

MCA
Summary of Legislation
September 2013

Transportation Funding Still a Topic of Conversation

In June, the transportation funding legislation, **Senate Bill 1**, was discussed and debated but ultimately failed to pass the House or even be voted on by the full chamber. Not much has changed since the House returned to voting session in mid September. Amidst widespread speculation that there are not enough votes in the House to pass the Senate version of the bill, political maneuvering continues to take place in hopes that something gets done to address the Commonwealth's serious infrastructure needs. In late September, Majority Leader Mike Turzai appeared ready to bring the bill before the full House for a vote despite the general consensus that there were too few votes in the Republican caucus to pass it or even provide half the votes needed to pass it. It is thought that more votes could be garnered if the funding level is decreased. Think of it as an inverse relationship. As the funding level is decreased, the more Republican support there is for passage in the House. But funding levels below one billion dollars are not acceptable to the other caucuses and industry.

Meanwhile, the House Democrats remain reluctant to support Senate Bill 1 if the mass transit portion of the bill isn't revised to provide more funding for that sector. They have also complained about being asked to vote for a bill without being included in discussions about it or drafting of it. There is also speculation that they simply don't want to help the Governor with his initiatives. They are, however, on record as supporting the higher funding level passed by the Senate, \$2.5 billion.

Amidst all of that, both labor and management have joined forces to pressure the House for a positive vote. To date, nothing has cleared the impasse. Discussions continue behind the scenes but an actual vote on Senate Bill 1 by the full House has not taken place.

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)

Cosponsor memos filed

[HCO2303](#) (Bloom) - Establishes a freestanding act known as the "Open Contracting Act" and prohibits the use of Project Labor Agreements (PLAs) on public construction projects.

Filed, 9/23/2013

BUDGET RELATED BILLS

NONE

ENVIRONMENTAL BUILDING STANDARDS

[HB 343](#) RE: National Groundwater Association standards (by Rep. Ron Miller, et al)

Amends Title 27 (Environmental Resources) providing for the adoption of National Groundwater Association standards. 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. Certain sections shall take effect after the adoption of regulations and the remainder shall take effect in 30 days.

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

[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.

Introduced and referred to House Environmental Resources and Energy Committee, 9/3/2013

10-02-13 H Meeting set for 9:00 a.m., Room 39, East Wing ...House Environmental Resources and Energy

LOCAL/STATE GOVERNMENT/REGULATIONS

[SB 1023](#) RE: Pennsylvania Construction Code Act (by Sen. Chuck McIlhinney, et al)

Amends the Pennsylvania Construction Code Act further providing for the duties of the council by adding that the annual report shall include those items specified for rejection (changed from adoption) and that the council shall, as part of its review of the 2015 ICC codes, also re-review the 2012 codes. Additionally, the council shall include a professor of engineering with a concentration or specialty in building energy efficiency and an architect specializing in building energy efficiency. Per diems paid to council member shall be \$60 and reasonable travel, hotel, and other necessary expenses incurred in performing their duties. The department shall promulgate regulations within 12 months (changed from three) of receipt of the report. A third account is established, the Review and Advisory Council Administration Account, which shall receive 25 percent of specified moneys collected shall be deposited; the remaining 75 percent shall be divided equally between the Municipal Code Official Training Account and the Construction Contractor Training Account. Moneys in the Review and Advisory Council Administration Account shall be transmitted quarterly to the Department of Labor and Industry for per diem and expenses of the Review and Advisory Council and administrative assistance as determined necessary by the council and the department. Effective in 60 days.

Public hearing held in Senate Labor and Industry Committee, 9/24/2013

LIABILITY

NONE

MANDATE WAIVERS

NONE

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. Effective in 30 days.

Read third time, and passed House, 9/23/2013 (115-83)

Received in the Senate and referred to Senate Labor and Industry Committee, 9/26/2013

[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.

House Labor and Industry Committee Meeting set for 10/2/2013, 10:00 a.m., Room 39, East Wing

[HB 1697](#) RE: Mechanics' Lien Law Definitions (by Rep. Dan Truitt, et al)

Amends the Mechanics' Lien Law to add architects, engineers, or other licensed design professionals to the definitions of "contractor" and "subcontractor" in the Mechanics' Lien Law. Effective in 60 days.

Introduced and referred to House Labor and Industry Committee, 9/24/2013

MINIMUM WAGE

NONE

LICENSING BILLS

NONE

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 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. Effective in 60 days.

Public hearing held in House Labor and Industry Committee, 9/16/2013

Read third time, 10/1/2013

[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.

Public hearing held in House Labor and Industry Committee, 9/16/2013

[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.

Reported as committed from House Labor and Industry Committee, read first time, and laid on the table, 9/25/2013

Cosponsor memos filed

[HCO2233](#) (Benninghoff) - Provides an exception to the requirements of the PA Prevailing Wage Act for school construction projects where a school district does not seek state reimbursement.

Filed, 9/5/2013

[HCO2321](#) (Marsico) - Amends the Prevailing Wage Act to provide a clear definition of what actions taken with respect to local road repairs are subject to the act's requirements.

Filed, 9/26/2013

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.

Reported as amended from House Finance committee, read first time, and laid on the table, 9/23/2013
Removed from the table, 9/24/2013
Cox Amendment failed, 10/1/2013
Amended on House floor, and read second time, 10/1/2013

TRANSPORTATION

[HB 1681](#) RE: Weight Restricted Bridge Repair Act (by Rep. Rick Saccone, et al)

Provides for the deposit of royalties from certain oil and gas leases into a special fund to be used by the Department of Transportation for the repair of weight-restricted bridges. For fiscal years 2014-2015, 2015-2016 and 2016-2017, the Department of Conservation and Natural Resources shall conduct a competitive public auction for the lease each fiscal year of no less than 100,000 acres of State forest land for a total of at least 300,000 acres. The department shall advertise the auction once a week for three weeks in at least two newspapers of general circulation published nearest the locality and in the Pennsylvania Bulletin, and may not accept a bid of less than \$3,500 per acre. A lease contract shall be awarded to the highest responsible bidder and shall require the posting of a bond and carry a primary term of ten years, which may be extended. Each lease contract shall reserve as royalty payable to the Commonwealth 16 percent of the market value of all marketable gas produced at each wellhead. Effective in 60 days.

Introduced and referred to House Environmental Resources and Energy Committee, 9/9/2013

[HB 1717](#) RE: Emergency Bridge Repair (by Rep. Stephen Bloom, et al)

Amends Title 75 (Vehicles) providing for emergency bridge repair by adding that the department shall repair or replace a structurally deficient or weight-restricted bridge in the shortest possible time frame. All such repairs or replacement shall be the top priority of the department over all other department projects not related to bridge safety and the department shall divert all funds accordingly. Effective in 60 days.

Introduced and referred to House Transportation Committee, 9/9/2013

[HR 480](#) RE: Select Committee (By Rep. Jake Wheatley, et al)

Resolution establishing a select committee for the purpose of recommending draft language on a transportation funding bill.

Introduced and referred to House Transportation Committee, 9/30/2013

UNEMPLOYMENT/WORKERS COMP

[SB 1073](#) RE: Freedom of Employment Act (By Sen. Mike Folmer, et al)

Provides for definitions and provides that no person shall be forced to join a labor organization as a condition of employment or continuation of employment, similarly no person shall be required to refrain or abstain from membership in a labor organization as a condition of employment or continuation of employment. The legislation states no person shall be required to pay or refrain from paying dues to a labor organization as a condition of employment or continuation of employment. The legislation provides for fines and injunctive relief for violations of the Act. Effective immediately.

Introduced and referred to Senate Labor and Industry Committee, 9/25/2013

Upcoming meetings of Interest

WEDNESDAY - 10/2/13

House Labor and Industry Committee

10:00 a.m., Room 39, East Wing

To consider:

[HB 982](#) (Delozier) - Amends the Mechanics' Lien Law providing for the definition of 'costs of construction'; & further providing for right to lien & amount, for priority of lien & for discharge of lien on payment into court or entry of security.

[HB 1063](#) (J Taylor) - Act providing for licensing of fire sprinkler contractors and inspectors; and imposing duties on the Department of Labor and Industry.

WEDNESDAY - 10/9/13

House Democratic Policy Committee

3:00 p.m., Marywood University, Nazareth Hall, Latour Room, 2300 Adames Avenue, Scranton

Public hearing on jobs and the economy

THURSDAY - 10/24/13

House Consumer Affairs Committee

1:00 p.m., Williamson Free School of Mechanical Trades, 106 S. New Middletown Road, Media

Public hearing on: [HB 1543](#) (Killion) - Amends the Home Improvement Consumer Protection Act providing for the definition of "time and materials;" and further providing for home improvement contracts.

FRIDAY - 10/25/13

House Consumer Affairs Committee

9:00 a.m., Montgomery County Fire Academy, 1175 Conshohocken Road, Conshohocken

Public hearing on rooftop solar installations and fire safety

2013 HOUSE SESSION SCHEDULE

October 1, 2, 15, 16, 17 (Non-Voting), 21, 22, and 23

November 12, 13, 18, 19, and 20

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

2013 SENATE SESSION SCHEDULE

October 1, 2, 15, 16, 21, 22, 23

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>