

CAWP

Summary of Legislation

June 2008

Budget and related issues moving forward

June 30th is the deadline for the Commonwealth to adopt a budget for the 2008-2009 fiscal year. But that is a deadline that has not been met since the current Governor took office in 2003. The good news for the construction industry is that there are a number of infrastructure initiatives being discussed along with the possibility of a reduction in taxes. The list of proposals includes funding projects for flood control, water and sewer improvements, bridge repairs, prison construction and other capital budget buildings.

UPDATE – July 5, 2008

The Pennsylvania General Assembly passed and the Governor signed legislation authorizing the commonwealth to invest an additional \$350 million to speed the repair of 411 structurally deficient bridges statewide. The legislation also authorizes an additional \$15 million to be spent on airport and rail projects.

Many legislators, particularly in the Senate Republican caucus, are also promoting tax cuts. That caucus is spearheading an effort to reduce the Corporate Net Income tax and make the Net Operating Loss tax provisions more favorable to business. There are also numerous proposals to reduce the Personal Income Tax rate.

KOZ bill amended to include Prevailing Wage and Separate Contracts

After several weeks of vote delays, the PA House of Representatives adopted the McGeehan amendment that makes any project constructed in a KOZ subject to the Prevailing Wage Act and the Separations Act to a bill that extends the life of Keystone Opportunity Zones (KOZ). **House Bill 2297**.

The bill, now in the Senate, faces an uncertain future. The Senate wants a KOZ bill, but without the prevailing wage and separate primes amendment.

Turnpike Lease and the Transportation Development Trust Fund

This month Representative John Maher introduced an amendment to an unrelated land transfer bill ([HB2158](#)) to force a vote on the leasing of the Turnpike in an apparently successful attempt to show lack of support for the lease plan. The amendment failed 185-12.

In related developments, the House Transportation Committee considered [HB2593](#), which is the actual Turnpike Leasing plan. The hearing featured supporters and detractors with the most exciting testimony coming from leasing proponents admitting that the plan will probably generate much less revenue than the Administration is projecting for the state's infrastructure needs. The same proponents stated that even with the lower revenue, the plan was still sound and asked the House Transportation Committee not to vote on the lease until the fall. A later hearing was indeed cancelled, and it does seem likely that there will be no major movement on this issue before the Legislature adjourns.

Legislation, [SB1158](#), that creates the Pennsylvania Transportation Development was voted unanimously out of the Senate and is currently in House Appropriations. The bill provides for transportation infrastructure partnership and development, transportation development agreements, and the review and selection of proposals. The bill also outlines financing for qualifying transportation projects and the power of eminent domain. Lastly, the bill states that the Pennsylvania Turnpike may not be subject to a transfer of oversight responsibilities through a lease, sale or other agreement unless specific authority is granted through an act of law passed by a majority of members of the General Assembly.

[HB 2593](#) Cappelli Regarding Turnpike & I-80

Amends Titles 74 (Transportation) and 75 (Vehicles) further providing for public-private transportation projects for the development, operation and financing of all or part of the Pennsylvania Turnpike; establishing commission powers and duties; providing for additional electronic toll collection methods and certain rights of a private entity; providing for promulgation of regulations related to public-private transportation projects; establishing a public-private transportation fund for the deposit of funds from Turnpike facility projects; providing for the governance of

the commission and a limited exemption from sovereign immunity; further providing for the exemption of private entity parties from fees and certain rights of such parties under regulation of traffic rules; repealing provisions related to the governance of the commission, the conversion of Interstate 80 to a toll road, the lease of Interstate 80 and related payments; further providing for limitation on issuance of bonds backed by Motor License Fund; and making related repeals. The bill would allow the state to lease the Turnpike to a private consortium to raise money for roads, bridges and mass transit.

06-27-08 House Transportation voting meeting has been postponed (TBA), House Transportation

SB 2 Earll Act Regarding Gaming Economic Fund for water projects

Provides for the allocation of all money in the Pennsylvania Gaming Economic Development and Tourism Fund not previously allocated to the Commonwealth Financing Authority for distribution for water or sewer projects, storm water projects, flood control projects and high hazard dam projects. For a ten-year period beginning with the initial deposits, no loans or grants shall be distributed for any project located in a city or county of the first or second class (Philadelphia, Pittsburgh and Allegheny County). The authority would incur indebtedness of up to \$750 million to fund the projects.

06-11-08 S Final Passage (Vote: Y: 50/N: 0)

06-18-08 H Received in the House and referred to House Environmental Resources and Energy

SB 333 Waugh Regarding Prevailing Wage

Amends the PA Prevailing Wage Act by adding that "public work" includes combination rehabilitation/reconstruction projects where non-maintenance items exceed 15% 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 three and a half inches thick or up to four hundred twenty 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 or 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. The bill adds that "public work" means construction where the estimated cost of the total project is in excess of \$175,000 (increased from \$25,000). For the 12 month period beginning December 1, 2007, through November 30, 2008, and every year thereafter, the estimated cost threshold for public work projects would be increased by an annual cost adjustment. Amends the PA Prevailing Wage Act by adding that "public work" includes combination rehabilitation/reconstruction projects where non-maintenance items exceed 15% 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 three and a half inches thick or up to four hundred twenty 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 or 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.

6-27-07 Laid on the table

SB 1158 Madigan Regarding transit infrastructure dev.

Amends Title 74 (Transportation) providing for transportation infrastructure partnership and development. The bill provides for transportation development agreements, terms and conditions of transportation development agreements, and the review and selection of proposals. The bill outlines financing for qualifying transportation projects and the power of eminent domain. The legislation creates the Pennsylvania Transportation Development Trust Fund and provides for its permitted uses. A regional mobility authority would be eligible to receive transportation development revenues directly from the fund or from a regional mobility fund. The bill requires PennDOT to adopt interim guidelines within six months and final regulations within two years for implementing the provisions of the legislation; and sets a 60-day window for the solicitation of competing bids for an unsolicited proposal by the State Transportation Commission or another proprietary public entity. Lastly, the bill states that the Pennsylvania Turnpike may not be subject to a transfer of oversight responsibilities through a lease, sale or other

agreement unless specific authority is granted through an act of law passed by a majority of members of the General Assembly.

06-26-08 S Final Passage (Vote: Y: 49/N: 0)

06-27-08 H Received in the House and referred to House Appropriations

SB 1385 Corman Regarding taxable income def.

Amends the Tax Reform Code, further providing, in corporate net income, for the definition of "taxable income" by adding that the net loss deduction would be, for taxable years beginning after December 31, 2007, the greater of 20% of the taxable income or \$5,000,000. The total net loss deduction allowed in any taxable year may not exceed the greater of 20% of the taxable income or \$5,000,000 for taxable years beginning after December 31, 2007.

06-11-08 S Set on the Senate Calendar

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

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