



PAACC Pennsylvania Update

October 1, 2018

PAACC State Capitol Snap Shot

The was scheduled to return from summer recess on Sept. 12, but changed their first two session days to non-voting sessions. The Senate reconvened on September 24.

UPCOMING SESSION DAYS

House

October 1 (NV), 2 (NV), 9, 10, 15, 16, 17

November 13

Senate

October 1, 2, 3, 15, 16, 17

November 14

The two top stories in the Capitol the past month have been the grand jury report of sexual abuse by Catholic priests in Pennsylvania and the upcoming elections. The legislature has been grappling with how to best respond to the grand jury report with several being introduced in the House and Senate to protect victims and extend the statute of limitations. With the elections approaching quickly on November 6 and few session days before the election, campaigns have been top of mind.

Labor

Legislation to Ensure Public Employees Are Aware of Janus Rights

On Sept. 24, the House Labor and Industry Committee voted HB 2571 out of committee by a vote of 16-11 along party lines. Introduced by Rep. Kate Klunk, the bill makes changes to the Public Employee Relations Act (Act 195 of 1970) because of the U.S. Supreme Court's June 27th decision in the Janus v. AFSCME case. The Janus decision overturned the Court's previous ruling in the 1977 Abood v. Detroit decision which allowed unions to require public employees, who are not union members, to pay a "fair

share" fee to public labor unions. In Janus, the Court ruled that requiring a non-consenting employee to pay a fair share fee violates the First Amendment by requiring workers to financially support a union that supports issues they may disagree with. The Janus decision holds that a public employee cannot be forced to pay a fair share fee - or any other money they did not consent to pay - to a public labor union.

HB 2571 is intended to protect the rights of individuals in a collective bargaining unit who are not members of the representative union (before Janus "fair share fee" payers). It proposes the following four changes to Act 195:

- Amends the act to require that public employers notify nonunion members, every payday, that any payment they make to a representative union is voluntary and must have affirmative consent of the individual; such notice must also state it is not a condition of employment for nonmembers to make any payment to the union.
- Amends the act to require that a public employer notify job applicants that being a member of the representative union is not a condition of employment, and that as a nonmember they have no obligation to make any payments to the representative union.
- Amends the act to prohibit public employers from making any payroll deductions from wages of nonmembers to make voluntary payments to a representative union.
- Repeals the two Pennsylvania laws that authorized the payment of "fair share fees" by nonmembers (Act 84 of 1988 and Act 15 of 1993)

HB 2571 deals strictly with the subject area of the Janus decision. It does not affect the ability of public sector unions to continue to collect union dues through payroll deduction for members of the union.

Employee Misclassification Legislation

On Sept. 5, a package of bills regarding the misclassification of employees was introduced and referred to the House Labor and Industry Committee. The bills are as follows:

- HB 2439 Mullery, Gerald - Amends the Construction Workplace Misclassification Act further providing for administrative penalties, for stopwork orders, for certain agreement prohibited and for use of penalty funds. The bill establishes when the secretary finds that a person has violated this act, the secretary may assess and collect civil penalties of not more than \$2,500 for the first violation, and not more than \$5,000 for each subsequent violation.
- HB 2440 Galloway, John - provides for joint agency task force on misclassification of employees. The bill establishes the Joint Agency Task Force on Misclassification of Employees in the Department of Labor and Industry to investigate the practice of employee misclassification occurring in this Commonwealth and to develop and implement a comprehensive plan with measurable goals to reduce misclassification of employees in this Commonwealth.

*Information regarding legislation is derived the bills' co-sponsorship memos and the legislation itself.

- HB 2441 Galloway, John - Amends the Construction Workplace Misclassification Act, further providing for independent contractors. The bill adds that for purposes of workers' compensation, unemployment compensation and improper classification of employees provided herein, an individual who performs services in the construction industry for remuneration is an independent contractor if the individual has a written contract that is project-specific and contains a particular scope of work and definitive time period to perform the services.
- HB 2442 Snyder, Pam - Amends the Construction Workplace Misclassification Act, further providing for improper classification of employees. The bill establishes that if the secretary receives a written complaint indicating that a person has violated this act, the secretary shall within 15 days of the receipt of the complaint respond in writing to the person who filed the complaint that the complaint has been received.
- HB 2443 Galloway, John - Amends the Construction Workplace Misclassification Act, further providing for independent contractors, for improper classification of employees, for administrative penalties, for stop-work orders, for certain agreement prohibited and for use of penalty funds. The bill establishes any sum collected as a penalty shall be divided equally between the Workers' Compensation Administration Fund and the department for costs related to enforcement.

Exempting Projects from the Prevailing Wage Act

On Sept. 25, The House Labor and Industry Committee voted on HB 297. The bill passed the committee by a vote of 16-0-11. The state Prevailing Wage Act (Act 442 of 1961) requires that all public bodies pay the prevailing minimum wage, as determined by the Secretary of Labor and Industry, to workmen on a "public work" project.

A "public work" is defined in the Act as any construction, reconstruction, repair, demolition, or alteration paid for in whole (or in part) out of the funds of a public body where the total estimated cost exceeds \$25,000. Maintenance projects, however, are not considered "public work" under the statute.

HB 297 clarifies the definition of "maintenance work" to include work performed on dirt, gravel, and low-volume road maintenance projects.

Infrastructure

Transportation

Rep. Aaron Kaufer introduced a resolution directing the Legislative Budget & Finance Committee to conduct a study for the potential of a hyperloop system that would run from Pittsburgh, to Philadelphia, as well as a northeast extension. In addition, Governor Tom Wolf announced on Sept. 21 that the Pennsylvania Department of Transportation will take another look at adding service between Altoona and Pittsburgh.

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Broadband

On Sept. 20, Governor Wolf announced the successful completion of the first phase of his plan to expand broadband access to every Pennsylvanian through the execution of the Pennsylvania Broadband Investment Incentive Program, which will help deliver broadband access to 9,236 currently unserved rural Pennsylvanians. The incentive program ensures homes and businesses in various areas within Erie, Crawford, Potter, Tioga, Mercer, Lycoming, and Bradford counties will have broadband access of at least 100Mbps by no later than June of 2022. Governor Wolf Announces Broadband Expansion to Over 9,200 Rural Homes and Businesses

Stormwater

On Sept. 19, as part of National Preparedness Month, officials from the Pennsylvania Department of Transportation (PennDOT), the Pennsylvania Emergency Management Agency (PEMA) and the state Insurance Department briefed reporters on how the Wolf Administration is analyzing and preparing for extreme weather in the commonwealth and provided information available to Pennsylvanians. Jim Ritzman, PennDOT Deputy Secretary for Planning, explained the department's Extreme Weather Vulnerability Study which analyzed past department flooding-related data, traffic volumes, federal and national weather and flooding resources and identified roadways susceptible to flooding based on that data. According to Ritzman, the study also projected potential future flooding vulnerabilities in Allegheny, Delaware and Lycoming Counties. He reported that the study was shared with planning partners, PEMA, federal highway officials, and department staff for reference in maintenance and project work, and to complement the data PennDOT already uses in planning future projects. Ritzman said the next phase of the study will identify potential mitigation strategies to use on projects in Allegheny and Delaware counties. He noted the next phase was made possible with state and federal matching funds and the study may be found at www.penndot.gov.

Marijuana Legalization

On Sept. 10, Rep. Jake Wheatley introduced HR 1037, a resolution directing the Joint State Government Commission to conduct a study of the Commonwealth's statutes and policies regarding marijuana in light of the legalization of medical marijuana. The resolution was referred to committee on House Health. Several rallies were held across the Commonwealth in September in support of marijuana legalization.

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