

MCA
Summary of Legislation
March 2018

House to Hold Public Hearing on Independent Contractor Bill

The Pennsylvania House of Representatives Labor and Industry committee has scheduled a public hearing on April 16 regarding a bill that would create a system under which a worker could sign a form stating that he is an independent contractor and not eligible for workers compensation benefits if injured. House Bill 1781 allows a worker to waive his/her rights to workers compensation and attest that they are an independent contractor. Under current law, there are a number of factors that the government uses to determine if a worker is genuinely an employee or a contractor. This legislation would supersede any of the traditional factors that are presently used (e.g. exercising control, ownership of tools, opportunity for profit or loss, permanency of the relationship, etc...). Concern has been expressed that this new process would undercut the 2010 law known as the Construction Workplace Misclassification Act that was specifically aimed at addressing the rampant misclassification of construction employees as independent contractors. Over the last 2 years, the Pennsylvania Department of Labor and Industry has collected fines totaling nearly three quarters of a million dollars for violating the Misclassification Act. While the public hearing may shed additional light on the topic, House Bill 1871 is viewed as a way for unscrupulous employers to skirt workers compensation payments in order to gain a price advantage over their competition.

Governor's Office Publishes Regulatory Agenda

By an Executive Order issued in 1996, all agencies under the jurisdiction of the Governor are required to submit for publication semi-annually an agenda of regulations under development or consideration. The agendas are compiled to provide members of the regulated community advanced notice of regulatory activity. It is the intention of the Administration that these agendas will serve to increase public participation in the regulatory process. Agency contacts should be contacted for more information regarding the regulation and the procedure for submitting comments. The following agenda of possible interest to the construction industry was published in the March 3, 2018 issue of the *PA Bulletin*.

Department of General Services (DGS)

Committee on Construction Contract Documents 4 Pa. Code Chapter 62 (# 8-21)	2018, as Final- Omitted	The Procurement Code repealed the legislation creating this committee, which no longer exists.	Mary Fox (717) 787-6789 Ed Olivieri (717) 783-3280
Selections Committee 4 Pa. Code Chapter 64 (# 8-22)	2018, as Final- Omitted	These regulations should be rescinded since they have been superseded by the Commonwealth Procurement Code.	Mary Fox (717) 787-6789 Ed Olivieri (717) 783-3280
Emergency Construction Repairs 4 Pa. Code Chapter 67 (# 8-23)	2018, as Final- Omitted	These regulations should be rescinded since they have been superseded by the Commonwealth Procurement Code.	Mary Fox (717) 787-6789 Ed Olivieri (717) 783-3280

Contract Compliance— Prequalification of Vendors and Nonconstruction Contractors 4 Pa. Code Chapter 68, Subchapter A (# 8-24)	2018, as Proposed	These regulations should be rescinded since the subject matter of these rules is now covered by the directives management system.	Mary Fox (717) 787-6789 Ed Olivieri (717) 783-3280
Methods of Awarding Contracts 4 Pa. Code Chapter 69 (# 8-25)	2018, as Final- Omitted	These regulations should be rescinded since they have been superseded by the Commonwealth Procurement Code.	Ken Hess (717) 787-4352 Mary Fox (717) 787-6789 Pamela Cross (717) 214-7739
Surplus State Property 4 Pa. Code Chapters 41, 43, 45 and 47 (# 8-26)	2018, as Proposed	These regulations should be rescinded since they are outdated and have been superseded by new Commonwealth procedures as well as the Commonwealth Procurement Code.	Ken Hess (717) 787-4352 Mary Fox (717) 787-6789 Pamela Cross (717) 214-7739

Legislative Activity

The following bills of interest to the construction industry have been introduced and/or acted upon in the past month.

Bidding / Contracting

[HB 1849](#) RE: Public Works Open Contracting Act (By Rep. Stephen Bloom, et al)

Provides for open contracting by the Commonwealth and its political subdivisions and their agencies and authorities. It establishes that a party who is aggrieved by an act committed by a public body in violation of prohibited practices or discrimination prohibited may file an action in a court of competent jurisdiction to enjoin the act. Further provides the act shall apply to any new contracts moving forward.

Reported as amended from House State Government Committee, read first time, and laid on the table, 3/13/2018

Budget Related Bills

[HB 2121](#) RE: General Appropriation Act of 2018 (by Rep. Stan Saylor, et al)

provides from the General Fund for the expenses of the Executive and Judicial Departments, the State Government Support Agencies and the General Assembly of the Commonwealth, the public debt and the public schools for the fiscal year July 1, 2018, to June 30, 2019, 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, 2018; to provide appropriations from various funds for the fiscal year July 1, 2018, to June 30, 2019. The effective date is effective immediately and the remained is effective July 1, 2018, or immediately, whichever is later.

Introduced and referred to House Appropriations Committee, 3/1/2018

Reported as committed from House Appropriations Committee, read first time, laid on the table, and

Removed from the table, 3/12/2018

Read second time and rereferred to House Appropriations Committee, 3/13/2018

Environmental Building Standards

[HB 1486](#) RE: High Tunnels (by Rep. David Zimmerman, et al)

Amends the Storm Water Management Act, further providing for definitions and for effect of watershed storm water plans. The bill defines "high tunnel" and establishes when a high tunnel shall be exempt from provisions. It also states that any municipality that has adopted a local ordinance or regulations that regulates high tunnels following a watershed storm water plan prior to the effective date shall amend the ordinance or regulation to comply with the subsection.

Read second time, 3/20/2018

Read third time, and passed Senate, 3/26/2018 (49-0)

Signed in the Senate, 3/26/2018

Liability

NONE

Local/State Government/Regulations

[SB 114](#) RE: [Termination of Sewer Service to Commercial Properties](#) (by Sen. John Eichelberger, et al)

Amends Title 53 (Municipalities Generally), in municipal authorities, providing for purposes and powers in the case of an authority that has agreed to provide sewer service to a nonresidential property owner and that owner has failed to pay a sewer bill for at least six months.

Read second time, 3/20/2018

Read third time, and passed Senate, 3/26/2018 (49-0)

[SB 1005](#) RE: County Code Updates (by Sen. John Eichelberger, et al)

Amends the County Code making extensive revisions relating to preliminary provisions; names and corporate powers, classification of counties; **fixing and relocating lines and boundaries**; county officers; county commissioners and chief clerks; controller; auditors; treasurer; county solicitor; engineer; sheriff and coroner; prothonotary, clerks of court, clerk of orphan's court, register of wills, recorder of deeds; district attorney, assistants and detectives; salaries of county officers; fees of salaried county officers, salary boards, payment of solicitors appointed by county officers; fiscal affairs; **contracts and special powers and duties of counties**; public health; aeronautics; grounds and buildings; eminent domain and injury to property; recreation places; bridges, viaducts and culverts and roads. Allows the chief ranking deputy that remains in the office of the sheriff in the event of a vacancy to petition the court to designate someone in that office to carry out the functions of the sheriff. Provides for military and veterans affairs; and making editorial changes.

Reported as amended from Senate Local Government Committee, and read first time, 3/20/2018

Read second time, and rereferred to Senate Appropriations Committee, 3/21/2018

Local/Property Tax Reform

NONE

Mandate Waivers

NONE

Mechanic's Lien

NONE

Permitting

[HB 1959](#) RE: Permit Administration Act (by Rep. Greg Rothman, et al)

Provides for the administration of permits by state agencies, for a tracking system for permit applications, for the establishment of permit programs and for annual reports. The bill requires state agencies to establish, maintain and

make available a secure tracking system for applicants to track the status of applications on their websites.
Delineates the types of categories that are required for reporting to the General Assembly.

Reported as amended from House State Government Committee, read first time, and laid on the table, 3/13/2018

Prevailing Wage

[HB 2161](#) RE: "Public Work" (by Rep. Duane Milne, et al)

Amends the Pennsylvania Prevailing Wage Act further providing for definitions. The bill adds to the definition of public work that it shall not include work on historic property, property maintained by a qualified historical and archeological society, property maintained by a historic preservation organization or property maintained by a land trust that operates under the Keystone Recreation, Park and Conservation Fund Act.

Introduced and referred to House Labor and Industry Committee, 3/26/2018

Professional Licensure

[HB 1343](#) RE: Continuing Ed Credit Carryover (by Rep. Harry Readshaw, et al)

Amends the act entitled, "An act empowering the General Counsel or his designee to issue subpoenas for certain licensing board activities; providing for hearing examiners in the Bureau of Professional and Occupational Affairs; providing additional powers to the Commissioner of Professional and Occupational Affairs; and further providing for civil penalties and license suspension," adding that in addition to disciplinary powers and duties, boards and commissions shall have the power to provide for the carryover of any continuing education credits in excess of the number required for biennial renewal. The carryover shall be valid for one biennial renewal term only.

Reported as committed from House Professional Licensure Committee, read first time, and laid on the table, 3/1/2018

Sales/Use Tax

NONE

School Construction

NONE

Transportation

NONE

Worker's Comp

[SB 963](#) RE: Impairment Rating Evaluations (by Sen. Kim Ward, et al)

Amends the Workers' Compensation Act allowing employers to request an Impairment Rating Evaluation after an employee has received total disability compensation for a period of 104 weeks. Requires the employee to submit to a medical evaluation which shall be requested by the insurer within 60 days upon the expiration of the 104 weeks to determine the degree of impairment due to compensable injury. Further provides for physical examination or expert interview.

Laid on the table, removed from the table, 3/26/2018

Workforce Development

[HB 2115](#) RE: [Consolidation of the Commonwealth's Workforce Development System](#) (by Rep. Justin Walsh, et al)

Amends the Community & Economic Development Enhancement Act, in transfers of functions; transferring function, duties & entities to DCED; providing for State Apprenticeship & Training Council; providing for membership to the council.

Filed, not yet introduced, 3/16/2018

[HB 2116](#) RE: Coordination of Workforce Development Programs (by Rep. Jack Rader, et al)
Amends the Workforce Development Act, in preliminary provisions, further providing for declaration of policy and for definitions; in board, further providing for establishment, for membership, for plan, functions and responsibilities and for State performance management system; in local workforce investment areas and boards, further providing for plan, functions and responsibilities and for local performance measures; and making editorial changes to citations of Federal statutes. The Pennsylvania Workforce Investment Board is moved under the Department of Community and Economic Development (DCED) and the deputy for workforce development is created and assigned duties.

Introduced and referred to House Labor and Industry Committee, 3/27/2018

Upcoming Meetings of Interest

Some House Committee meetings and session can be viewed online at: <http://www.pahousegop.com/>

Senate Committee meetings and session can be streamed at: <http://www.pasenategop.com/>

MONDAY - 4/16/18

House Labor and Industry Committee

11:30 a.m., Room G-50, Irvis Office Building

Public hearing on: [HB 1781](#) (Fred Keller) - Amends the Workers' Compensation Act, in liability and compensation, providing for registration of status as independent contractor.

WEDNESDAY - 4/18/18

House Commerce Committee

9:00 a.m., Harrisburg University, 14th Floor Auditorium, 326 Market St., Harrisburg

Public hearing on: [SB 234](#) (Blake) - Amends Title 12 (Commerce & Trade) authorizing assessments for energy improvements in districts designated by municipalities.

THURSDAY - 5/24/18

House Labor and Industry

10:00 a.m., Room G-50, Irvis Office Building

Public hearing on: [HB 861](#) (Grove) - Amends Title 53 (Municipalities Generally), in preemptions providing for employer mandates by municipalities.

2018 SENATE SESSION SCHEDULE

April	16, 17, 18, 23, 24, 25, 30
May	1, 2, 21, 22, 23
June	4, 5, 6, 11, 12, 13, 18, 19, 20, 25, 26, 27, 28, 29

2018 HOUSE SESSION SCHEDULE

April	9, 10, 11, 16, 17, 18, 30
May	1, 2, 22, 23
June	4, 5, 6, 11, 12, 13, 18, 19, 20, 21, 25, 26, 27, 28, 29, 30

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

<http://www.legis.state.pa.us/cfdocs/legis/home/session.cfm>