

CAWP

Summary of Legislation

June 2009

Budget Stalemate Likely To Continue

Even though the Pennsylvania constitution requires that the state budget be enacted by June 30th, the Commonwealth has missed that deadline for the 7th consecutive year. This year's impasse is much more serious than previous years, however, as the country's economic downturn has left this and nearly every state with far less revenue than anticipated. How to balance the 2009-2010 budget is now at the heart of the stalemate. While Governor Rendell calls for an increase in the Personal Income Tax (PIT), Republicans are advocating more spending cuts to balance the books. Even if the Democratic House followed the Governor's lead, a budget can't get done without the Republican Senate buying into the plan. In short, no budget deal is expected in the next couple of weeks. In fact, most Capitol insiders believe that the deadlock will drag into August.

Area Lawmakers introduce Legislation to Fight I-80 Tolls

Several local lawmakers – including Reps. Michele Brooks (R-Crawford/Mercer/Lawrence), Dick Stevenson (R-Mercer/Butler), Brad Roae (R-Crawford) and Scott Hutchinson (R-Venango/Butler) – are encouraging residents to renew their fight against a plan to toll Interstate 80 as state officials are beginning discussions to resubmit their proposal to the federal government.

House Bill 1732, which was introduced in June, would repeal the provisions in Act 44 relating to the tolling of Interstate 80 and prohibit the Turnpike Commission from reapplying to the United States Department of Transportation for the tolling of Interstate 80.

This legislation comes as PennDOT and the Commission begin meeting with the Federal Highway Administration (FHWA) to review the failed application from last year in hopes of resubmitting it.

Business Privilege Tax Bill Awaiting Action in Senate

A bill that would prevent contractors from having to pay the local business privilege tax in any municipality where they have a project is on the move in the Senate. Senate Bill 601 has been rereferred to the Senate Appropriations Committee after previously passing out of the Senate Finance committee. This bill is in reaction to a 2007 State Court ruling that expanded a municipality's ability to tax anyone conducting business within city limits. The State Supreme Court ruling in *V.L. Rendina v. Harrisburg* found that a contractor can be required to pay the local business privilege tax even if the contractor does not have a permanent office within city limits. As contractors often have construction trailers at job sites, the ruling could cost contractors a great deal of money.

Committee Votes Along Party Lines On Prevailing Wage Amendment

The Senate Labor and Industry committee approved a bill that would make it more difficult to debar companies that are found guilty of intentionally violating the act. **Senate Bill 951** would protect contractors from debarment until the 3rd intentional offence. Although the committee voted to increase penalties for first time violators, the Senators split along party lines on the bill. All Democrats voted against the bill, while the Republicans voted for it.

The prime sponsor of Senate Bill 951, **Senator Chuck McIlhinney**, explained that his impetus to introduce the bill was the debarment of a company in his district, Worth Construction. The

Democratic Chair of the Committee, **Senator Tina Tartaglione**, argued that companies that violate the law should face serious consequences for intentional violations. The bill was reported out of committee, but it is not expected to be voted by the full Senate. The Senate as a whole is not thought to favor legislation aimed at weakening the Prevailing Wage Act.

E-Verify Is Subject of PA House Hearing

On June 11th, the House Labor Relations Committee heard testimony on a pair of bills that would require Pennsylvania companies engaged in construction work to utilize the e-verify system to confirm that their employees are U.S citizens. **House Bills 1502** amends the state procurement law while House **Bill 1503** establishes a new law entitled the Commonwealth Industry Employment Verification Act. The hearing was often lively, particularly when the service employees union (SEIU), which opposes the bills, alluded that some of their members were illegal aliens. The state Chamber of Business and Industry joined organizations representing home builders and open shop contractors in testifying against the bills. Representatives of the building trades and the Center for Immigrations studies offered testimony supporting the bills. Based on the questions and answers, it was obvious that the House members on the committee are strongly in favor of the legislation.

Rep. John Galloway, prime sponsor of the measures, stated, "Illegal workers and the dishonest contractors are pushing hard working, skilled Pennsylvanians from the payrolls to the unemployment rolls. This situation undercuts wages and the quality working conditions our workers deserve." He characterized his bills as measures that "will put Pennsylvanians back to work" by making it much harder for employers to intentionally hire illegal aliens because they would require employers to verify their workers' employment eligibility.

The Committee has not yet scheduled a meeting to vote on these two bills.

Mechanics Lien Law Revisited

The Senate is considering modifications to the PA Mechanic's Lien law which was overhauled in 2006. The currently pending legislation, **Senate Bill 563**, simply redefines what constitutes "residential" projects. Under the current law, contractors can still waive their lien rights on residential construction contracts worth less than \$1 million. Contractors are not permitted to waive their rights on non-residential projects under the law enacted in 2006. Senate Bill 563 redefines "residential" by eliminating the million dollar threshold and replacing it with a new definition that describes a residential project as being any town house or single family dwelling of 3 stories or less not including the basement.

The bill is intended to prevent problems that have occurred at housing developments where the general contractor has gone bankrupt and the subs file liens against the home owners. The bill is expected to be voted on by the full Senate before the Legislature's summer break. While there is no organized opposition to the bill in its current form, several organizations are interested in amending the law to undue some of the changes made in 2006. As a result, the legislation bears close watching.

Legislative Activity

BUDGET BILLS

[HB 1418](#) RE: Capital Budget Act of 2009-2010 (by Rep. Dwight Evans, et al)

Provides for the capital budget for the fiscal year 2009-2010.

Reported as committed from House Appropriations Committee, read first time, and Rereferred to House Rules Committee, 6/16/2009

Reported as committed from House Rules Committee and Rereferred to House Appropriations Committee, 6/17/2009

[SB 850](#) RE: The General Appropriations Act of 2009 (By Sen. Jake Corman)

The Senate Republicans 2009-10 budget. Provides from the General Fund for the expenses of the Executive, Legislative and Judicial Departments of the Commonwealth, the public debt and the public schools for the fiscal year July 1, 2009, to June 30, 2010, for certain institutions and organizations, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 2009; to provide appropriations from the State Lottery Fund, the Energy Conservation and Assistance Fund, the Hazardous Material Response Fund, The State Stores Fund, the Milk Marketing Fund, the Home Investment Trust Fund, the Emergency Medical Services Operating Fund, the Tuition Payment Fund, the Banking Department Fund, the Firearm Records Check Fund, the Ben Franklin Technology Development Authority Fund and the Tobacco Settlement Fund to the Executive Department; to provide appropriations

from the Judicial Computer System Augmentation Account to the Judicial Department for the fiscal year July 1, 2009, to June 30, 2010; to provide appropriations from the Motor License Fund for the fiscal year July 1, 2009, to June 30, 2010, for the proper operation of the several departments of the Commonwealth and the Pennsylvania State Police authorized to spend Motor License Fund moneys; to provide for the appropriation of Federal funds to the Executive Department of the Commonwealth and for the payment of bills remaining unpaid at the close of the fiscal year ending June 30, 2009; to provide for the additional appropriation of Federal and State funds from the General Fund, from the State Lottery Fund and from the Tobacco Settlement Fund for the Executive Department of the Commonwealth for the fiscal year July 1, 2008 to June 30, 2009, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 2008; and making interfund transfers for the fiscal year July 1, 2008, to June 30, 2009.

Passed Senate, 5/6/2009 (30-20)

Defeated in House Appropriations Committee, 6/8/2009

LIABILITY ISSUES

[HB 1679](#) RE: False Claims Act (By Rep. Mike Gerber, et al)

Intended to mirror the Federal False Claims Act. The Act provides certain definitions and allows for treble damages for committing any one of the enumerated prohibited acts. The bill also provides for the requirements of when damages can be limited. The bill allows the Attorney General of Pennsylvania to investigate and prosecute violations, as well as provides rules for when and how qui tam plaintiffs may bring an action. Furthermore, provides anti-retaliatory discharge provisions to protect qui tam plaintiffs, and establishes a ten-year statute of limitations, the burden of proof, and provides for estoppel after plea agreements.

Introduced and referred to House Health and Human Services Committee, 6/12/2009

Removed from House Health and Human Services committee agenda, 6/24/2009

SMALL BUSINESS ISSUES

[HB 1089](#) RE: Mini-COBRA Small Employer Group Health Plan and Premium Assistance Act (by Rep. Rob Matzie, et al)

Provides Commonwealth citizens the opportunity to take full advantage of the Federal premium assistance program so the cost of health insurance coverage for the unemployed can be minimized when possible, and which will survive beyond the temporary relief provided in the Federal act. Persons, and the eligible dependents of the persons, who are employed by an employer that normally employed between two and nineteen employees on a typical business day during the preceding year and are not receiving social security benefits are eligible.

Passed House, 4/22/2009 (191-1)

Reported as committed from Senate Appropriations Committee, 6/1/2009

Read third time, and passed Senate, 6/3/2009 (49-0)

Approved by the Governor 6/10/2009. Act No. 2 of 2009

[SB 89](#) RE: HC4 Reinstatement (by Sen. Patricia Vance, et al)

Amends the Health Care Cost Containment Act further providing for policy declaration, for definitions, for the Health Care Cost Containment Council and its powers and duties, for data submission and collection and for access to council data; establishing the Health Care Cost Containment Council Act Review Committee to review and recommend changes to the act; and extending the sunset of act to June 30, 2014.

Read third time and Passed House, 6/1/2009 (191-0)

Received as amended in Senate and rereferred Senate Rules and Executive Nominations Committee, 6/2/2009

Re-reported on concurrence as committed from Senate Rules and Executive Nominations, 6/2/2009

Senate concurred in House amendments, 6/3/2009 (49-0)

Approved by the Governor, 6/10/2009. Act No. 3 of 2009

[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)

Select Committee established: Wheatley, Chair, Buxton, Thomas, Josephs, Beyer, Mustio and Sonney, 4/27/2009

Public hearing held in House Select Committee 5/20/2009

Public hearing held in House Select Committee 6/1, 6/15, and 6/29/2009

LOCAL/STATE GOVERNMENT/REGULATIONS

[SB 235](#) RE: Flood Control Law (by Sen. John Wozniak, et al)

Amends the Flood Control Law, modifying and adding several definitions, and providing for the duties of DEP related to Surveys and Plans, and outlining its powers and responsibilities with respect to Federal Flood Control Works and Improvements, Contracts and Acquisition of Property, eminent domain, and federal regulations.

Reported as committed from Senate Environmental Resources and Energy Committee, and read first time, 6/16/2009

Rereferred to Senate Appropriations Committee, 6/30/2009

LICENSURE

[HB 1551](#) RE: Crane Operator Licensure (by Rep. Don Walko, et al)

Amends the Crane Operator Licensure Act further providing that an individual shall be eligible to licensure without certification until December 9, 2011.

Reported as committed from House Professional Licensure Committee, read first time, and rereferred to House Rules Committee, 6/16/2009

Re-reported as committed from House Rules Committee, and rereferred to House Appropriations Committee, 6/22/2009

Reported as committed from House Appropriations Committee, and read second time, 6/23/2009

Read third time and passed House, 6/24/2009 (195-0)

Received in the Senate and referred to Senate Consumer Protection & Prof. Licensure Committee, 6/26/2009

PREVAILING WAGE

[SB 951](#) RE: Prevailing Wage Act Violations (By Sen. Chuck McIlhinney, et al)

Amends the Pennsylvania Prevailing Wage Act further providing for remedies and penalties by stipulating that in the event that the secretary shall determine that any person or firm has failed to pay the prevailing wages and that such failure was intentional, the secretary is authorized to assess and collect administrative penalties up to five times the amount of underpayment of wages for the first offense, up to ten times the amount of underpayment of wages for a second offense and, if a third violation occurs within ten years from the first notice, the secretary shall notify all public bodies of the name of the person or firm and no contract shall be awarded to the person or firm or to any firm, corporation or partnership in which the person or firm has an interest until three years have elapsed from the date of the notice of the third offense.

Introduced and referred to Senate Labor and Industry Committee, 6/11/2009

Reported as amended from Senate Labor and Industry Committee, and read first time, 6/23/2009

BIDDING

[SB 693](#) RE: Transportation Infrastructure (by Sen. John Rafferty, et al)

Amends Title 74 (Transportation) adding a part entitled Transportation Infrastructure. The bill establishes that a proprietary public entity has full authority to enter into a transportation development agreement with an authorized development entity or entities governing the development or operation of all or any portion of a transportation facility, with exceptions. The bill authorizes certain project activities, and stipulates that the Transportation Commission shall serve as the primary repository for all materials relating to the review and approval of transportation development agreements that involve transportation facilities that receive funding from the Commonwealth or result in the proprietary public entity disposing of or relinquishing its control over the transportation facilities. The bill outlines rules governing solicited and unsolicited proposals, negotiations, federal credit assistance, adverse interests, and confidentiality of records.

Reported as committed from Senate Transportation Committee, and read first time, 6/16/2009

Rereferred to Senate Appropriations Committee, 6/30/2009

NEW BILLS INTRODUCED

The following bills have been introduced since the last report.

[HB 1732](#) RE: Tolling of I-80 (by Rep. Scott Hutchinson, et al)

Amends Title 75 (Vehicles) by repealing the provisions relating to the tolling of Interstate 80 and by not allowing the commission to reapply to the United States Department of Transportation for the tolling of Interstate 80.

Introduced and referred to House Transportation Committee, 6/17/2009

[HB 1502](#) RE: E-Verify (By Rep. John Galloway, et al)

Amends Title 62 (Procurement), in contracts for public works, requiring verification of Social Security numbers of all employees of public works contractors contracting with the Commonwealth for purposes of wage reporting and employment eligibility. The bill prescribes penalties and establishes good faith immunity, stipulating that a contractor or subcontractor that relies in good faith on NVS and EVP procedures to verify employee SSNs shall be immune from sanctions in the event incorrect information is provided.

Introduced and referred to House Labor Relations Committee, 6/2/2009

Public hearing held in House Labor Relations Committee 6/11/2009

[HB 1503](#) RE: E-Verify (By Rep. John Galloway, et al)

The Commonwealth Industry Employment Verification Act requires construction industry employers to verify the Social Security numbers of all employees for purposes of wage reporting and employment eligibility. The bill provides for powers and duties of the Department of Labor & Industry, prescribes penalties and establishes good faith immunity, stipulating that a contractor or subcontractor that relies in good faith on NVS and EVP procedures to verify employee SSNs shall be immune from sanctions in the event incorrect information is provided.

Introduced and referred to House Labor Relations Committee, 6/2/2009

Public hearing held in House Labor Relations Committee 6/11/2009

[HB 1760](#) RE: Prevailing Wage Overtime (by Rep. Mark Keller, et al)

Amends the Pennsylvania Prevailing Wage Act further providing for administration by adding that the secretary would not require the payment of an applicable overtime premium on that portion of the required hourly wage rate which reflects cash payment for employee benefits pursuant to a bona fide collective bargaining agreement.

Introduced and referred to House Labor Relations Committee, 6/23/2009

SENATE SESSION SCHEDULE FOR JULY 2009

July 1, 2, 3

HOUSE SESSION SCHEDULE FOR JULY 2009

July 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31

More days may be added as needed to pass the FY 2009-2010 state budget.

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

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