

MCA
Summary of Legislation
April 2018

State System of Higher Education Eyes Exemption from Construction Laws

The State System of Higher Education (SSHE) has been under pressure in recent years due to enrollment declines which in turn has led to financial woes. And like many other state funded programs, additional state funding has not filled the breach. Studies and proposals have looked at any variety of solutions but a recent Rand Corporation study has come up with an unexpected recommendation: exempt state system universities from Pennsylvania laws relating to construction requirements. That's not the only recommendation in the recently released report but it is the most surprising.

The report is short on details and justifications but both Prevailing Wage and Separations Act are specifically mentioned. Here is the excerpt from the report:

Cumbersome State Rules Reportedly Add Costs and Delays; Because the universities under the State System are state-owned, they must deal with state regulatory rules and oversight pertaining to procurement and construction that is much more stringent than those dealt with by state-related universities. Specifically, the threshold part of Act 188, the Administrative Code, the Commonwealth Attorneys Act, the Procurement Code, and the Separations Act add layers of bureaucracy and take away universities' independent freedom to execute contracts. According to interviewees, these rules and regulations add costs and slow down institutional efforts to purchase services and improve facilities. First, institutions must obtain approvals even on small projects from the University Counsel and the Office of the Attorney General. The cost threshold for requiring project approval is very low—approximately \$20,000. Second, for building construction of more than \$4,000, institutions must prepare separate specifications, solicit separate bids, and award separate contracts for general construction, plumbing, heating and ventilating, and electrical work. Third, facility projects funded with commonwealth capital funds must be managed by the Department of General Services, adding more layers of bureaucracy and delays. Many institutions reported General Services work costs more and is of lower quality. Fourth, some procurements require the use of the state-mandated best-value procurement approach, which considers factors other than price when selecting vendors and contractors. Interviews indicated this process adds cost without adding value. Institutions also must contract at prevailing wages, which further increases operational expenses.

The Chairman of the Senate Education committee plans to introduce legislation to follow up on the Rand recommendation. No bill number or actual language was available at the time of this writing but it is just a matter of time until it is introduced and the legislative battle begins.

Wolf Vetoes Workers' Compensation Bill

Governor Tom Wolf vetoed controversial SB 936 April 27 after a week of partisan battles over how the bill would actually affect injured workers. In a statement, Wolf said the bill would ration care and hurt health outcomes for laborers across the state.

"Senate Bill 936 threatens health care for millions of workers who could be injured on the job, including police, corrections officers, and firefighters, who put their lives on the line every day, and whose injuries can be unique, debilitating and severe," Wolf said. "It is wrong to sacrifice health care for our first responders to protect the bottom-line for insurance companies and corporations."

The bill, introduced by **Sen. Don White (R-Indiana)**, has been pushed by Republicans as a way to combat the opioid crisis by restricting the drugs prescribed to injured workers. Democrats have attacked the measure, saying it would prevent injured workers from getting the pharmaceuticals they need while recovering.

Inspired by reporting from the Philadelphia Daily News, the bill would add a formulary to the state worker's

compensation system, in effect a set list of medications which are compensated for. The outlet's original reporting showed a system in Philadelphia where personal injury attorneys owned a joint stake in a pharmacy with doctors. The lawyers would refer clients to the same doctors, who would then send patients to the co-owned pharmacy for medication. Worker's prescriptions often included expensive and untested topical creams and opioids.

In a statement, Speaker of the House Mike Turzai (R-Allegheny) played to accusations of political donations being behind the decision-making in response to the veto.

"Gov. Wolf caved to powerful special interests today with his veto of a bill which would combat the opioid crisis, protect injured workers and rein in prescribing abuses within the Workers' Compensation system," Turzai said.

In a joint statement, the Senate and House Minority Leaders Jay Costa (D-Allegheny) and Frank Dermody (D-Allegheny) praised the veto and pointed to a set of executive orders issues yesterday afternoon. The orders, among other things, would add new guidelines for future opioid prescriptions and review existing ones in the workers' comp system and limit pricing for compound medicines — like the topical creams.

"We applaud the concrete steps Governor Wolf took because they are effective and targeted actions that also preserve the rights of injured workers," their statement said.

Overriding the veto would require a two thirds vote from both chambers. The bill passed the Senate in November by a 34-16 vote — although not along party lines. Republican **Senators Stewart Greenleaf (R-Montgomery) and Charles McIlhinney (R-Bucks), both of whom are retiring at the end of this session, voted no**, while Democratic Senators Andrew Dinniman (D-Chester) and Lisa Boscola (D-Northampton) voted yes. It met even more trouble in the House, requiring two attempts at a floor vote to get through. Initially it tied 98-98 in February before a successful 101-92 vote on April 16, when it was brought up for reconsideration. Overriding the veto in the House would require 136 members.

DOH Publishes Notice of Adoption of the 2018 Editions of the Guidelines For Design And Construction Of Hospitals And Guidelines For Design And Construction Of Outpatient Facilities

As of November 1, 2018, the Department of Health will apply the new requirements of the Guidelines for Design and Construction of Hospitals and Guidelines for Design and Construction of Outpatient Facilities to all plans for new construction or renovations for hospitals and ambulatory surgical facilities. The department currently applies the 2014 edition of the Guidelines for all new construction, renovations or modernization of hospitals and ambulatory surgical facilities. For more information, contact Charles A. Schlegel, Director, Division of Safety Inspection, Department of Health, 2150 Herr Street, 1st Floor, Harrisburg, (717) 787-1911.

<https://www.pabulletin.com/secure/data/vol48/48-16/609.html>

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 566](#) RE: Contractor and Subcontractor Payment (by Rep James Santora, et al)

Amends the Contractor and Subcontractor Payment Act further providing for owner's payment obligations and for contractors' and subcontractors' payment obligations. If payment is not received by a contractor or subcontractor as required, the contractor shall have the right to suspend performance of any work, without penalty, until payment is received in full. Stipulates that the provisions of the act cannot be waived in a contract. Requires a written explanation of a good-faith reason to be given when the payment is retained for a deficiency item. Provides that a contractor or subcontractor to facilitate the release of retainage on its contract before final completion of the project by posting a maintenance bond with approved surety for 120 percent of the amount of retainage being held; and provides that if the withholding of retainage is longer than 30 days after the acceptance of the work, a written explanation must be provided.

Laid on the table, removed from the table, 4/17/2018

Budget Related Bills

[SB 995](#) RE: Capital Budget Act of 2018-2019 (by Sen. Vincent Hughes, et al)

Provides for the capital budget for the fiscal year 2018-2019 and appropriates \$1,010,000,000. Effective July 1, 2018, or immediately, whichever is later.

Reported as committed from Senate Appropriations Committee, and read first time, 4/23/2018

Read second time, 4/24/2018

Rereferred to Senate Appropriations Committee, 4/25/2018

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.

Signed in the House, 4/9/2018

Approved by the Governor, 4/18/2018 (Act No. [15](#) of 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.

Received in the House and referred to House Local Government Committee, 4/2/2018

[SB 595](#) RE: Electronic Notarization of Documents By Notaries (by Sen. Mike Folmer, et al)

Amends Title 57 (Notaries Public) adding a new section to permit the electronic notarization of documents by notaries located in the Commonwealth. Provides for the electronic notarization of documents using any electronic device that allows a notary and a remotely located individual to communicate with each other simultaneously by sight and sound. Requires all notarial certificates to indicate the individual was remotely located. Further provides for a process and conditions for notarizing documents electronically when an individual is located outside the United States. Also requires a notary, prior to performing their first electronic notarization, to notify the Department of State of their intent and identify the technology the notary will be using. Requires the department to promulgate the appropriate regulations to carry out the provisions of the new section. Sections 304 (c) relating to certification of tangible copies; 314.1 (h) and (j) relating to regulations and definitions; and 320 (c) relating to certification of tangible copies shall take effect immediately and the remainder shall take effect January 1, 2020.

Reported as amended from Senate State Government, 4/17/2018

Rereferred to Senate Appropriations Committee, 4/23/2018

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.

Removed from the table, 4/16/2018

Prevailing Wage

NONE

Professional Licensure

NONE

Sales/Use Tax

[HB 76](#) RE: Property Tax Independence Act (by Rep. Jim Cox, et al)

Provides for tax levies and information related to taxes; authorizes the imposition of a personal income tax or an earned income tax by a school district subject to voter approval; provides for imposition of and exclusions from a sales and use tax for the stabilization of education funding, for increase to the personal income tax, for certain licenses, for hotel occupancy tax, for procedure and administration of the tax, for expiration of authority to issue certain debt and for reporting by local government units of debt outstanding; establishes the Education Stabilization Fund; provides for disbursements from the Education Stabilization Fund and for senior citizen property tax and rent rebate assistance; and makes repeals. The intent of the bill is to eliminate all school property taxes across the Commonwealth (with the exception of those retained to retire current debt) and will replace those taxes with funding from the Personal Income Tax and the Sales & Use Tax by broadening the sales tax to include more services and products at a new rate of seven percent. Portions are effective June 30, 2018; portions are effective January 1, 2018; and the remainder is effective immediately.

Introduced and referred to House Finance Committee, 4/10/2018

School Construction

Cosponsor memo filed

[SCO1355](#) (Brewster) - Excludes state reimbursement for school building construction or rehabilitation projects through the state's PlanCon process if the scope of the work does not include baseline school safety features.

Filed, 4/4/2018

Transportation

NONE

Worker's Comp

[SB 936](#) RE: Worker's Comp Drug Formulary (by Sen. Don White, et al)

Amends the Workers' Compensation Act, in liability and compensation, further providing for prescription drugs and the treatment of work-related injuries; and, in procedure, further providing for peer review. The bill requires the department to select a nationally recognized, evidence-based prescription drug formulary appropriate for resolving issues related to drugs prescribed for or related to the treatment of work-related injuries and establishes requirements related to the formulary for comment periods, selection factors, costs, annual review, online availability, savings calculations, and utilization review. The bill also places requirements on utilization review organizations and peer review organizations for certification.

House Kauffman/Mackenzie motion to reconsider vote by which SB 936 was defeated, 4/16/2018
Passed House, 4/16/2018 (101-92)
Signed in the Senate and House, 4/17/2018
Vetoed by the Governor, 4/27/2018

Workforce Development

[HB 25](#) RE: CareerBound Act (by Rep. Ryan Mackenzie, et al)

Provides for the creation and implementation of up to seven school-to-work pilot programs in the Department of Labor and Industry, to be known as CareerBound, and provides a tax credit to businesses that participate in the program. A school-to-work pilot program shall expire at the end of the fourth school year of operation and the department shall issue a report on the programs following their expiration. Requires program partners to set objectives and measurable goals; requires Department of Labor and Industry to set outcome-based metrics used to evaluate all programs in annual and final reports; allows contributing businesses to designate which program their contributions would support; enumerates and allows Pennsylvania institutions of higher learning to participate in CareerBound; includes "soft skills" in curriculum requirements; gives priority to programs targeting middle school and early high school students; and clarifies that the Department of Labor and Industry and the Pennsylvania Department of Education must provide program partners with informational resources. Requires additional consideration be given to a pilot program which is integrated into a school partner's curriculum as a credit course.

Reported as committed from House Appropriations Committee, read third time, and passed House, 4/16/2018 (194-1)

[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.

Introduced and referred to House Labor and Industry Committee, 4/4/2018

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/>

TUESDAY - 5/1/18

House Commerce Committee

Off the Floor, Room G-50, Irvis Office Building

To consider: [SB 234](#) (Blake) - Amends Title 12 (Commerce & Trade) authorizing assessments for energy improvements in districts designated by municipalities; and other bills

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

May 21, 22, 23
June 4, 5, 6, 11, 12, 13, 18, 19, 20, 25, 26, 27, 28, 29

2018 HOUSE SESSION SCHEDULE

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>