

MCA Summary of Legislation November 2006

Time Runs Out on Legislative Session

The post election legislative session commonly referred to as the "lame duck" session turned out to be particularly lame this year. With legislators feeling the heat of the reform movement, the PA Senate scheduled only two days in Harrisburg before the end of session on November 30. The Senate let it be known that they were unlikely to take up anything controversial on November 20 and 21 when they returned to the Capitol. With that as the backdrop, conventional wisdom suggested that only a handful of issues still outstanding would make it to the Governor's desk.

Of the issues that did achieve final passage, several pertain to the construction industry. **House Bill 881** makes a number of changes to the Uniform Construction Code. The changes are mostly administrative and relate to residential or agricultural buildings. It also includes a funding source to be used for training contractors on the building code. That bill passed the Senate and House, and is expected to be signed by the Governor.

Also on the short list for possible consideration was a bill that requires professional engineers to meet continuing education training as a condition for keeping their professional license. **Senate Bill 655** passed the House on November 14, and then the Senate before going to the Governor, who is expected to sign it.

Another bill that managed to pass before the end of session is **Senate Bill 1104**. That bill reauthorizes the **One Call** (Call Before You Dig) system. Had the bill not passed, it would have sunsetted and there would be no more "call before you dig" law. It, too, is awaiting the governor's signature.

The list of bills/issues that didn't pass included further amendments to the **Mechanic's Lien law**, the Home Improvement Contractors Registration Act (**Senate Bill 1000**), attempts to exempt school districts from the Prevailing Wage Act and additional transportation funding. Any bills not passed by November 30 can be reintroduced next year with the start of the new legislative session.

Effort to Waive Separation Act Fails In House

A last minute attempt to change the law to allow for waivers of the Separations Act failed in the House during the last week of session. **Representative Steve Nickol** offered an amendment on the floor of the House to **Senate Bill 1209**. That bill creates the "Healthy Farms and Healthy Schools" program which obviously has nothing to do with school construction. The amendment would have allowed school districts to waive the separate contracts requirements for bidding of construction work. Because the amendment was filed late, a motion to suspend the rules of the House was required before the amendment could be considered for a vote. The motion to suspend the rules failed on an 84 to 107 vote. **Each time the issue of Separations Act has come before the House, a majority of members have voted to support separate primes.** Senate Bill 1209 was eventually sent to the Governor without any construction related amendments.

Election Carnage Continues: House Republicans Retain Majority by One Seat – Veon's

On a horrendous night for Republicans nationwide, probably the most talked-about surprise upset involved a Democrat. 22-year veteran House member Mike Veon, who was the sole member of the General Assembly to vote against the pay raise repeal, was swept out of office, and in losing his seat also lost what could have been the opportunity to be the Majority Leader of House. Instead, his loss nullified an otherwise very successful evening for Pennsylvania Democrats. Democrats won both statewide races, with Gov. Ed Rendell defeating former Steelers' great Lynn Swann, and State Treasurer Bob Casey defeating two-term incumbent US Sen. Rick Santorum, and they came within one seat of recapturing the majority in the House, despite going into the election in a 109-93 hole. Barring a reversal on one of a few expected recounts or an insurrection among his own Republican party members, we expect John Perzel to be elected Speaker of the

House again in January. A total of **50** new House members will cast their votes for Speaker on January 2, when they are sworn-in with their veteran colleagues for the first time. Perzel will have the chore of keeping order with a majority of only one vote, **102-101**. Democratic Leader Bill DeWeese, who himself narrowly held off a Republican challenger, needed to find a replacement for Veon, on whom he has relied to deliver votes in his caucus for more than a decade. His choice, and then the choice of his caucus, was Rep. Keith McCall, of Carbon County, a popular veteran legislator, who gives up his Chairmanship of the House Transportation Committee to become Whip.

Veon was one of six state representatives who felt the wrath of the electorate on November 7. Also going down on election night were Republicans **Gene McGill, Matt Wright, Matt Good**, and House Professional Licensure Committee Chairman **Tom Gannon**, as well as Democrat **Shawn Flaherty**, who had only served a few months, having won a special election earlier in 2006. These six joined 17 others who had lost in the primaries, and 27 more who chose not to face the voters one more time. As a result, more than one quarter of the House will be freshmen next session.

It was comparatively quiet in the state Senate, where Republicans kept all five of the open seats that were contested this year, and reestablished their 29-21 majority for next session. The relative serenity and orderliness of the elections, however, was followed by internal intrigue and machinations among the Senate Republicans, who for the first time in a generation had to choose someone other than Bob Jubelirer to lead them. Jubelirer lost in the primary, and will take with him the record for longest service as President Pro Tempore of the Senate in Pennsylvania history. The Republicans chose from among several announced candidates for that position, including Sens. Jeff Piccola, Joe Scarnati, and Jim Rhoades. They also needed to elect a new Floor Leader, to replace Sen. Chip Brightbill, who also lost in May. Several candidates emerged for that seat as well. Lesser leadership positions were also decided, including Chairman of the Appropriations Committee, a key position for a new Chairman in negotiating a budget with the Governor from the other party. That distinction went to Lancaster Sen. Gibson Armstrong. See the full House and Senate leadership results below.

House Leadership Election Results: Perzel, Smith, Deweese Retained

The elections for next year's House leadership teams were held on November 14. Several races were contested, indicating some continuing rifts among the Caucuses, particularly on the Republican side, after this past year's elections. The tops of both rosters are returning, as both Republican Leader **Sam Smith** and Democratic Leader Bill DeWeese were re-elected. These elections, which will take effect in January, involved the 50 newly-elected legislators, but not their predecessors. Rep. John Perzel has been renominated for Speaker, provided the Republicans hold on to the three seats where final vote tallies have not been certified at this writing, including one in Chester County that was decided by 19 votes on election night. As of the election night results, Republicans will hold a 102-101 majority in the new session. In addition to Perzel, the following results have been reported:

Republican Leader - Sam Smith (Jefferson)

Republican Whip – Dave Argall (Schuylkill/Berks)

Republican Caucus Chair – Sandra Major (Susquehanna)

Republican Caucus Secretary – Jerry Stern (Blair)

Republican Caucus Administrator – Merle Phillips (Northumberland)

Republican Policy Committee Chair – Mike Turzai (Allegheny)

Republican Appropriations Chair - Mario Civera (Delaware)

Democratic Leader – H. William DeWeese (Greene)

Democratic Whip – Keith McCall (Carbon)

Democratic Caucus Chair – Mark Cohen (Philadelphia)

Democratic Caucus Secretary – Frank Dermody (Allegheny)

Democratic Caucus Administrator – Dan Surra (Elk)

Democratic Policy Committee Chairman – Todd Eachus (Luzerne)

Democratic Appropriations Chair - D. Evans (Philadelphia)

Senate leadership election results:

President Pro Tempore: Joe Scarnati (R-Jefferson)

Majority Leader: Dominic Pileggi (R-Delaware)

Majority Whip: Jane Clare Orie (R-Allegheny)

Appropriations Chair: Gib Armstrong (R-Lancaster)

Majority Caucus Chair: Mike Waugh (R-York)

Majority Caucus Secretary: Rob Robbins (R-Mercer)

Policy Chairman and Caucus Administrator still to be appointed by the new Pro Tem.

The leadership of the Senate Democratic Caucus will remain the same as last session.

Minority Leader: Bob Mellow (Lackawanna)

Minority Whip: Mike O'Pake (Berks)

Minority Appropriations Chair: Vincent Fumo (Philadelphia)

Minority Caucus Chair: Jay Costa (Allegheny)
Minority Caucus Secretary: Gerald LaValle (Beaver)
Minority Policy Chairman: Richard Kasunic (Fayette)
Minority Caucus Administrator: Constance Williams (Montgomery/Philadelphia)

Legislative Activity

The following bills were acted on by the General Assembly in the past month. There are no remaining session days. Any bills not having been passed by both the House and Senate and sent to the Governor as reported here die, and need to be reintroduced next session and start over.

HB 236 RE: Regulatory Impact on Small Businesses (by Rep. Tina Pickett, et al)

Amends the Regulatory Review Act further providing for legislative intent, for proposed regulations and procedure for review. "Small business" is defined to mean a business entity including its affiliates that is independently owned or operated and has less than 100 full time employees or has gross annual sales of less than \$6 million. The act is intended to improve State rulemaking by creating procedures to analyze the availability of more flexible regulatory approaches for small businesses in accordance with certain findings. For any regulation subject to the act, a small business that is adversely affected or aggrieved by final agency action is entitled to judicial review of agency compliance for a period of 18 months from the date of the final agency action. The act is not intended to create a right or benefit, substantive or procedural, enforceable at law by a person against another person or against the Commonwealth, its agencies or its officers.

Passed House, 5/10/2006 (193-4)

Passed Senate, 10/18/2006 (37-11)

Vetoed by the Governor, 11/3/2006

Override Fails in House, 108-83

HB 881 RE: PA Construction Code Act Applicability (by Rep. Bob Allen, et al). Amends the PA Construction Code Act by providing that a municipality may not require any construction document to be prepared by an architect or other license design professional unless the work is required to be performed by an architect or any other licensed professional by the Architects Licensure Law or other applicable statute. The bill provides that the fee for an appeal to the board of appeals for a municipality that is administering and enforcing this act would be less than the costs of the public notice of the hearing, appearance fee for the court reporter and administrative fees as necessary. The bill states that in the case of an appeal or request for variance or extension of time involving the construction of a one-family or two-family residential building, the board of appeals would convene a hearing within 30 days of the appeal and would render a written decision to the parties within five business days of the last hearing. If the board fails to act within the time period, the appeal would be deemed granted. In interpreting a provision of a code adopted by regulation of the department as part of the UCC, a construction code official, a board of appeal and a court would consider and rely upon relevant written interpretations of the UCC, or the regulations promulgated under this act or any municipal construction code ordinance. The bill also provides timelines for a municipality's decision to grant or deny an application. It requires the code administrator to identify the elements of any application not in compliance with the relevant provisions of the UCC and provide a citation of the specific provision. Under the bill, a construction code official or a third-party agency is allowed to perform inspections if a code administrator fails to complete a requested inspection within two business days after the request. A municipality is required to provide notice to the department of any proposed ordinance amending the requirements of the UCC and the department is required to post the notice on its Internet website. The bill states that a permit is not required for the installation, alteration or repair of generation, transmission, distribution, metering or other related facilities and/or equipment. Money would be equally distributed for the purpose of education and training programs provided by the Pennsylvania Construction Codes Academy for municipal code officials and individuals employed by third-party agencies under contract to a municipality and to a PA based housing research center located at a land grant university for the construction industry.

Passed House, 7/1/2006 (183-15)

Passed Senate, amended, 11/20/2006 (49-0)

House concurred in Senate amendments, 11/21/2006 (168-25)

In the hands of the Governor, 11/22/2006. Last day for Governor's action, 12/2/2006

HB 2134 RE: Social Security Number Privacy Act (By Rep. Russ Fairchild, et al)

Provides that forms for a professional license or certification, occupational license or certification, or recreational license required by a Commonwealth agency or municipality that requires individuals to provide their Social Security numbers (SSN) must provide the individuals with the option to use a driver's license number or a non-

driver's identification number issued by the department as an alternative. When an individual uses the alternative identification number, the individual must submit a consent declaration authorizing the Department of Transportation to release the individual's SSN to the Commonwealth agency or municipality. This would not apply to forms required by the department for the purpose of driver licensing and non-driver identification. The bill states that no health insurer may place an SSN upon any health insurance identification card. Lastly, the bill requires DPW to apply for an exemption under the federal Social Security Act.

Passed House, 11/1/2005 (197-0)

Passed Senate, amended, 10/18/2006 (48-0)

House concurred in Senate amends to House amendments, with further amendments, 10/23/2006 (189-0)

Senate Concurred in House amends to Senate amendments, 11/20/2006 (48-0)

Signed in the House and Senate, 11/21/2006

In the hands of the Governor, 11/22/2006. Last day for Governor's action, 12/2/2006

HB 2251 RE: LLC Registration Requirements (by Rep. Tom Stevenson, et al)

Amends Title 15 (Corporations & Unincorporated Associations) repealing annual registration requirements for registered limited liability partnerships and limited liability companies and making an editorial change.

Removed from the table, read second time, and rereferred to House Appropriations Committee, 10/23/2006

HB 2696 RE: Uniform Construction Code Advisory Council (by Rep. Dave Steil, et al)

Amends the Pennsylvania Construction Code Act providing for the Uniform Construction Code Advisory Council. The Council would gather information from the general public, including municipal officers, building code officials, construction code officials, licensed design professionals, builders and property owners, concerning issues with the Uniform Construction Code raised by council members, the general public, or changes proposed by the General Assembly. The Council would evaluate the information and make recommendations. The bill also provides for the composition of the Council.

Reported as committed from House Appropriations, 10/23/2006

Amended on House floor, and Passed House, 10/23/2006 (189-0)

Referred to Senate Labor and Industry Committee, 10/26/2006

SB 655 RE: Use of Title "Engineer" (by Sen. Roger Madigan, et al)

Amends the Engineer, Land Surveyor and Geologist Registration Law regarding administrative rules and regulations by establishing requirements for continuing education to be fulfilled by individuals licensed and registered under the act. The bill states that the rules and regulations would include any fees necessary for the board to carry out its responsibilities regarding establishing continuing education requirements.

Passed Senate, 6/26/2006 (50-0)

Passed House, amended, 11/14/2006 (148-48)

Senate concurred in House amendments, 11/20/2006 (Vote: Y: 47/N: 1)

Signed in the Senate, 11/20/2006. Signed in the House, 11/21/2006

In the hands of the Governor, 11/21/2006. Last day for Governor's action, 12/1/2006

SB 854 RE: Strategic Development Areas (by Sen. Gibson Armstrong, et al)

Amends the Tax Reform Code establishing a program providing for strategic development areas, which would target areas of economic distress through coordinated efforts by private and public entities to restore prosperity and promote long-term economic viability of the area. The legislation also defines "health savings account", in personal income tax, as having the same meaning as given in section 223(D) of the Internal Revenue Code.

Passed Senate, 10/24/2005 (50-0)

Passed House, amended, 12/20/2005 (103-92)

Senate concurred in House amends to Senate amendments, with further amendments, 10/23/2006 (48-2)

House concurred in Senate amendments to House amendments, as further amended 10/24/2006 (185-10)

Signed in the House and Senate, 11/15/2006

Approved by Governor Rendell, 11/20/2006. Act No. 151 of 2006

SB 1104 RE: One-Call System (by Sen. Tommy Tomlinson, et al)

Amends the Underground Utility Line Protection Law further providing for the title of the act, for definitions, for duties of facility owners and for the duties of the One Call System; providing for liability, fees and governance of the One Call System; further providing for applicability; providing for the duties of project owners and for rights of the Auditor General; further providing for the governing board of the One Call System, for fines and penalties and for applicability to certain pipeline systems and facilities; providing for a voluntary payment dispute resolution

process, for best efforts, for removal or tampering with a marking, for determination of position and type of lines and for impairment of rights and immunities; further providing for expiration; repealing provisions of the Propane and Liquefied Petroleum Gas Act, concerning the prohibition of certain liquefied petroleum gas facilities or distributors from being subject to the Underground Utility Line Protection Law; and making an editorial change.

Passed Senate, 6/26/2006 (50-0)

Passed House, amended, 10/24/2006 (195-0)

Senate concurred in House amendments, 11/20/2006 (48-0)

Signed in the Senate, 11/20/2006

Signed in the House, 11/21/2006

In the hands of the Governor, 11/21/2006. Last day for Governor's action, 12/1/2006

SB 1166 RE: 2006-07 Capital Budget Amendments (by Sen. Noah Wenger, et al)

An act providing for the capital budget for the fiscal year 2006-2007, which provides \$845,000,000 for capital projects; itemizing transportation assistance and redevelopment assistance projects to be constructed or acquired or assisted by the Department of Community and Economic Development and the Department of Transportation, together with their estimated financial costs; authorizing the incurrence of debt without approval of the electors for the purpose of financing the projects; and stating the estimated useful life of the projects.

Passed Senate, 3/22/2006 (48-0)

Passed House, amended, 7/1/2006 (198-0)

Senate Concurred in House amends to Senate amendments, with further amendments, 11/21/2006 (49-0)

House Concurred in Senate amends to House amendments, 11/21/2006 (143-44)

Signed in the House and Senate, 11/22/2006

In the hands of the Governor, 11/22/2006. Last day for Governor's action, 12/2/2006

SB 1331 RE: Sales Tax Exemptions (by Sen. Rob Wonderling, et al)

Amends the Tax Reform Code by exempting from the sales and use tax the purchase of a tangible item furnished to the public at cost by a government agency or court. This exclusion would also include the duplication or electronic transfer of an official document and the transfer of tangible personal property directly connected with the sale, use, duplication or electronic transfer of the official document.

Passed Senate, 10/17/2006 (50-0)

Passed House, 11/15/2006 (192-0)

Signed in the Senate, 11/15/2006. Signed in the House, 11/20/2006

In the hands of the Governor, 11/20/2006. Last day for Governor's action, 11/30/2006

SB 1368 RE: Redevelopment Assistance Capital Projects (by Sen. Bob Jubelirer, et al)

Amends the Capital Facilities Debt Enabling Act by increasing the limitation on redevelopment assistance capital projects for which obligations are outstanding from \$2,650,000,000 to \$2,900,000,000.

Passed Senate, 10/23/2006 (32-18)

Rereferred to House Appropriations Committee, 11/14/2006

Reported as committed from House Appropriations Committee, 11/14/2006

Session Ends on November 30

Spring 2007 Session Schedule has not yet been announced

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

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