

CAWP
Summary of Legislation
March 2011

Legislative News

House Committee Hears Prevailing Wage Arguments

On March 22, the House Labor and Industry committee held a public hearing on the Pennsylvania prevailing wage law. The hearing did not focus on any particular legislation, but the questions asked by committee members mirrored bills that have been introduced. The questions pertained to the following ideas:

- Raising the prevailing wage threshold
- Allowing local governments to opt out of the law's provisions
- Changing the definition of "maintenance" to specifically exclude road milling
- Placing a moratorium on the law for several years
- Regularly conducting surveys to determine the wage rates
- Substituting the Occupational Wage rates from the Department of Labor and Industry as the de facto prevailing wage rates
- Outright repeal of the law

The groups that testified against prevailing wage included the Associated Builders and Contractors (ABC), the Commonwealth Foundation (a conservative think tank), the PA School Boards Association and a panel representing the local government associations. Each group criticized the law and endorsed one or more of the changes listed above.

Testifying in support of the law was a panel of building trades representatives led by Frank Sirianni, President of the PA State Building Trades. Also supporting the law was a panel of both union and non-union contractors that work on prevailing wage projects. The panel was led by John Wanner who represents the interest of the unionized construction interests in Harrisburg. The pro-prevailing wage panels emphasized how the law protects local businesses and workers by providing them with a level playing field. States that do not have prevailing wage laws experience a higher percentage of public work going to low wage-paying contractors from other states.

There is no bill scheduled for a vote at this time. However, it is anticipated that the House Labor and Industry will bring up an anti-prevailing wage bill sometime in the near future.

Legislative Activity

PREVAILING WAGE

SB 820 RE: Minimum Prevailing Wage Rate (by Sen. Lloyd Smucker, et al)

Amends the Pennsylvania Prevailing Wage Act further providing for duty of secretary by adding that the minimum wage rate shall be equal to the average hourly occupational wage for each county as determined from wage information submitted by employers on quarterly unemployment compensation tax returns.

Introduced and referred to Senate Labor and Industry Committee, 3/11/2011

SB 821 RE: Public Work (by Sen. Lloyd Smucker, et al)

Amends the Pennsylvania Prevailing Wage Act further defining "public work" by increasing the projected cost threshold from \$25,000 to \$200,000.

Introduced and referred to Senate Labor and Industry Committee, 3/14/2011

SB 822 RE: "Maintenance Work" (by Sen. Lloyd Smucker, et al)

Amends the PA Prevailing Wage Act further defining "maintenance work" to include 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; (3) Widening of existing alignment which does not result in additional lanes or new shoulders; and (4) Bridge cleaning, washing, resurfacing with blacktop, minor nonstructural repairs or improvements and painting, except when combined with complete bridge rehabilitation.

Introduced and referred to Senate Labor and Industry Committee, 3/14/2011

[HB 1135](#) RE: Suspension of Prevailing Wage Act (by Rep. Curt Schroder, et al)

Amends the Pennsylvania Prevailing Wage Act stipulating it will have no application during the time period after June 30, 2011, and before July 1, 2015.

Introduced and referred to House Labor and Industry Committee, 3/22/2011

[HB 1190](#) RE: Prevailing Wage Act in KOZ/KEZ/KOIZ (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 Commerce Committee, 3/28/2011

[HB 1191](#) RE: Prevailing Wage Local Option (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, 3/28/2011

[SB 792](#) RE: Suspension of Prevailing Wage Act (By Sen. Mike Brubaker, et al)

Amends the Pennsylvania Prevailing Wage Act stipulating it will have no application during the time period after June 30, 2011, and before July 1, 2015.

Introduced and referred to Senate Labor and Industry Committee, 3/9/2011

[SB 795](#) RE: Optional Prevailing Wage Ordinances (by Sen. Mike Waugh, et al)

Amends the Pennsylvania Prevailing Wage Act excluding political subdivisions or any authority, agency or instrumentality created by one or more political subdivisions from the act and authorizing optional prevailing wage ordinances.

Introduced and referred to Senate Labor and Industry Committee, 3/9/2011

[SB 796](#) RE: Optional Prevailing Wage Ordinances (by Sen. Mike Waugh, et al)

Amends the Pennsylvania Prevailing Wage Act adding language providing a political subdivision may elect, by ordinance or resolution, to remove itself from the jurisdiction of this act. Also provides upon adoption of the ordinance or resolution, the political subdivision shall notify the Department of Labor and Industry and shall include the date that the ordinance or resolution became effective.

Introduced and referred to Senate Labor and Industry Committee, 3/9/2011

PUBLIC PRIVATE PARTNERSHIPS

[HB 3](#) RE: Public-Private Transportation Partnerships (By Rep. Rick Geist, et al)

Amends Title 74 (Transportation) adding a chapter providing for public-private transportation partnerships and making a related repeal.

Reported as amended House Transportation Committee, read first time, and laid on the table, 3/7/2011

[SB 344](#) RE: Public-Private Transportation Partnerships (By Sen. John Rafferty, et al)

(PN 438) Amends Title 74 (Transportation) adding a chapter providing for public-private transportation partnerships; and making a related repeal. (Prior Printer Number: 336)

Laid on the table, Removed from the table, 3/8/2011

TORT REFORM

[HB 1](#) RE: Comparative Negligence (By Rep. Curt Schroder, et al)

Amends Title 42 (Judiciary and Judicial Procedure) repealing previous provisions for comparative negligence and adding new language for (1) Apportionment of responsibility among certain nonparties and effect; (2) Recovery against joint defendant; contribution; (3) Off-road vehicle riding; and (4) Downhill skiing.

Public hearing held in House Judiciary Committee 3/29/2011

House Judiciary Committee Meeting set for 11:00 a.m., 4/4/2011 Room 205, Ryan Office Building

POLITICAL CONTRIBUTIONS BY CONTRACTORS

[SB 892](#) RE: Limitations on Political Contributions By Contractors (by Sen. Larry Farnese, et al)

Amends Title 62 (Procurement) providing for limitations on political contributions by contractors. Any contractor bidding for certain contracts shall be required to submit information on political contributions made to any elected official holding a state office, the contractor's political action committee or political action committees which make contributions to campaigns for state-elected offices. The contractor shall also provide a notarized written declaration that any lobbyist the contractor has hired to represent the contractor's interest is properly registered. Contractors shall not be awarded a contract if any political contributions made and reported exceed \$2,400 per election to a candidate or \$5,000 per election to a business entity or political action committee supporting a candidate. These limits are subject to increase based on inflation.

Introduced and referred to Senate State Government Committee, 3/23/2011

MBEs & WBEs

[SB 179](#) RE: Pennsylvania Unified Certification Program (By Sen. LeAnna Washington, et al)
(PN 873) Amends Title 62 (Procurement) providing for reciprocity of certifications by stipulating that the department shall accept the certification of the Pennsylvania Unified Certification Program (PA UCP). Certification of any minority-owned business, women-owned business or disadvantaged business enterprise by the department may be accepted by any governmental or public entity as being adequate certification for the purpose of bidding or participating in any governmental or public bid, contract or award. If a governmental or public entity, including colleges and universities, does not have a minority-owned business, women-owned business or disadvantaged business enterprise program, the Commonwealth's program under the Bureau of Minority and Women Business Opportunities within the department shall be applied to any contract, grant or project funded with state dollars to ensure compliance with all requirements. Amends Title 62 (Procurement) providing for reciprocity of certifications.

Introduced and referred to Senate State Government Committee, 3/22/2011

[SB 623](#) RE: Veteran-owned Small Businesses (by Sen. Tommy Tomlinson, et al)
Amends Title 62 (Procurement) to add an additional chapter providing for contracting with veteran-owned small businesses. Definitions are provided and the Department of General Services is given the power to promulgate rules and regulations in the area. Each purchasing agency shall set a participation-rate for veteran-owned small businesses at five percent. Duties are given to the department and provisions relating to progress payments are provided for. Reports on the matter are due to the House and Senate Veterans Affairs and Emergency Preparedness Committees. Compliance with federal law, where the two conflict, is provided for.

Reported as committed from Senate Veterans Affairs & Emergency Preparedness Committee, and read first time, 3/8/2011

BONDING

[SB 177](#) RE: Statewide Bonding Program (By Sen. LeAnna Washington, et al)
Amends Title 62 (Procurement) further providing for the definition of "small business;" establishing a statewide bonding program; providing guidelines for a Mentor-protégé program; establishing a small business reserve for the purpose of increasing economic opportunities for small and disadvantaged businesses; requiring each agency to set aside ten percent of its moneys available for procurement into a small business reserve for award to qualified small and disadvantaged businesses.

Introduced and referred to Senate State Government Committee, 3/22/2011

BIDDING / CONTRACTING

[HB 129](#) RE: Restrictions on Public Contractors (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, 3/17/2011

[HB 989](#) RE: Contractor's and Subcontractor's Payment Obligations (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; (2) a written statement of the

withheld amount and the reason for the withholding has not been provided; or (3) a good faith effort to resolve the reason for withholding has not been made.

Introduced and referred to House Consumer Affairs Committee, 3/9/2011

[HB 1118](#) RE: Capital Projects Oversight Act (By Rep. Ron Waters, et al)

Establishes the Capital Projects Oversight Board to provide review and oversight of capital projects. The bill provides for the Board's powers and duties. The act would only apply to capital projects involving expenditures over \$5,000,000.

Introduced and referred to House State Government Committee, 3/17/2011

COMPETITIVE BIDDING THRESHOLDS

[SB 281](#) RE: Competitive Bidding Thresholds (by Sen. John Eichelberger, et al)

Rereferred to Senate Appropriations Committee, 3/7/2011

[SB 282](#) RE: Competitive Bidding Thresholds (by Sen. Bob Robbins, et al)

Rereferred to Senate Appropriations Committee, 3/7/2011

[SB 283](#) RE: Competitive Bidding Thresholds (by Sen. Lisa Baker, et al)

Rereferred to Senate Appropriations Committee, 3/7/2011

[SB 284](#) RE: Competitive Bidding Thresholds (by Sen. John Eichelberger, et al)

Rereferred to Senate Appropriations Committee, 3/7/2011

[SB 285](#) RE: Competitive Bidding Thresholds (by Sen. Mike Folmer, et al)

Rereferred to Senate Appropriations Committee, 3/7/2011

[SB 286](#) RE: Competitive Bidding Thresholds (by Sen. John Gordner, et al)

Rereferred to Senate Appropriations Committee, 3/7/2011

[SB 287](#) RE: Competitive Bidding Thresholds (by Sen. Jim Ferlo, et al)

Rereferred to Senate Appropriations Committee, 3/7/2011

[SB 288](#) RE: Competitive Bidding Thresholds (by Sen. John Rafferty et al)

Rereferred to Senate Appropriations Committee, 3/7/2011

[SB 289](#) RE: Competitive Bidding Thresholds (by Sen. Jim Ferlo, et al)

Rereferred to Senate Appropriations Committee, 3/7/2011

[SB 290](#) RE: Competitive Bidding Thresholds (By Sen. Mike Brubaker, et al)

Rereferred to Senate Appropriations Committee, 3/7/2011

[SB 291](#) RE: Competitive Bidding Thresholds (by Sen. Jim Ferlo, et al)

Rereferred to Senate Appropriations Committee, 3/7/2011

BUDGET/TAXES

[HB 1146](#) RE: Apprenticeship Training Tax Credit (by Rep. Ron Waters, et al)

Amends the Tax Reform Code providing for apprenticeship training tax credit. The bill states that for the tax years beginning on or after January 1, 2012, an employer or business firm that employs an apprentice in a qualified apprenticeship training program shall be eligible to claim a tax credit. The credit shall be in an amount equal to \$1 per hour multiplied by the total number of hours worked by an apprentice during the length of an apprenticeship during each income year. The amount of credit allowed for any income year with respect to each apprentice may not exceed \$1,000 or 50 percent of actual wages paid in the income year for the apprenticeship, whichever is less. The credit may not be claimed until the apprentice satisfactorily graduates from the qualified apprenticeship training program.

Introduced and referred to House Finance Committee, 3/22/2011

Upcoming meetings of Interest

MONDAY - 4/4/11

House Judiciary Committee

11:00 a.m., Room 205, Ryan Office Building

To consider: [HB 1](#) (Schroder) - Amends Title 42 (Judiciary) repealing and adding provisions relating to comparative negligence.

House Transportation Committee

WEDNESDAY - 4/6/11

10:00 a.m., Room 205, Ryan Office Building

To consider: [HR 70](#) (Harhart) - Resolution requesting Dept. of Transportation to conduct a study of the slate industry for the purpose of devising the best means of utilizing the slate waste by-product as a component in highway construction & civil engineering projects.

And

[HB 293](#) (Mark Keller) - Amends Title 74 (Transportation) further providing for competitive bidding of contracts relating to metropolitan transportation authorities.

WEDNESDAY - 4/6/11

Senate State Government Committee

10:30 a.m., Room 156 Main Capitol Building

To consider: [SB 637](#) (Ward) - Amends Title 62 (Procurement), in contracts for public works, providing for verification of employment for purposes of wage reporting & employment eligibility; prescribing penalties; & establishing good faith immunity under certain circumstances.

And several other bills.

MONDAY - 4/11/11

Senate Judiciary Committee

9:00 a.m., Hearing Room 1, North Office Building

Public hearing on the use of joint and several liability

Legislative Schedule

2011 SENATE SESSION SCHEDULE

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|-------|---|
| April | 5, 6, 11, 12, 13, 26, 27 |
| May | 2, 3, 4, 9, 10, 11, 23, 24 |
| June | 6, 7, 8, 13, 14, 15, 20, 21, 22, 23, 24, 27, 28, 29, 30 |

2011 HOUSE SESSION SCHEDULE

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|-------|---|
| April | 4, 5, 6, 11, 12, 13, 25 (NV), 26, 27 |
| May | 2, 3, 4, 9, 10, 11, 23, 24, 25 |
| June | 6, 7, 8, 13, 14, 15, 20, 21, 22, 23, 24, 27, 28, 29, 30 |

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

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