

MCA
Summary of Legislation
May 2015

Keeping An Eye On The Many Prevailing Wage Bills

Each legislative session, the Pennsylvania Prevailing Wage Act becomes a target of conservative elected officials that want to narrow its applicability or outright repeal it. Thus far 2015 has been a bumper crop year for legislative proposals that do exactly that. At last count, state legislators have introduced (or circulated memos stating that they plan to introduce) more than a dozen different bills that chip away at the law, including several more this month by **Rep. Ron Marsico (R-Dauphin)**. The ideas run the gamut from exempting certain types of projects to raising thresholds of applicability to giving local authorities the ability to opt out. There are also bills to create a broader definition of definition of “maintenance” to exempt more projects as well as require that a majority of construction costs be public dollars before the law applies. While many of these bills have been introduced previously and never passed, there is clear effort underway to include prevailing wage as part of the Commonwealth budget debate. There will be an attempt to tie prevailing wage changes to the budget negotiations involving school funding. It is believed that conservatives will want school districts exempted from the law in one way or another. Anytime issues get wrapped up in the budget negotiations, the risk of something passing increases greatly as legislative leaders trade issues for yes votes on the budget. While passage of any of the bills is far from certain, the situation bears close monitoring and constant vigilance.

Primary Election Update: Parties Choose Judicial Candidates, Philly Mayor

The General Assembly was only in for a few days in May, due to the annual primary elections. House and Senate members are not up for election this year, with the exception of a few special elections throughout the year to fill vacancies. However, there were important elections for various court seats and in the Commonwealth’s two largest counties. A brief rundown follows.

Supreme Court:

The top three Democrats on the ballot -- Judge David Wecht, Judge Christine Donohue and Judge Kevin Dougherty -- secured their party's nominations for Supreme Court. Both Wecht and Dougherty were endorsed by the State Democratic Party. For the GOP their endorsed slate of Judge Judy Olson, Judge Mike George and PEG PAC-endorsed Judge Anne Covey -- who had 6th, 4th & 2nd ballot position respectively -- won the Republican nominations. Those six candidates, all state or county judges, will square off for the unprecedented three openings on the state's highest court. Appointed Justice Corry Stevens, who had first ballot position, is in last place in the vote count with nearly 75% of the vote in.

Superior Court:

In the Democratic Primary Judge Alice Dubow of Philadelphia easily beat Robert Colville for the party's nod and will meet Republican Emil Giordano, a Northampton County Judge, in the fall.

Commonwealth Court:

Michael Wojcik defeated Todd Eagen for the Democratic nomination; will face Republican Paul Lalley.

Philadelphia Mayor:

Ex-councilman Jim Kenney easily won the Democratic primary with State Sen. Anthony Williams far back in second place. The overwhelming Democratic registration in the city means that Kenney will almost surely win in November.

Allegheny County Controller:

In something of an upset, incumbent Chelsa Wagner held on to defeat the former Controller, Mark David Flaherty, in the Democratic primary. Flaherty had been endorsed by County Executive Rich Fitzgerald.

5th Senate District Special Election:

In the race to succeed Lt. Gov. Mike Stack in his northeast Philadelphia Senate District, Democratic State Rep. John Sabatina, Jr. easily won and will return the Democrat's complement in the upper chamber back to 20, though only briefly, as Allegheny County Sen. Matt Smith announced his resignation to take the top job with the County Chamber.

Philadelphia Democrat State Rep. Ronald Waters resigned June 1 as part of his sentencing deal in the Philly sting case. Waters, a veteran legislator from west Philly, pled guilty to nine counts of conflict of interest and was sentenced to 23 months of probation and a \$13,750 fine. He will not lose his pension. Waters took bribes totaling \$8,750 to oppose a bill he already did not support -- voter ID. Several more Philly Democrats caught up in the sting are in line to either plead guilty, or in the case of 81-year old Louise Bishop, push for a trial. Waters' assumed safe Democratic seat - which also includes parts of two towns in Delaware County is now added to the list of upcoming special elections later this year.

Candidates Begin Lining Up For 2016 Attorney General Race

Once thought to be a potential U.S. Senate candidate, Montgomery County Commissioner **Josh Shapiro** has announced he is running for the Democratic nomination for Attorney General. Shapiro is also running this year for re-election as Commissioner with a new running mate, Dr. Valerie Arkoosh. Shapiro could face a number of potential Democratic rivals, assuming the sitting AG Kathleen Kane doesn't run, such as Northampton County DA John Morganelli, was the Democratic nominee for AG in 2008, when he lost to Tom Corbett.

Shapiro, a former state representative and an attorney, has at least one big advantage - Gov. Tom Wolf. Wolf recently appointed Shapiro as Chair of the Pa. Commission on Crime and Delinquency. On the Republican side, **State Sen. John Rafferty** of Chester County and **Montgomery County State Rep. Todd Stephens** are both exploring runs; 2012 GOP nominee Dave Freed, Cumberland County DA, has not ruled out a rematch.

House Consumer Affairs Committee Holds Public Hearing on Groundwater Legislation

The **House Consumer Affairs Committee** held a public hearing on [HB 48](#), sponsored by committee **Chairman Bob Godshall (R-Montgomery)**. The bill provides for the adoption of National Groundwater Association standards, and provides for water well construction standards; decommissioning of abandoned wells; water well completion reports; and inspections. Chairman Godshall explained he has personally experienced the consequences of improperly constructed water wells and believes standards for wells are imperative to health and safety. He said it is important that no one has to suffer the illness that can result from improperly built wells.

[Kelly Heffner](#), **Deputy Secretary, Department of Environmental Protection (DEP)**, estimated three million Pennsylvanians draw water from one million private water wells and as many as 15,000 new water wells are drilled each year. Despite all these wells, she remarked, **Pennsylvania is one of two states that do not have statewide construction standards for private water wells**. She noted that in the absence of state standards, small government units may take responsibility. She indicated a number of municipalities have developed well ordinances in recent years. Speaking to pollution of wells, Heffner explained contamination can occur naturally or through human impacts and opined the first line of defense should be prevention, noting that each well provides an opportunity for pollution to travel underground. She cited studies that found 15 to 50 percent of private water systems fail a minimum of one safe drinking water standard and at least 40 percent of private water wells in Pennsylvania exhibited a failure of some Safe Drinking Water Act parameter. Heffner stated HB 48 is a step in the right direction towards establishing statewide standards for water well construction, but recommended that the bill also include consideration of how minimum requirements for licensing could protect consumers. Further, she suggested additional considerations "would improve the clarity, intent, and effectiveness of the bill and viability of any resulting water well construction program."

Chairman Godshall mentioned a letter received from the [Pennsylvania Builders Association](#) in opposition to the bill on the basis that water wells are already regulated under the Uniform Construction Code, International Residential Code, and International Plumbing Code. He asked if that is correct. Heffner could not speak to specifics of the three codes and offered to research the question more fully, but briefly said her understanding is that the Uniform Construction Code has some comments related to well standards. Chairman Godshall added that someone who

formerly worked with DEP told him that there is licensing, but no actual standards. Heffner confirmed well drillers need to be licensed by Department of Conservation and Natural Resources (DCNR).

Legislative Activity

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

BIDDING / CONTRACTING

[HB 210](#) RE: School Construction (by Rep. Seth Grove, et al)

Amends the Public School Code, in grounds and buildings, further providing for approval by Department of Education of plans of buildings and exceptions; providing for accountability and reducing costs in construction process; further providing for limitation on new applications for Department of Education approval of school building projects; and, in reimbursements by Commonwealth and between school districts, further providing for definitions, for approved reimbursable rental for leases hereafter approved and approved reimbursable sinking fund charges on indebtedness, for payments on account of leases hereafter approved and on account of sinking fund charges on indebtedness for school buildings hereafter constructed and for payments on account of building costs; and providing for lump sum reimbursement for construction or reconstruction.

Reported as committed from House Appropriations Committee, read third time, and passed House, 5/12/2015 (142-52)

Received in the Senate and referred to Senate Education Committee, 5/20/2015

[HB 726](#) RE: Contractor & Subcontractor Payment (by Rep. Mike Tobash, et al)

Amends the Contractor & Subcontractor Payment Act adding a language providing the provisions of the Act cannot be waived in any contract. Increases from 1 percent to 1.5 percent the monthly interest rate for an outstanding payment. Also adds a provision allowing for posting of **security in lieu of retainage**. Increases the penalty from 1 percent per month to 1.5 percent per month in cases where an arbitrator or litigation determines that payment was wrongly withheld.

Public hearing held in House Commerce Committee, 5/14/2015

[HB 1071](#) RE: Extensions of Approvals (by Rep. Ryan Warner, et al)

Amends Development Permit Extension Act by amending the definition of "approval" and adding that for an approval that is granted for or in effect between the beginning of the extension period and July 2, 2016, 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.

Reported as committed from House Finance Committee, read first time, and laid on the table, 5/12/2015

Removed from the table, 6/1/2015

Amended on House floor, and read second time, 6/2/2015

[HB 1202](#) RE: Repeal of Redundant Law (by Rep. John Taylor, et al)

Repeals the act of May 28, 1943 (P.L.796, No.333), entitled "An act establishing as state highways, certain county highways and requiring their construction, repair and maintenance as such."

Introduced and referred to House Transportation Committee, 5/13/2015

BUDGET RELATED BILLS

[HB 437](#) RE: Building Machinery and Equipment (by Rep. Tom Caltagirone, et al)

Amends the Tax Reform Code, in sales and use tax, adding that "building machinery and equipment" includes traffic signal foundations, poles and mast arms.

Reported as committed from House Finance Committee, read first time, and laid on the table, 5/12/2015

[HB 928](#) RE: RACP Projects (by Rep. Steven Mentzer, et al)

Amends the Capital Facilities Debt Enabling Act, in capital facilities, further providing for appropriation for and limitation on redevelopment assistance capital projects by adding that beginning July 1, 2018, and each July 1 thereafter until the sum of the outstanding obligations for redevelopment assistance capital projects equals

\$2,950,000,000, the sum of the maximum amount of outstanding obligations for redevelopment assistance projects shall be decreased by \$50,000,000.

Introduced and referred to House Finance Committee, 5/11/2015

[HB 1125](#) RE: General Appropriation Act of 2015 (by Rep. Joe Markosek, et al)

Provides from the General Fund for the expenses of the Executive and Judicial Departments, the State Government Support Agencies and the General Assembly of the Commonwealth. This bill embraces the Governor's March Budget Proposal.

Introduced and referred to House Appropriations Committee, 5/11/2015

[HB 1140](#) RE: Capital Budget Act of 2015-16 (by Rep. Joe Markosek, et al)

Provides for the capital budget for the fiscal year 2015-2016. A total of \$1,290,000,000 is appropriated. Effective July 1, 2015, or immediately, whichever is later.

Introduced and referred to House Appropriations Committee, 5/11/2015

[HB 1192](#) RE: General Appropriation Act of 2015 (by Rep. Bill Adolph, et al)

Provides from the General Fund for the expenses of the Executive and Judicial Departments, the State Government Support Agencies and the General Assembly of the Commonwealth, the public debt and the public schools for the fiscal year July 1, 2015, to June 30, 2016, for certain institutions and organizations, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 2015. *This bill is the House Republican Budget, not like the Governor's proposal.*

Introduced and referred to House Appropriations Committee, 5/12/2015

Reported as committed from House Appropriations Committee, read first time, laid on the table, and Removed from the table 5/13/2015

Amended on the House floor, read second time, and Rereferred to House Appropriations, 6/1/2015

[SB 810](#) RE: General Appropriation Act of 2015 (By Sen. Vincent Hughes, et al)

Provides provide from the General Fund for the expenses of the Executive and Judicial Departments, the State Government Support Agencies and the General Assembly of the Commonwealth, the public debt and the public schools for the fiscal year July 1, 2015, to June 30, 2016, for certain institutions and organizations, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 2015. *This is the Senate Democrats' Budget, similar to the Governor's proposal.*

Introduced and referred to Senate Appropriations Committee, 5/8/2015

ENVIRONMENTAL BUILDING STANDARDS

[HB 48](#) RE: Water Well Construction Standards (by Rep. Bob Godshall, 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 Environmental Quality Board and Department of Environmental Protection 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.

Public hearing held in House Consumer Affairs Committee, 5/12/2015

[HB 1103](#) RE: High Tunnels (by Rep. David Zimmerman, et al)

Amends the Storm Water Management Act defining "high tunnel" and exempting high tunnels from the act. A municipality that has adopted a watershed storm water plan or enacted a local ordinance or regulation that regulates high tunnels prior to the effective date shall amend the plan, ordinance or regulation in order to comply.

Introduced and referred to House Environmental Resources and Energy Committee, 5/4/2015

LOCAL/STATE GOVERNMENT/REGULATIONS

[HB 1166](#) RE: Toll Road Conversions (by Rep. Mike Vereb, et al)

Amends Title 74 (Transportation) adding a new section relating to toll road conversions by requiring legislative approval of the conversion of any existing public roadway including the Pennsylvania Turnpike but not including bridges and tunnels.

Introduced and referred to House Transportation Committee, 5/11/2015

[SB 330](#) RE: Neighborhood Blight Reclamation and Revitalization (by Sen. Kim Ward, et al)

Amends Title 53 (Municipalities Generally), in neighborhood blight reclamation and revitalization, providing for failure to comply with a code requirement. The bill outlines what constitutes noncompliance and grades a second offense as a second-degree misdemeanor and three or more as a first-degree misdemeanor. Repeals the offense of municipal housing code avoidance. Provides for penalties.

Read third time, and passed Senate, 5/5/2015 (48-0)

Received in the House and referred to House Urban Affairs Committee, 5/11/2015

[SB 792](#) RE: Codes in First Class Townships (by Sen. John Wozniak, et al)

Amends the First Class Township Code, in corporate powers, further providing for powers of the board of township commissioners as to building and housing regulations and inspectors; and providing for Uniform Construction Code, property maintenance code and reserved powers. The bill adds a section providing for Uniform Construction Code, Property Maintenance Code, and reserved powers. The Pennsylvania Construction Code Act and the Uniform Construction Code shall apply to the construction, alteration, repair and occupancy of the buildings and structures within a township.

Introduced and referred to Senate Local Government Committee, 5/20/2015

[SB 793](#) RE: Codes in Second Class Townships (By Sen. Scott Hutchinson, et al)

Amends the Second Class Township Code, in corporate powers, further providing for building and housing regulations and repealing provisions relating to building and housing inspectors; and providing for Uniform Construction Code, property maintenance code and reserved powers. The bill adds a section providing for Uniform Construction Code, Property Maintenance Code, and reserved powers. The Pennsylvania Construction Code Act and the Uniform Construction Code shall apply to the construction, alteration, repair and occupancy of the buildings and structures within a township.

Introduced and referred to Senate Local Government Committee, 5/20/2015

[SB 855](#) RE: Preparation Of Comprehensive Plan (by Sen. Mario Scavello, et al)

Amends the Pennsylvania Municipalities Planning Code, in comprehensive plan, further providing for preparation of comprehensive plan by requiring a county comprehensive plan to identify, by name and physical location, the residential and mixed-use condominiums, cooperatives and planned communities, as well as the total land area, lot size and number of units of each; and, to the extent available, the infrastructure of each, including, but not limited to, information concerning the presence and condition of sanitary sewer, water and storm water systems, recreation facilities and roadways. The bill provides for definitions.

Introduced and referred to Senate Local Government Committee, 5/29/2015

LIABILITY

NONE

MANDATE WAIVERS

[HB 1119](#) RE: Waivers of Certain Mandates (by Rep. Kristin Phillips Hill, et al)

Amends the Public School Code to allow public schools to apply for waivers of certain delineated statutory mandates, provided conditions are met. Provides for a five-year report and renewal cycle. Also allows fulfillment of certain legal notice requirements by publishing on a publicly accessible website

Introduced and referred to House Education Committee, 5/6/2015

LICENSURE

NONE

LOCAL/PROPERTY TAX REFORM

[HB 504](#) RE: School Property Tax Reform Act (by Rep. Matt Gabler, et al)

Amends the Tax Reform Code providing an exclusion from the Sales and Use Tax for services or the tangible personal property including, but not limited to, machinery, equipment, parts and supplies to be used or consumed by the purchaser directly in the operations of timbering when engaged in a business enterprise. Pertinent definitions are also provided for. Adds a new article providing for the School Property Tax Reform Act. Establishes the School District Millage Rate Reduction Fund and the School District Homestead and Farmstead Relief Fund. Imposes an additional personal income tax rate of 0.63 percent with the funds generated from this tax to be deposited in the School District Millage Rate Reduction Fund. Also imposes an additional requirement on the Department of Education to calculate the millage rate reduction allocation for each school district. Provides the maximum amount of millage rate reduction a school district may receive is 30 percent of the school district's overall property taxes levied and the minimum amount of millage rate reduction is 20 percent. If personal income tax collections decline from the previous year, funds shall be transferred from the homestead/farmstead exclusion fund. Also imposes an additional sales and use tax rate of one percent beginning January 1, 2016, with the funds generated by the imposition of this tax to be deposited in the School District Homestead and Farmstead Relief Fund. Requires the Department of Education to calculate the homestead/farmstead exclusion allocations for all school districts. Provides the maximum amount of homestead/farmstead exclusion a school district may receive is 25 percent of the school district's overall residential property taxes levied and the minimum amount of homestead/farmstead exclusion is 15 percent. Further provides for senior citizens property tax and rent rebate assistance and repeals provisions of the Taxpayer Relief Act.

**Amended on House floor, read second time, and Rereferred to House Appropriations Committee, 5/12/2015
Reported as committed from House Appropriations Committee, read third time, and passed House, 5/13/2015
(105-86)**

Received in the Senate and referred to Senate Finance Committee, 5/20/2015

[HB 1256](#) RE: Maximum Local Tax Rates (by Rep. Kurt Masser, et al)

Amends the Local Tax Enabling Act adding language providing the maximum income tax rate for a school district that levied an occupation tax for the fiscal year ending in 2015 and a municipality that levied an occupation tax for the calendar year ending December 31, 2014, shall be determined by taking the sum of the rates calculated under the legislation. Further provides the determined tax rate shall be rounded off to the nearest increment of 0.1 percent.

Introduced and referred to House Finance Committee, 5/28/2015

MECHANIC'S LIEN

NONE

MINIMUM WAGE

NONE

PREVAILING WAGE

[HB 1095](#) RE: Prevailing Wage Exclusions (by Rep. Ron Marsico, et al)

Amends the Pennsylvania Prevailing Wage Act excluding political subdivisions from the act and authorizing a political subdivision or an authority, agency or instrumentality of a political subdivision to elect, by ordinance or resolution, to place itself within the jurisdiction of this act.

Introduced and referred to House Labor and Industry Committee, 5/4/2015

[HB 1096](#) RE: Opt-In Referenda (by Rep. Ron Marsico, et al)

Amends Pennsylvania Prevailing Wage Act opting school districts out of certain prevailing wage requirements and providing for opt-in referenda. The bill prohibits various kinds of election interference for these referenda.

Introduced and referred to House Labor and Industry Committee, 5/4/2015

[HB 1234](#) RE: "Public Work" (by Rep. Ron Marsico, et al)

Amends the Pennsylvania Prevailing Wage Act further defining "public work" as work paid for by at least 50 percent (changed from in whole or part) out of the funds of a public body.

Introduced and referred to House Labor and Industry Committee, 5/18/2015

[HB 1261](#) RE: Locally Funded Road Projects (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 non-maintenance items exceed fifteen percent of the total project cost.

Introduced and referred to House Labor and Industry Committee, 6/1/2015

[HB 1262](#) RE: KOZ, KOEZ, KOIZ Application of Prevailing Wage (by Rep. Ron Marsico, et al)

Amends the Keystone Opportunity Zone, Keystone Opportunity Expansion Zone and Keystone Opportunity Improvement Zone Act, in procedures for zones, adding 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, 6/1/2015

TRANSPORTATION

NONE

WORKER'S COMP

[SB 846](#) RE: Home Improvement Contractors (by Sen. Tina Tartaglione, et al)

Amends the Home Improvement Consumer Protection Act further providing for procedures for registration as a contractor by adding that the application shall include proof of workers' compensation coverage in compliance with the Workers' Compensation Act.

Introduced and referred to Senate Consumer Protection & Prof. Licensure Committee, 5/29/2015

WORKFORCE DEVELOPMENT

[HB 1270](#) RE: Right To Work in Counties (by Rep. Cris Dush, et al)

Amends Title 16 (Counties) providing for right to work in counties by adding that the right of persons to work shall not be denied or abridged on account of membership or non-membership in any labor organization. A political subdivision may not enter into an agreement that excludes an individual from employment or continuation of employment because of non-membership in a labor organization.

Introduced and referred to House Labor and Industry Committee, 6/1/2015

OTHER LEGISLATION OF INTEREST

[SR 103](#) RE: Building Safety Month (By Sen. Lisa Baker, et al)

Resolution designating the month of May 2015 as "Building Safety Month," " and encouraging residents to participate in "Building Safety Week" from May 3 through May 9, 2015, in Pennsylvania.

Introduced and Adopted, 5/4/2015 (50-0)

Upcoming meetings of Interest

Some House Committee meetings and session can be viewed online at: <http://www.pahousegop.com/>

Senate Committee meetings and session can be streamed at: <http://www.pasenategop.com/>

TUESDAY - 6/9/15

House Finance Committee

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

To consider: [HB 1256](#) (Masser) - Amends the Local Tax Enabling Act, in optional occupational tax elimination, further providing for income tax rate limits.

And others

2015 SENATE SESSION SCHEDULE

June 1, 2, 3, 8, 9, 10, 15, 16, 17, 18, 22, 23, 24, 25, 26, 29, 30

2015 HOUSE SESSION SCHEDULE

June 1, 2, 3, 8, 9, 10, 15, 16, 17, 18, 22, 23, 24, 25, 26, 27, 28, 29, 30

Some days may be added as budget negotiations proceed. The Fall legislative schedule has not been announced yet.

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

<http://www.legis.state.pa.us/cfdocs/legis/home/session.cfm>