shall be 30-60 days. Acquisition of any technology, product or process for purposes of the test program shall not be deemed to be a purchase under the provisions of the Procurement Law. After the test period, purchases would be subject to the procurement law. Provides for the promotion of demand-side management technologies and for penalties for displaying Commonwealth endorsement when no such proper endorsement exists. Effective in 60 days.

Reported as amended from House Environmental Resources and Energy Committee, read first time, and laid on the table, 10/2/2013

Removed from the table, 10/15/2013

Read second time, and rereferred to House Appropriations Committee, 10/16/2013

10-21-13 H Reported as committed from House Appropriations Committee, read third time, and passed House, 10/21/2013 (189-8)

LOCAL/STATE GOVERNMENT/REGULATIONS

[SB 802](#) RE: Boiler and Unfired Pressure Vessel Law (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. Also clarifies commissioned private inspectors may either inspect uninsured boilers and vessels, or insured boilers and vessels pursuant to a contract with the insurer.

Reported as amended from House Labor and Industry Committee, read first time, and laid on the table, 10/23/2013

LIABILITY

NONE

MANDATE WAIVERS

NONE

MECHANIC'S LIEN

[HB 982](#) RE: Mechanics' Lien Law (by Rep. Sheryl DeLozier, et al)

Amends the Mechanics' Lien Law prohibiting a subcontractor from filing a lien with respect to an improvement to a residential property if: 1) the owner or tenant has paid the contractor in full; 2) the property is, or is intended to be, the residence of the owner or tenant; and 3) the residential property is a building that consists of one or two dwelling units used, intended or designed to be built, used, rented, or leased for living purposes. Effective in 30 days.

Reported as amended from House Labor and Industry Committee, read first time, and laid on the table, 10/2/2013

Removed from the table, 10/22/2013

Read second time and rereferred to House Appropriations Committee, 10/23/2013

MINIMUM WAGE

[HB 1740](#) RE: Fair Minimum Wage Act (by Rep. Mark Cohen, et al)

Increases Pennsylvania's minimum wage to \$9.00 an hour 60 days after enactment and \$10.10 an hour one year and 60 days after enactment. Thereafter, the amount of the minimum wage would be determined annually by increases in the Consumer Price Index. Effective immediately.

Introduced and referred to House Labor and Industry Committee, 10/11/2013

LICENSING BILLS

[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 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. Section 10 shall take effect immediately; the remainder of the act shall take effect upon the effective date of the regulations or on July 1, 2013, whichever is sooner.

Reported from House Labor and Industry Committee, with request to re-refer to House Professional Licensure Committee, and so referred, 10/2/2013

PREVAILING WAGE

[HB 665](#) RE: "Public Work" (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 service 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. Effective in 60 days.

Laid on the table, removed from the table, 10/21/2013

[HB 796](#) RE: Prevailing Wage Threshold (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. Effective in 60 days.

Laid on the table, removed from the table, 10/21/2013

[HB 1538](#) RE: Municipality Self-exclusion (by Rep. Ron Miller, et al)

Amends the PA Prevailing Wage Act, allowing municipalities to vote to exclude themselves from the Act. A municipality may elect to subject itself to the coverage of the Act as long as the election takes place at least four years after the prior removal vote. Effective in 60 days.

Removed from the table, 10/1/2013

Read second time, and Rereferred to House Appropriations Committee, 10/2/2013

[HB 1737](#) RE: Prevailing Wage Definitions (by Rep. Ron Marsico, et al)

Amends the Pennsylvania Prevailing Wage Act defining "locally funded"; adding that "maintenance work" includes certain enumerated actions taken on locally funded road projects; and adding that when applied to locally funded road projects, "public work" includes projects that utilize a combination of maintenance, rehabilitation and reconstruction on existing alignment in which nonmaintenance items exceed fifteen percent of the total project cost. Effective in 60 days.

Introduced and referred to House Labor and Industry Committee, 10/2/2013

LOCAL/PROPERTY TAX REFORM

[HB 1189](#) RE: Property Tax Replacement (By Rep. Seth Grove, et al)

Amends the Local Tax Enabling Act authorizing a school district to implement an additional earned income tax, mercantile tax, or business privilege tax with the additional revenues used solely for the reduction or elimination of school district property taxes. Revenues generated will be used on a dollar-for-dollar basis to reduce the school district millage rate. The rate of the mercantile or business privilege tax is capped at 50 percent. Effective in 60 days.

Rereferred to House Appropriations Committee, 10/1/2013

Reported as committed from House Appropriations Committee, read third time, and passed House, 10/2/2013 (149-46)

Received in the Senate and referred to Senate Finance Committee, 10/10/2013

[HB 1513](#) RE: Business Privilege Tax (by Rep. George Dunbar, et al)

Amends the Local Tax Enabling Act, allowing local taxing authorities to levy a tax on the privilege of doing business in the jurisdiction of the local taxing authority if business transactions occur fifteen or more days in a year and/or the transactions occur through a base of operations in the jurisdiction of the levying local tax authority.

Applies to taxable years beginning January 1, 2014.

Removed from the table, 10/2/2013

Amended on House floor, read second time, and rereferred to House Appropriations Committee, 10/15/2013

Reported as committed from House Appropriations Committee, read third time, and passed House, 10/16/2013 (182-15)

Received in the Senate and referred to Senate Finance Committee, 10/21/2013

TRANSPORTATION

NONE See report on SB 1 above

UNEMPLOYMENT/WORKERS COMP

NONE

Upcoming meetings of Interest

Thursday, November 7, 2013

DEPARTMENT OF LABOR AND INDUSTRY: UNIFORM CONSTRUCTION CODE REVIEW AND ADVISORY COUNCIL MEETING

The Department of Labor and Industry announced the Uniform Construction Code Review and Advisory Council will hold a meeting on Thursday, November 7, 2013, at 10 am at the Department of Labor and Industry, 651 Boas Street, Room E-100, Harrisburg. Additional information may be found on the Department of Labor and Industry web site at www.dli.state.pa.us. Scroll down and click on the link for "Uniform Construction Code" then "UCC Review and Advisory Council." Questions concerning this meeting may be directed to Edward Leister at (717) 783-6304.

2013 HOUSE SESSION SCHEDULE

November 12, 13, 18, 19, and 20

December 9, 10, 11, 16, 17, and 18 (Non-Voting)

2013 SENATE SESSION SCHEDULE

November 12, 13, 18, 19, 20

December 3, 4, 9, 10, 11

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

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