

**MCA**  
**Summary of Legislation**  
**January 2019**

**Funding Infrastructure Improvements, Maybe**

It's the start of the new legislative session and optimism is high for getting things done. But the general assembly's track record suggests that bold plans rarely reach fruition when navigating Pennsylvania's legislative process. But despite the daunting task ahead, newly reelected [Governor Tom Wolf and DEP announced plans](#) for a sweeping infrastructure investment program that tackles a slew of areas that are genuinely deserving of additional funds. His plan includes funding for:

- Expansion of high speed internet access
- Storm water management improvements
- Energy efficiency and delivery initiatives
- Brownfield remediation projects
- Additional road and public transportation support

Few would argue that these areas don't deserve more attention. The catch? The funding mechanism for all this is dependent on enactment of a severance tax. Passage of such a tax has been Governor Wolf's search for the Holy Grail. Even with Democratic gains in both chambers, it feels like a long shot given how many times this effort has fallen short.

One area of need not included in Wolf's pitch for additional funds is school construction. How to pay for fixing or rebuilding schools across the state is a topic that has been gaining attention ever since the Commonwealth budget placed a moratorium on new applications for reimbursement through the PlanCon process a few years ago. While that issue isn't tied to the Governor's severance tax proposal, it has risen to the top of the agenda for both the appropriations leaders in the Senate. That higher level bipartisan support gives it better odds of passage. Of course, the question still comes back to how much money and where will it come from. Stay tuned for that answer....

**DEP to Build on Modernization and Efficiency Measures in 2019**

Harrisburg, PA – The Pennsylvania Department of Environmental Protection (DEP) has announced continued reductions in both the review time and backlog of pending permit applications, and debuts two modernization and efficiency measures that will continue to increase permitting efficiency.

This week, DEP formally opened the Regional Permit Coordination Office (RPCO), a centralized permitting office to assist with construction permitting and coordination related to erosion and sediment control (Chapter 102) and water obstruction and encroachment (Chapter 105). Specifically, the RPCO will assist with construction permitting for large-scale, multi-county or multi-regional infrastructure projects, such as pipelines and highways. DEP also announces that it will be rebalancing workload among its regional offices by transferring responsibility for all applicable regulatory programs in Armstrong and Indiana counties from its Southwest Regional Office to the Northwest Regional Office.

“The department receives more than 30,000 permit applications a year, and each of these permits is important to a project somewhere in the commonwealth,” said DEP Secretary Patrick McDonnell. “Over the past four years DEP has focused its efforts on increased responsiveness, improved customer service, and working smarter and more efficiently to improve operations.”

In January 2018, [Governor Tom Wolf and DEP announced plans](#) to modernize the permit process, reduce the backlog, improve oversight, and sought a \$2.5 million budget allocation to facilitate the strategy.

In the past year, DEP's Southwest Regional Office reduced backlog of permits in the region by more than 75 percent and shortened its review timeline for erosion and sediment control general permits by more than 220 days. The allocation of two counties to the northwest region will aid in anticipated continued commercial, energy, and

infrastructure development in the southwest. Mining and radiation protection programs are not affected by this regional office change.

In addition to assisting with construction permitting for large-scale, multi-county or multi-regional infrastructure projects, such as pipelines and highways, the RPCO will work with existing DEP bureaus to provide statewide technical support to regions and add additional emphasis on project coordination and consistency. DEP will transfer some of its permitting functions from the regions to streamline project development and permit processing, reduce redundant operations, and provide effective service and project delivery.

In addition to these new measures, DEP has also aggressively focused on data-driven tools and resources, including the development of e-Permitting and e-Inspections:

- DEP now offers e-permitting for well drilling and erosion and sedimentation control at oil and gas sites (ESCGP), surface coal mining, air emissions from certain natural gas activities (GP-5 and GP-5A), Chapter 105 water obstruction and encroachment general permits, storage tank renewals, radiation protection x-ray registration renewals, and other regulated activities.
- DEP now performs e-inspection for oil and gas sites, erosion and sedimentation, waterways encroachment, waste management, spill cleanup, and emergency response. In the Oil & Gas program specifically, e-inspections have increased inspector efficiency by 20 percent.
- DEP is embarking on an effort to digitize regional files while also requesting electronic submissions. Electronic files and databases housed on DEP's website and other operational changes are designed to improve the Right to Know Law and informal file review processes, reinforcing DEP's commitment to transparency.
- DEP has significantly improved permitting efficiency by meeting with and clearly communicating permitting and regulatory requirements to the regulated community and consultants.

“As we move to more data-driven tools and resources, we're also able to evaluate current and anticipated staffing needs,” said McDonnell. “While we strive to increase efficiency, we're also making sure our professional staff have the resources and training necessary to carry out regulatory oversight.”

With these changes, McDonnell would like to continue working with the regulated community to determine their needs, and address opportunities to improve consistency in applications.

Effective January 10, 2019, inquiries and correspondence regarding new permit applications, reporting, and compliance matters related to sites in Armstrong and Indiana Counties should be directed to DEP's [Northwest Regional Office](#). Questions on permit applications under review as of January 9, 2019, and pending enforcement matters for Armstrong and Indiana Counties should be directed to DEP's [Southwest Regional Office](#). Inquiries can also be directed to [RA-epcontactus@pa.gov](mailto:RA-epcontactus@pa.gov).

The RPCO can be reached by calling 717-772-5987 or [kgoudy@pa.gov](mailto:kgoudy@pa.gov).

## **Alloway, White Announce Early Retirements**

Two long-serving Republican state Senators announced that they would not finish their current terms, and would leave office at the end of February. Sen. Rich Alloway (R- Chambersburg) and Don White (R-Indiana) both made relatively surprise announcements just weeks after the start of the new legislative session. Alloway announced he would be reopening his law firm, and speculation followed that he would also resume lobbying in Harrisburg, a career he pursued prior to his service as an elected official. White, in a heartfelt speech on the Senate floor, said he would be returning to his home in Indiana, while giving little indication of his future plans. Both also indicated that the timing of their announcements was designed to allow Lt. Gov. John Fetterman to call special elections to fill the vacancies to coincide with the May primary elections. Those specials had not been called at presstime for this report.

## **Special Election Candidates Chosen to Succeed Sid Kavulich**

The race in Northeast Pennsylvania to fill the vacancy left by the passing of long-time Democrat Rep. Sid Michaels Kavulich, who died in October at the age of 62 from complications of open heart surgery, is now set. Last month, [Bridget Malloy Kosierowski](#) easily won the Democrat nomination over three others. At the same time, the Republican committee chose [Frank Scavo](#) for their party's nomination. Scavo has run for public office multiple times in, most recently this past November, losing to incumbent state Sen. John Blake. The race is taking place on March 12, along with another in the 190th House District, to replace Rep Vanessa Lowery Brown, who resigned after being convicted in a bribery case. The 114th House District special election is to fill the seat of the late Democratic [Rep. Sid Michaels Kavulich](#).

## **Legislative Activity**

**The following bills and co-sponsorship memos of interest to contractors were introduced in the General Assembly this past month.**

## **Bidding / Contracting**

[HB 163](#) RE: [Separations Act](#) (by Rep. Garth Everett, et al)

Amends Title 62 (Procurement), in general provisions, further providing for definitions; in procurement organization, further providing for specific construction powers, duties and procedures; in procurement of construction and design professional services, further providing for procurement of design professional services; providing for project delivery methods; and making a related repeal. The bill establishes that a government agency or a state-related institution shall utilize a project delivery method for the procurement of construction services for the design, erection, construction and alteration of a public building in this commonwealth if the total cost of the work exceeds \$4,000.

**Introduced and referred to House State Government Committee, 1/28/2019**

[HB 173](#) RE: Improper Classification of Employees (by Rep. Tom Caltagirone, et al)

Amends the Construction Workplace Misclassification Act, further providing for improper classification of employees and for criminal penalties. The bill establishes that a person who commits a misdemeanor of the second degree for a first offense or a misdemeanor of the first degree for a second or subsequent offense shall be prohibited from contracting with or in any manner doing business with the commonwealth for five years.

**Introduced and referred to House Labor and Industry Committee, 1/28/2019**

[SB 104](#) RE: Open Contracting Act (By Sen. Scott Martin, et al)

Provides for contract specifications issued by public bodies soliciting bids on public works projects shall not include any of the following: (1) a requirement that a successful bidder or any of its subcontractors utilize workers represented or referred by a designated labor organization; (2) a requirement that a successful bidder's existing work force or any of its subcontractors' work forces affiliate with or pay dues to a labor organization; or (3) a requirement that a successful bidder or any of its subcontractors recognize a labor organization as the exclusive representative of any of its employees on the public works project. No public body shall consider or use as a criterion in its selection process the union or nonunion status of a bidder's work force.

**Introduced and referred to Senate Labor and Industry Committee, 1/24/2019**

## **Budget Related Bills**

### **Cosponsor Memos Filed**

[HCO1018](#) (Wheatley) - **Restore Pennsylvania**. Applies funds raised by a severance tax to improving state technology, development, and infrastructure.

**Filed, 1/31/2019**

[SCO 552](#) (Yudichak) - Proposes the governor's infrastructure initiative Restore Pennsylvania.

**Filed, 1/31/2019**

## **Environmental Building Standards**

[HB 183](#) RE: High-Performance State Building Standards Act (by Rep. Chris Quinn, et al)

Requires the design, construction and renovation of certain State-owned or State-leased buildings to comply with specified energy and environmental building standards; and providing for powers and duties of the Department of General Services. It establishes all major facility projects shall meet or exceed the prescribed level of achievement under the high-performance building standards.

**Introduced and referred to House State Government Committee, 1/28/2019**

[HB 247](#) RE: [Reducing Surface Impact from Unconventional Gas Wells](#) (by Rep. Donna Oberlander, et al)

Amends Title 58 (Oil and Gas) adding a new subsection allowing an operator to drill and produce a well that traverses, by horizontal drilling, more than one lease or unit, provided the operator reasonably allocates production from the well among the leases or units and the traversing well is not expressly prohibited by the terms of a lease. Further provides nothing in this new provision shall authorize any producer to drill or produce natural gas that is not subject to a valid lease and royalty agreement with a landowner.

**Introduced and referred to House Environmental Resources and Energy Committee, 1/28/2019**

## **Liability**

[SR 20](#) RE: Venue (by Sen. Lisa Baker, et al)

Resolution directing the Legislative Budget and Finance Committee to conduct a study of the impact of venue for medical professional liability actions on access to medical care and maintenance of health care systems in this Commonwealth and requesting that the Pennsylvania Supreme Court delay action on the proposed amendment to Pa.R.C.P. No. 1006.

**Introduced and referred to Senate Judiciary Committee, 2/1/2019**

**Reported as committed from Senate Judiciary, 2/4/2019**

**Adopted, 2/5/2019 (31-18)**

**Transmitted as directed, 2/7/2019**

**Local/State Government/Regulations**

## **Local/Property Tax Reform**

NONE

## **Mandate Waivers**

NONE

## **Mechanic's Lien**

NONE

## **Permitting**

NONE

## **Prevailing Wage**

[HB 104](#) RE: Prevailing Wage Repeal (by Rep. Frank Ryan, et al)

Amends the Pennsylvania Prevailing Wage Act redefining "public work" as construction, reconstruction, demolition, alteration and/or repair work other than maintenance work, done under contract and paid for by at least 51 percent out of the funds of a public body where the estimated cost of the total project is in excess of \$25,000, but shall not include work performed under a rehabilitation or manpower training program.

**Introduced and referred to House Labor and Industry Committee, 1/28/2019**

[HB 319](#) RE: [Prevailing Wage – County Referendum](#) (by Rep. Frank Ryan, et al)

Amends the PA Prevailing Wage Act, providing for definitions; for referendum for prevailing wage rates, for subsequent public referenda & for election interference prohibited; & repealing related provisions of the Public School Code.

**Introduced and referred to House Labor and Industry Committee, 1/28/2019**

[HB 323](#) RE: [Political Subdivision Exemption](#) (by Rep. Frank Ryan, et al)

Amends the PA Prevailing Wage Act, excluding political subdivisions from the act; and authorizing optional prevailing wage ordinances.

**Filed, 1/31/2019**

[SB 124](#) RE: [Prevailing Wage Act Exemption for School Districts](#) (by Sen. John DiSanto, et al)

Amends the Public School Code, in preliminary provisions, providing for prohibition of the use of the Pennsylvania Prevailing Wage Act by adding that no contract entered into by a school district, charter school, cyber charter school or institution of higher education under this act for a public work, as defined in the Pennsylvania Prevailing Wage Act, shall be subject to the Pennsylvania Prevailing Wage Act. Effective in 60 days.

**Introduced and referred to Senate Labor and Industry Committee, 1/28/2019**

**Co-sponsor Memos Filed**

[HCO 800](#) (F. Keller) - Updates the threshold of the Prevailing Wage Act for the effects of inflation

**Filed, 1/17/2019**

[HCO 982](#) (Ryan) - Amends the Prevailing Wage Act to provide a clear definition of what actions taken with respect to road repairs are subject to the act's requirements.

**Filed, 1/30/2019**

[HCO 983](#) (Ryan) - Amends the Prevailing Wage Act to provide a clear definition of what actions taken with respect to local road repairs are subject to the act's requirements.

**Filed, 1/30/2019**

[HCO1014](#) (Gleim) - Raises the prevailing wage threshold from \$25,000 to \$150,000 for projects subject to the Prevailing Wage Law.

**Filed, 1/30/2019**

[SCO 459](#) (Gordner) - Reestablishes an exemption to the state prevailing wage rates for certain federally funded housing grants.

**Filed, 1/15/2019**

**Professional Licensure**

NONE

**Sales/Use Tax**

NONE

**School Construction**

NONE

**Transportation**

NONE

**Worker's Comp**

[HB 85](#) RE: Employer Credit (by Rep. Rob Kauffman, et al)

Amends the Workers' Compensation Act, providing an employer credit for future compensation.

**Introduced and referred to House Labor and Industry Committee, 1/28/2019**

**Co-sponsor Memos Filed**

[HCO 668](#) (F. Keller) - Provides a method to certify whether an individual is an independent contractor for the purposes of worker's compensation.  
**Filed, 1/11/2019**

## **Workforce Development**

[HB 84](#) RE: Professional Licensees Illegal Employment Act (by Rep. Rob Kauffman, et al)  
Prohibits certain licensees from knowingly employing illegal aliens; and imposing sanctions. "Licensee" is defined as an individual, corporation, partnership, limited liability company or other legal entity that holds a license issued by a licensing board or licensing commission.  
**Introduced and referred to House Professional Licensure Committee, 1/28/2019**

[SB 105](#) RE: Apprentice Supervision (by Sen. Scott Martin, et al)  
Amends the Apprenticeship and Training Act further providing for powers and duties; providing for supervision; and abrogating a regulation. Regulations under section 4(a)(2) may not require more than one supervisor for each apprentice or trainee.  
**Introduced and referred to Senate Labor and Industry Committee, 1/24/2019**

## **Co-sponsor Memos Filed**

[HCO 790](#) (Metcalf) - Requires all employers in the commonwealth to use the Employment Eligibility Verification Program (E-Verify).  
**Filed, 1/17/2019**

[HCO 818](#) (Galloway) - Requires employers in the private construction industry to verify employees are legally permitted to work.  
**Filed, 1/18/2019**

[HCO 962](#) (Keefer) - Amends the Construction Workplace Misclassification Act by providing Home Improvement Consumer Protection Act registration at the time services are provided will be prima facie evidence that the individual is an independent contractor.  
**Filed, 1/29/2019**

[HCO 979](#) (Kim) - Raises the minimum wage to \$12 per hour and increases each year until it reaches \$15 per hour.  
**Filed, 1/30/2019**

*Copies of all bills of interest can be accessed via the Internet at:*  
<http://www.legis.state.pa.us/cfdocs/legis/home/session.cfm>

## **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 - 2/12/19**

#### **L&I: Uniform Construction Code Review and Advisory Council Meeting**

The Department of Labor and Industry's Uniform Construction Code Review and Advisory Council will hold a meeting for 10 a.m. on February 12, 2019, at 651 Boas Street, Harrisburg, PA 17121. Questions regarding this meeting may be directed to Nathan Clark: (717) 772-9162.

### **THURSDAY - 2/14/19**

#### **House Appropriations Committee**

**3:00 p.m., Room 140, Main Capitol**

Budget Hearing - Department of Labor and Industry

**MONDAY - 2/25/19**

**Senate Appropriations Committee**

**10:00 a.m., Hearing Room 1, North Office Building**

Budget Hearing - Dept. of Labor & Industry

**Senate Appropriations Committee**

**1:00 p.m., Hearing Room 1, North Office Building**

Budget Hearing - Dept. of General Services

**TUESDAY - 2/26/19**

**House Appropriations Committee**

**3:00 p.m., Room 140, Main Capitol**

Budget Hearing - Department of General Services

**2019 SENATE SESSION SCHEDULE**

**March** 18, 19, 20, 25, 26, 27  
**April** 8, 9, 10, 29, 30  
**May** 1, 6, 7, 8  
**June** 3, 4, 5, 10, 11, 12, 17, 18, 19, 24, 25, 26, 27, 28

**2019 HOUSE SESSION SCHEDULE**

**February** 4, 5, 6, 19, 20, 21  
**March** 11, 12, 13, 18, 19, 20, 25, 26, 27  
**April** 8, 9, 10, 15, 16, 17, 29, 30  
**May** 1, 6, 7, 8, 13, 14, 15, 22  
**June** 3, 4, 5, 10, 11, 12, 17, 18, 19, 20, 24, 25, 26, 27, 28