

CAWP

Summary of Legislation

March 2009

Subcommittee Hears Testimony on Stimulus for Infrastructure

On March 26th, the House Appropriations committee's subcommittee on Economic Impact and Infrastructure held a public hearing on Rebuild Pennsylvania and the American Recovery and Reinvestment Act (ARRA). Testimony was provided by a wide range of individuals including the Secretaries and Deputy Secretaries of various state agencies, representatives of the building trades, representatives of municipal authorities and the Associated Pennsylvania Constructors.

Allen Biehler, Secretary of the Department of Transportation (PennDOT), highlighted the \$1.026 billion Pennsylvania will receive for highway and bridge construction, as well as a number of other funding streams that will fall under the transportation umbrella. They include shares of federal allocations totaling \$9.3 billion for inner city and commuter rail, \$1.3 billion for aviation, \$8.4 billion for transit program funding, and \$1.5 billion for competitive grant discretionary funding. He noted that the proportion of those funds over which the state itself will have discretion is generally small.

In general, the testifiers from the construction industry lauded the funding for helping address the Commonwealth's transportation needs. However, these one time funds do not come close to solving the infrastructure funding crisis. Many of the jobs created will disappear after a year or so once the ARRA funds have been spent. There was also discussion about public-private partnerships and the need to develop a sustainable transportation funding plan.

Anti-Prevailing Wage Construction Bills Piling Up

Each session, numerous legislative proposals are introduced that would make it harder for the unionized construction industry. In the past couple of weeks, a slew of such bills have been offered. Many of them amend the Prevailing Wage Act. For example, Senate Bills 646 through 649 would do everything from redefine what constitutes "maintenance" under the Act to allowing local governments to opt out of paying prevailing wages. The maintenance bills are an attempt to reverse a PA Supreme Court decision that determined that road milling work is covered by prevailing wage law. House Bill 787 does the same thing. The "opt out" bills are just another way of narrowing the scope of the Act.

Another recently introduced bill, Senate Bill 677, mandates that the apprenticeship ratio for all industries and all trades be set at one to one. Add to the list Senate Bill 563 which would amend the mechanic's lien law by undoing some of the hard won improvements enacted in 2006. There is also a package of bills that increase public advertising and bidding thresholds for local governments. The bills raise the thresholds from \$10,000 to \$25,000 for virtually any type of political subdivision, from boroughs to school districts. As the bills are currently written, this threshold increase would apply to construction projects. However, we expect an amendment exempting construction from the new thresholds to be adopted before the bills pass the Senate.

Pennsylvania's Stimulus Program Takes Shape

The details of "how" and "for what" are taking shape as Governor Ed Rendell moves forward with plans for spending the Commonwealth's share of the federal stimulus funds. Pennsylvania's total share is estimated to be about 10.4 billion dollars. More than \$1 billion is directed towards highway and bridge projects. In March, Governor Rendell signed three letters of certification confirming that over \$1 billion in federal stimulus money will be spent by Pennsylvania on transportation projects in compliance with federal highway standards. He estimated that within 90 days, thousands of Pennsylvanians will begin going to work on construction projects around the state. The State is in line for even more to be used for mass transit, aviation and rail projects. Additional categories such as "community and economic development", "energy investments", "housing", and "education and training" may also involve construction work. That is particularly the case with some of the education and energy dollars that are likely to be used for school or other public building construction/renovations.

The Governor has named the Secretary of the Department of General Services, Jim Creedon, to serve as the stimulus Czar. Creedon is charged with making sure that the funds are spent responsibly and within the scope of their intended purpose. Work groups have been established by various state agencies to map out the spending plans. Penn Dot has even posted a list of economic recovery project on its web site. In short, the Administration is underway with its efforts to role out projects. But battle lines are already being drawn with the Legislature. In light of the stimulus funding, Republicans in both the House and Senate are urging the Governor to redo the Commonwealth budget he proposed in February. Rendell has already said he doesn't plan on doing that. The Governor also commented on a proposal by Senator Mike Brubaker (R-Lancaster) to create a state Commission on Stimulus Accountability, saying "I would veto such a bill." Republicans will raise the question of whether or not the Administration can legally spend monies not authorized by the Pennsylvania Legislature. Expect to hear more debate on this in the coming weeks and months.

Legislative Activity

PREVAILING WAGE

[HB 787](#) RE: Definition of "Public Work" (by Rep. Ron Marsico, et al)

Amends the PA Prevailing Wage Act by adding that "public work" includes combination rehabilitation/reconstruction projects where 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 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 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.

Referred to House Labor Relations Committee, 3/6/2009

[HB 1048](#) RE: Public Work (by Rep. Stan Saylor, et al)

Amends the Pennsylvania Prevailing Wage Act further providing for the definition of "public work" by increasing the estimated cost of a project that must use prevailing wage from \$25,000 to \$185,000. The bills provides for annual adjustment based on the consumer price index.

Referred to House Labor Relations Committee, 3/23/2009

[SB 646](#) RE: "Maintenance Work" (by Sen. Mike Waugh, et al)

Amends the Pennsylvania Prevailing Wage Act by amending the definition of "maintenance work" to include actions taken on roads as described in the legislation and the definition of "public work" adding language providing the term includes combination rehabilitation/ reconstruction projects where non-maintenance items exceed 15% of the total project cost.

Referred to Senate Labor and Industry Committee, 3/19/2009

[SB 647](#) RE: "Maintenance Work" (by Sen. Mike Waugh, et al)

Amends the Pennsylvania Prevailing Wage Act by amending the definition of "maintenance work" to include actions taken on roads as described in the legislation and the definition of "public work" adding language increasing the minimum amount of the estimated cost of the total project from \$25,000 to \$175,000 and providing the term includes combination rehabilitation/reconstruction projects where non-maintenance items exceed 15% of the total project cost.

Referred to Senate Labor and Industry Committee, 3/19/2009

[SB 648](#) RE: Prevailing Wage (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.

Referred to Senate Labor and Industry Committee, 3/19/2009

[SB 649](#) RE: Prevailing Wage (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 & Industry and shall include the date that the ordinance or resolution became effective.

Referred to Senate Labor and Industry Committee, 3/19/2009

APPRENTICESHIP TRAINING

[HB 1078](#) RE: Apprenticeship Training Tax Credit (by Rep. Ron Waters, et al)
Amends the Tax Reform Code providing for apprenticeship training tax credit.

Referred to House Finance Committee, 3/24/2009

[HB 1096](#) RE: Apprenticeship and Training Act (by Rep. Scott Boyd, et al)

Referred to House Labor Relations Committee, 3/25/2009

[SB 677](#) RE: Apprenticeship and Training Council (by Sen. Rob Wonderling, et al)

Amends the Apprenticeship and Training Act further providing for powers and duties of the council by adding that the numeric ratio of apprentice to skilled journey person established by the program sponsor must be established in consideration of the necessary proper supervision, training, safety and continuity of employment of the apprentice throughout the apprenticeship. The standard ratio for all trades in all industries shall be one to one.

Referred to Senate Labor and Industry Committee, 3/23/2009

LAWSUIT ABUSE REFORM

[HB 530](#) RE: Lawsuit Certificate of Merit (by Rep. Mike Turzai, et al)

Amends Title 42 (Judiciary and Judicial Procedure) by stating that no cause of action asserting a professional liability claim may be filed with the court unless a certificate of merit is included. When filing, the plaintiff would include with the complaint a certificate of merit containing a written and signed statement from an appropriate licensed professional, identified by name and professional designation. A person must meet certain criteria to execute a certificate of merit or offer an expert opinion in a professional liability action.

Referred to House Judiciary Committee, 3/3/2009

ALLEGHENY COUNTY PORT AUTHORITY

[HB 535](#) RE: Allegheny Port Authority (by Rep. Mike Turzai, et al)

Amends the Second Class County Port Authority Act removing language providing the authority exclusive jurisdiction with respect to all matters regarding its transportation system within the service area as set forth in the plan of operation or as from time to time changed in the section. The bill also removes language granting the authority the exclusive right to operate a transportation system within the service area as set forth in the plan of integrated operation.

Referred to House Transportation Committee, 3/3/2009

MINORITY OR VETERAN-OWNED BUSINESS

[HR 78](#) RE: Minority-owned businesses (by Rep. Jake Wheatley, et al)

Resolution providing for the establishment of a select committee to investigate the degree to which minority-owned business enterprises, women-owned business enterprises and disadvantaged-owned business enterprises have been utilized in contracts awarded by the Commonwealth of Pennsylvania.

Adopted, 3/25/2009 (192-0)

[SB 162](#) RE: Veteran-owned Businesses (by Sen. Tommy Tomlinson, et al)

Amends Title 62 (Procurement) adding a chapter related to veteran-owned businesses, outlining a goal of 5% participation by veteran-owned businesses for all agencies authorized by law to enter into contracts for itself or as the agent of another Commonwealth agency. The bill provides for the duties of the Department of General Services in assisting veteran-owned businesses, and for the establishment of business assistance offices throughout the state. The bill also provides for reports made to the Veterans Affairs and Emergency Preparedness committees of the House and Senate, and for compliance with federal requirements.

Re-referred to Senate Appropriations Committee, 3/23/2009

SEWER, WATER AND GAS LINES

[SB 205](#) RE: Sewer Systems Connections (by Sen. John Pippy, et al)

Amends the act entitled "An act to provide for and regulate the accumulation, investment, and expenditure of funds by cities, boroughs, incorporated towns and townships for preparing plans for sewage disposal systems, and for the construction, improvement or replacement of sewage disposal systems for which plans have been approved by the Sanitary Water Board of the Commonwealth," further providing for definitions and allowing municipalities and municipal authorities to use public funds for the improvement, extension, repair or rehabilitation of private lateral sewer lines connected to public sewer systems; providing requirements and definitions.

Referred to Senate Environmental Resources and Energy committee, 2/19/2009

Reported as committed from Senate Environmental Resources and Energy Committee and read first time, 3/17/2009

Rereferred to Senate Appropriations Committee, 3/23/2009

[HB 744](#) RE: Ownership of Gas Service Lines

Amends Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, providing for rates and ratemaking, providing for sliding scale of rates and adjustments; and, in service and facilities, further providing for ownership and maintenance of natural gas and artificial gas service lines.

Referred to committee on Consumer Affairs, March 5, 2009

INDEPENDENT CONTRACTOR

[HB 400](#) RE: Construction Industry Independent Contractor Act (by Rep. Bryan Lentz, et al)

For the purposes of the Minimum Wage Act, the Wage Payment and Collection Law, the Unemployment Compensation Law and the Workers' Compensation Act, an individual engaging in or performing services in the commercial or residential building construction industry for remuneration is presumed to be an employee unless: (1) the individual has been and will continue to be free from control or direction over performance of such services both under the contract of service and in fact; and (2) as to such services, the individual is customarily engaged in an independently established trade, occupation, profession or business. The bill outlines twelve criteria for deeming an individual to be an independent contractor in the construction industry and states improper classification of employees is subject to penalties, remedies or actions outlined in the legislation. The Department of Labor and Industry shall annually report to the General Assembly detailing data on the previous calendar year's administration and enforcement of this act.

Referred to House Labor Relations Committee, 3/19/2009

House Labor Relations Committee Meeting set for April 2, 2009, 9:30 a.m., Room 8E-A, East Wing

WORKERS' COMPENSATION

[HB 900](#) RE: WC Appeals (By Rep. Gordon Denlinger, et al)

Amends the Workers' Compensation Act providing for appeals concerning the State Workers' Insurance Fund and establishing the State Workers' Insurance Appeal Board. The legislation states a subscriber aggrieved by the application of the board's auditing or premium findings has the right to a hearing before the appeal board, in person or by the subscriber's authorized representative, on the findings. A subscriber must exhaust the fund's policy dispute procedures before filing an appeal. The legislation provides for the membership of the board.

Referred to House Labor Relations Committee, 3/12/2009

[HB 1094](#) RE: Workers Comp Schedules (by Rep. Jesse White, et al)

Amends the Workers' Compensation Act further providing for schedules of compensation.

Referred to House Labor Relations Committee, 3/25/2009

FREE-ENTERPRISE

[SB 530](#) RE: Free Enterprise and Taxpayer Protection Act (by Sen. Pat Browne, et al)

Prohibits governments and other public bodies from funding, capitalizing, securing the indebtedness of, or leasing the obligations of, or subsidizing, any charitable or not-for-profit institution which would use such support to compete against private enterprise. The bill provides for excepted functions and services and authorizes those entities already in operation to continue operating.

Referred to Senate State Government Committee, 3/2/2009

MECHANICS LIEN

[HB 1101](#) RE: Mechanics' Lien (by Rep. Rich Grucela, et al)

Amends the Mechanics' Lien Law further providing for definitions, for right to lien and amount, for waiver of lien by claimant, for contents of claim and for priority of lien.

Referred to House Judiciary Committee, 3/25/2009

[SB 563](#) RE: Mechanics' Lien Law (by Sen. Pat Browne, et al)

Amends the Mechanics' Lien Law further providing for definition of "residential property", for waiver of lien by claimant, for right to limit claims to unpaid balance of contract price and for priority of lien. The legislation states the maximum amount for which an interest in real property may be subject to a lien for one or more lien claims filed shall not be greater than the price of the contract between the owner and the contractor less the amount of payments made by the owner to the contractor or to another lien claimant prior to receipt by the owner of a notice of intention to file a lien claim pursuant to section 501. The bill provides for liens file by subcontractors.

Referred to Senate Labor and Industry Committee, 3/2/2009

BIDDING THRESHOLDS

The following bills concern increasing the bidding thresholds and advertisement requirements on certain public work. If you require a summary of any of these bills, please contact CAWP at (412) 343-8000.

[SB 317](#) RE: County Contract Bidding Thresholds (by Sen. John Eichelberger, et al)

Referred to Senate Local Government Committee, 2/20/2009

Reported as committed from Senate Local Government Committee, and read first time, 3/25/2009

[SB 318](#) RE: Third Class City Contract Bidding Thresholds (by Sen. Bob Robbins, et al)

Referred to Senate Local Government Committee, 2/20/2009

Reported as committed from Senate Local Government Committee, and read first time, 3/25/2009

[SB 319](#) RE: Second Class Township Contract Bidding Thresholds (by Sen. Lisa Baker, et al)

Referred to Senate Local Government Committee, 2/20/2009

Reported as committed from Senate Local Government Committee, and read first time, 3/25/2009

[SB 320](#) RE: First Class Township Contract Bidding Thresholds (by Sen. John Eichelberger, et al)

Referred to Senate Local Government Committee, 2/20/2009

Reported as committed from Senate Local Government Committee, and read first time, 3/25/2009

[SB 321](#) RE: Boroughs Contract Bidding Thresholds (by Sen. Jake Corman, et al)

Referred to Senate Local Government Committee, 2/20/2009

Reported as committed from Senate Local Government Committee, and read first time, 3/25/2009

[SB 322](#) RE: Contract Bidding Thresholds (by Sen. John Gordner, et al)

Referred to Senate Local Government Committee, 2/20/2009

Reported as committed from Senate Local Government Committee, and read first time, 3/25/2009

[SB 323](#) RE: Intergovernmental Units Contract Bidding Thresholds (by Sen. Jim Ferlo, et al)

Referred to Senate Local Government Committee, 2/20/2009

[SB 324](#) RE: Second Class County Contract Bidding Thresholds (by Sen. John Rafferty, et al)

Referred to Senate Local Government Committee, 2/20/2009

Reported as committed from Senate Local Government Committee, and read first time, 3/25/2009

[SB 325](#) RE: Contract Bidding Thresholds (by Sen. Jim Ferlo, et al)

Referred to Senate Local Government Committee, 2/20/2009

Reported as committed from Senate Local Government Committee, and read first time, 3/25/2009

[SB 326](#) RE: Political Subdivision Joint Purchase Law Contract Bidding Thresholds (by Sen. Mike Brubaker, et al)

Referred to Senate Local Government Committee, 2/20/2009

Reported as committed from Senate Local Government Committee, and read first time, 3/25/2009

[SB 328](#) RE: Flood Control Contract Bidding Thresholds (by Sen. John Eichelberger, et al)

Referred to Senate Environmental Resources and Energy Committee, 2/20/2009

Reported as committed from Senate Environmental Resources and Energy Committee, and read first time, 3/17/2009

Re-referred to Senate Appropriations Committee, 3/23/2009

[HB 383](#) RE: Competitive Bidding (by Rep. Doug Reichley, et al)
Referred to House State Government Committee, 3/12/2009

[HB 1011](#) RE: Second Class Township Bidding Thresholds (by Rep. Mark Keller, et al)
Referred to House Local Government Committee, 3/19/2009

[HB 1012](#) RE: First Class Township Bidding Thresholds (by Rep. John Payne, et al)
Referred to House Local Government Committee, 3/19/2009

[HB 1013](#) RE: Third Class Cities Bidding (by Rep. Mark Keller, et al)
Referred to House Local Government Committee, 3/19/2009

[HB 1014](#) RE: Boroughs Bidding Thresholds (by Rep. Mauree Gingrich, et al)
Referred to House Local Government Committee, 3/19/2009

[HB 1015](#) RE: Bidding Thresholds (by Rep. Dave Millard, et al)
Referred to House Local Government Committee, 3/19/2009

[HB 1017](#) RE: Bidding Thresholds (by Rep. Mark Keller, et al)
Referred to House Local Government Committee, 3/19/2009

[HB 1018](#) RE: County Bidding Thresholds (by Rep. David Hickernell, et al)
Referred to House Local Government Committee, 3/19/2009

Remaining Spring 2009 Session Schedules

SENATE SESSION SCHEDULE FOR MARCH – JUNE 2009

March 30, 31

April 1, 20, 21, 22, 27, 28, 29

May 4, 5, 6, 11, 12, 13

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

HOUSE SESSION SCHEDULE FOR MARCH – JUNE 2009

March 30, 31

April 1, 20, 21, 22, 27, 28, 29

May 4, 5, 6, 11, 12, 13

June 1, 2, 3, 8, 9, 10, 15, 16, 17, 22, 23, 24, 25, 26, 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>.