

CAWP
Summary of Legislation
November 2011

[Legislative News](#)

Legislature Sets Sights on Construction Issues

The month of November witnessed a number of House committees voting on bills that directly affect the construction industry.

On November 15th, the House Transportation committee voted to remove language in a Public Private Partnership bill (P3) that would have made such projects subject to both the Prevailing Wage Act and the Separations Act. P3 projects are construction projects where a private developer receives government funding to build and operate a toll road, rail line or other transportation project. They are typically multimillion dollar projects and often include buildings as part of their scope. This legislation, **House Bill 3**, had been passed by the committee previously, but was recommitted because the House leadership did not want to vote on the bill with the prevailing wage language in it. Now that the language removing any reference to prevailing wage is out of it, the full House is expected to vote on it. However, amendments will be offered on the floor to restore the language requiring prevailing wages and separate contracts. That vote may also take place as soon as early December.

On the same day, a different P3 bill was being voted on by the Senate Transportation committee. **Senate Bill 344** was amended in committee to strip out the language preserving Separations Act for these projects. The amendment also left in the bill a watered down reference to the prevailing wage law. After discussions with the committee Chairman, Senator John Rafferty, an agreement was reached that the bill would be amended to fix the prevailing wage language and restore the separate primes section before it came before the full Senate for a vote.

Meanwhile, the House still has a bill on its calendar that attempts to greatly scale back the application of the PA Prevailing Wage Act. **House Bill 1271** has remained on the House voting calendar for close to 2 months. That bill would redefine the term "maintenance" in the law to narrow the types of projects covered by it. Amendments have been filed to the bill that would do everything from allow local governments and school districts to opt out of paying prevailing wages to changing the definitions of how each trade is defined. Capitol insiders speculate that the bill has not been voted yet because there are not enough votes to pass it. Stay tuned ...

[Legislative Activity](#)

The following bills were acted on by the General Assembly this month.

PREVAILING WAGE

[HB 709](#) RE: "Public Body" (By Rep. Warren Kampf, et al)

Amends the Pennsylvania Prevailing Wage Act further providing for definitions; and providing for school district options. The definition of the term "public body" would include any political subdivision except a school district or an authority, agency or instrumentality established by one or more school districts. The bill would also provide for school district option to be a public body.

Removed from the table, laid on the table, 11/16/2011

[HB 1191](#) RE: Prevailing Wage (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.

Removed from the table, laid on the table, 11/16/2011

[HB 1271](#) RE: "Public Work" (by Rep. Ron Marsico, et al)

Amends the Pennsylvania Prevailing Wage Act by adding that "public work" includes maintenance/rehabilitation/reconstruction road projects on existing alignment in which 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 3.5 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.

Removed from the table, laid on the table, 11/17/2011

[HB 1541](#) RE: Prevailing Wage (By Rep. Scott Perry, et al)

Amends the Pennsylvania Prevailing Wage Act amending the definition of "public work" to require at least 51 percent of the monies be public funds.

Removed from the table, laid on the table, 11/16/2011

[HB 1685](#) RE: Determination of the Prevailing Wage (By Rep. John Bear, et al)

Amends the Pennsylvania Prevailing Wage Act to place duties on the Department of Labor and Industry regarding the determination of the prevailing wage. Requires each type of work be classified and put on a publicly accessible website. Provides the sources that may be used to determine classifications and requires the classifications to be used until project completion.

Removed from the table, and laid on the table, 11/16/2011

BIDDING / CONTRACTING

[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 from House Transportation Committee, 11/15/2011

[HB 244](#) RE: Professional Construction Management Services (By Rep. Seth Grove, et al)

Amends Public School Code further providing for approved reimbursable rental for certain leases and approved reimbursable sinking fund charges on indebtedness to include the cost of employing or contracting with a construction manager, clerk-of-the-works or other construction administrator to provide professional construction management services; and improvements, including, but not limited to, capital improvements related to school safety to existing buildings. "Professional construction management services" is defined.

Received in the Senate and referred to Senate Education Committee, 11/10/2011

[HB 278](#) RE: Bidding Thresholds (by Rep. Mark Keller, et al)

Amends The Second Class Township Code increasing the minimum dollar amount of purchases that must be made via competitive bid, subject to certain conditions, from a threshold of \$10,000 to \$18,500. Written or telephonic quotes shall be required for all contracts in excess of \$10,000 (increased from \$4,000). The bill provides for annual adjustment based on the CPI-U.

Approved by the Governor, 11/3/2011 (Act No. 84 of 2011)

[HB 279](#) RE: Bidding Thresholds (by Rep. Mark Keller, et al)

Amends The First Class Township Code increasing the minimum dollar amount of purchases that must be made via competitive bid, subject to certain conditions, from a threshold of \$10,000 to \$18,500. Written or telephonic quotes shall be required for all contracts in excess of \$10,000 (increased from \$4,000). The bill provides for annual adjustment based on the CPI-U.

Approved by the Governor, 11/3/2011 (Act No. 85 of 2011)

[HB 283](#) RE: Separations Act Bidding Thresholds (by Rep. Mark Keller, et al)

Amends the Separations Act by increasing the minimum bid requirement from \$4,000 to \$90,000. The legislation provides for the annual adjustment by the Department of Labor and Industry of these amounts based on the Consumer Price Index for urban consumer in Pennsylvania, New Jersey, Maryland, and Delaware.

Reported as amended from House Labor and Industry Committee, read first time, and laid on the table, 11/14/2011

[HB 284](#) RE: Bidding Thresholds (by Rep. Mark Keller, et al)

Amends The County Code increasing the minimum dollar amount of purchases that must be made via competitive bid, subject to certain conditions, from a threshold of \$10,000 to \$18,500. Written or telephonic quotes shall be

required for all contracts in excess of \$10,000 (increased from \$4,000). The bill provides for annual adjustment based on the CPI-U.

Approved by the Governor, 11/3/2011 (Act No. 86 of 2011)

[HB 288](#) RE: Bidding Thresholds (by Rep. Mark Keller, et al)

Amends the Public Auditorium Authorities Law increasing the minimum dollar amount of purchases that must be made via competitive bid, subject to certain conditions, from a threshold of \$10,000 to \$18,500. Written or telephonic quotes shall be required for all contracts in excess of \$10,000 (increased from \$4,000). The bill provides for annual adjustment based on the CPI-U.

Approved by the Governor, 11/3/2011 (Act No. 87 of 2011)

[HB 1602](#) RE: Mechanics' Lien (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.

Reported as amended from House Labor and Industry Committee, read first time, and laid on the table, 11/14/2011

[HB 2028](#) RE: Separations Act (by Rep. Garth Everett, et al)

Amends Public School Code, in grounds and buildings, to allow work in excess of \$10,000 to be done on a single contract. The Separations Act shall not apply. The Board of Trustees and contractors of charter school are not subject to the Separations Act.

Introduced and referred to House Education Committee, 11/18/2011

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

Amends the Third Class County Code increasing the minimum dollar amount of purchases that must be made via competitive bid, subject to certain conditions, from a threshold of \$10,000 to \$18,500. The bill provides for annual adjustment based on the CPI-U.

Approved by the Governor, 11/3/2011 (Act No. 91 of 2011)

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

Amends The Borough Code increasing the minimum dollar amount of purchases that must be made via competitive bid, subject to certain conditions, from a threshold of \$10,000 to \$18,500. Written or telephonic quotes shall be required for all contracts in excess of \$10,000 (increased from \$4,000). The bill provides for annual adjustment based on the CPI-U.

Approved by the Governor, 11/3/2011 (Act No. 92 of 2011)

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

Amends "An act relating to and regulating the contracts of incorporated towns and providing penalties" increasing the minimum dollar amount of purchases that must be made via competitive bid, subject to certain conditions, from a threshold of \$10,000 to \$18,500. Written or telephonic quotes shall be required for all contracts in excess of \$10,000 (increased from \$4,000). The bill provides for annual adjustment based on the CPI-U.

Approved by the Governor, 11/3/2011 (Act No. 93 of 2011)

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

Amends Political Subdivision Joint Purchase Law increasing the minimum dollar amount of purchases that must be made via competitive bid, subject to certain conditions, from a threshold of \$10,000 to \$18,500. Written or telephonic quotes shall be required for all contracts in excess of \$10,000 (increased from \$4,000). The bill provides for annual adjustment based on the CPI-U.

Approved by the Governor, 11/3/2011 (Act No. 94 of 2011)

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

Amends Title 74 (Transportation) adding a chapter providing for public-private transportation partnerships; establishing the Public-Private Transportation Partnership Board; establishing a competitive project selection process; and making a related repeal.

Reported as amended from Senate Transportation Committee, 11/15/2011

[SB 1211](#) RE: Capital Projects (by Sen. Mary Jo White, et al)

Amends the Public School Code further providing for project contracts by stipulating Capital projects which are funded by Commonwealth general obligation bonds, capital appropriations or pursuant to The Fiscal Code may be undertaken pursuant to subsection (a) of the legislation, where the system provides the Department of General Services with written notice of its management of such projects otherwise, responsibility for such projects shall remain with the Department of General Services.

Reported as amended from Senate Education Committee, and read first time, 11/15/2011

Rereferred to Senate Appropriations Committee, 11/16/2011

[SB 1268](#) RE: Capital Budget Act of 2011 for Highways Damaged by Hurricane Irene and Tropical Storm Lee (by Sen. John Gordner, et al)

Appropriates \$74,066,000 for certain infrastructure repairs to be performed by PennDOT. Enumerates where such repairs are to take place and appropriates federal money for this purpose to be used for the construction. Any unused funds may be used to finance projects in the Capital Budget.

Reported as amended from Senate Appropriations Committee, and read first time, 11/14/2011

Amended on Senate floor and read second time, 11/15/2011

Read third time and passed Senate, 11/16/2011 (49-0)

Received in the House and referred to House Appropriations Committee, 11/18/2011

Other Bills of Interest

[HB 1915](#) RE: Disaster Relief Act of 2011 (By Rep. Karen Boback, et al)

Provides a chapter entitled Capital Budget Act of 2011 for Highway-Railroad and Highway Bridges Damaged by Hurricane Irene and Tropical Storm Lee, which appropriates \$75 million for certain infrastructure repairs to be performed by PennDOT. Enumerates where such repairs are to take place and appropriates federal money for this purpose to be used for the construction. Any unused funds may be used to finance funds in the Capital Budget. Provides for a chapter dealing with the Railroad Disaster Assistance Projects Itemization Act of 2011, appropriating \$2 million in general funding for railroad disaster and itemizes disaster mitigation or assistance projects. Allocates federal funding for these purposes to help with the disaster mitigation or assistance. Definitions are also provided.

Introduced and referred to House Transportation Committee, 11/2/2011

[HB 2030](#) RE: Redevelopment Assistance Capital Projects (by Rep. Rosita Youngblood, et al)

Amends the Capital Facilities Debt Enabling Act requiring that the quarterly reports related to redevelopment assistance capital projects also be provided to the Governor and Auditor General. Additionally, the secretary of the Budget is required to provide every five years, or upon request, a report relating to redevelopment assistance capital projects which addresses at least: (1) An itemized list of the redevelopment assistance capital projects approved for release and construction in the preceding five years; (2) An estimate of the amount of funds remaining under the cap; (3) An estimate of the total amount of outstanding debt related to redevelopment assistance capital projects; and (4) An estimate of the amount of outstanding debt related to redevelopment assistance capital projects which will be paid or refinanced in the succeeding five years. The reports shall be available on the Office of the Budget's website. The bill also requires notification no fewer than 45 days prior to execution of a contract to the State senator and State representative in whose districts the redevelopment assistance capital project is located. At least one public informational meeting regarding the redevelopment assistance capital project shall be held within a ten-mile radius of the redevelopment assistance capital project site.

Introduced and referred to House Appropriations Committee, 11/28/2011

Legislative Schedule

2011 SENATE SESSION SCHEDULE

December 5, 6, 7, 12, 13, 14

2011 HOUSE SESSION SCHEDULE

December 5, 6, 7, 12, 13, and 14, 15, 19, 20

2012 SPRING SENATE SESSION SCHEDULE

January 3, 17, 18, 23, 24, 25

February 6, 7, 8

March 5, 6, 7, 12, 13, 14, 26, 27, 28

April 2, 3, 30

May 1, 2, 7, 8, 9, 21, 22, 23

June 4, 5, 6, 11, 12, 13, 18, 19, 20, 25, 26, 27, 28, 29

**** Budget Hearings: February 13, 14, 15, 16, 21, 22, 23, 27, 28, 29 and March 1st.**

2012 SPRING HOUSE SESSION SCHEDULE

January 3 (non-voting), 17, 18, 23, 24, 25

February 6, 7, 8, 13, 14, 15

March 12, 13, 14, 26, 27, 28

April 2, 3, 4, 30

May 1, 2, 7, 8, 9, 21, 22, 23

June 4, 5, 6, 11, 12, 13, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29

**** Budget Hearings: February 21, 22, 23, 24, 27, 28, 29 and March 1, 2, 5, 6, 7, 8, 9**

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

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