

MCA
Summary of Legislation
October 2018

“Blue Wave” Hits PA Mostly in the Southeast; Wolf and Casey Re-elected Easily

Although many political pundits predicted a Trump-inspired “blue wave” of Democrats overwhelming Congress and state legislators across the country, the actual results nationwide were not as dramatic as expected on November 6. The Democrats did indeed regain control of the US House of Representatives, but not by the margins that have been customarily seen in “mid-term” elections after a new president is elected. The parties of Clinton, Bush and Obama all lost more seats than the Republicans did this year, and they actually ADDED to their majority in the US Senate, giving President Trump even more of an advantage should another Supreme Court seat come open.

In Pennsylvania, Democrats did make inroads in reducing their deficits in both the state House and Senate, with nearly all of those seat switches coming in the “collar counties” surrounding Philadelphia. Hardest hit were the Chester and Delaware County Republican delegations, where Republican Reps. Becky Corbin (155th - Chester); Warren Kampf (157th – Chester), Eric Roe (158th- Chester) Duane Milne (167th -Chester), and Jamie Santora – 163rd (Delaware); Alex Charlton – 165th (Delaware) and Sen. Tom McGarrigle (26th -Delaware) all were defeated. Over in Montgomery, Reps. Kate Harper (61st) and Tom Quigley (146th) also lost their seats, and Democrats flipped long-held Republican Senate seats in Montgomery and Bucks Counties.

The GOP entered election night with a commanding 121-79 majority in the House, with three vacancies in Democratic seats, while Senate Republicans looked to defend their 34-16 cushion. While a couple of House election results are still being determined, it appears the ratio will be 110-91, plus the seat currently by Democrat State Rep. Vanessa Lowery-Brown who won re-election, but will be sentenced November 28 for her bribery conviction, and the seat of the late Rep. Syd Michaels Kavulich, who won re-election just weeks after his passing. The GOP was successful in knocking off just two Democratic incumbents, Bryan Barbin (71st-Cambria) and Helen Tai (178th – Bucks). A third seat, the 49th (Fayette/Washington), currently held by GOP State Rep. Bud Cook, is also the subject of ballot challenges.

Pending the outcome of some contested close races, including the 6th Senate district in Bucks County, where long-time incumbent Republican Sen. Tommy Tomlinson appears to have squeaked out a 100-vote victory over Democrat State Rep. Tina Davis, the Senate will swear in **28 Republicans and 21 Democrats**, and newly elected Lt. Gov. John Fetterman will call a Special Election to fill a vacancy created in the 37th district by the resignation of Republican Sen. Guy Reschenthaler, who was elected to Congress on election night. Davis, who also easily won re-election to her own House seat, was calling for a recount at this writing. In the 10th Senate district, Democrat Steve Santarsiero beat State Rep. Marguerite Quinn, flipping the Bucks County seat, and Democrat Maria Collett won a victory over Stewart Greenleaf Jr. to capture the 12th district Montgomery/Bucks seat held since 1977 by Greenleaf’s father. The most unexpected upset occurred in the 44th (Montgomery/Chester), where first-time candidate Katie Muth unseated Republican Sen. John Rafferty, who had served the district since 2003. Over in the Pittsburgh suburbs, Democrat Lindsey Williams beat Republican Jeremy Shaeffer, who had upset incumbent Sen. Randy Vulakovich in the 38th to pick up another seat for the Dems.

It remains to be seen how these smaller majorities, and a Governor entering his second and final term, will affect the flow and nature of legislation in the new session.

Statewide, the races for Governor and US Senate came in pretty much as expected. Governor Tom Wolf easily won a second term, defeating Republican Scott Wagner by a 58%-41% margin after a blistering campaign, mostly on the part of the challenger. Wolf will be joined by a new Lieutenant Governor as he enters his new term, as the aforementioned John Fetterman takes over for current Lt. Governor Mike Stack, whom Fetterman defeated in the May primary.

PA’s Senior Senator, Bob Casey, Jr. also easily defeated his opponent for U.S. Senate, Congressman Lou Barletta, by a roughly 55%-42% margin, to earn a third term.

In Congress, Republicans went in with a 13-5 advantage in the PA delegation, but a combination of newly drawn Congressional maps and backlash against the President resulted in the Democrats winning the new 4th, 5th, 6th, 7th and 17th Congressional Districts, while the GOP won the new 14th. The PA Congressional delegation will now be split 9-9, including a historic four women.

L&I Updates UCC Regarding Fire and Smoke in Elevator Lobbies

The Department of Labor and Industry provided updated rulemaking regarding fire and smoke protection for elevator lobbies. More information regarding this rulemaking can be viewed on the *Pennsylvania Bulletin*.

<https://www.pabulletin.com/secure/data/vol48/48-44/1700.html>

The proposed rulemaking will be considered by the Independent Regulatory Review Commission at its December 6 meeting.

Legislative Activity

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

Bidding / Contracting

NONE

Budget Related Bills

[HB 2413](#) RE: [Non-Resident Withholding Fixes, 1099-MISC](#) (by Rep. Keith Greiner, et al)

Amends the Tax Reform Code, in personal income tax, further providing for tax withheld, for withholding tax requirement for nonemployer payors, for information statement for nonemployer payors, for information statement for payees, for time for filing payor's returns, for payment of taxes withheld for nonemployer payors, for liability for withheld taxes, repealing provisions relating to payor's liability for withheld taxes, further providing for bulk and auction sales and transfers, notice, repealing provisions relating to payor's failure to withhold, providing for annual withholding return, further providing for amount of withholding tax and for treatment of nonresident partners, members, or shareholders, repealing provisions relating to withholding on income and to annual withholding statement, further providing for requirements concerning returns, notices, records and statements, for interest and for additions, penalties and fees.

Reported as amended from House Finance Committee, read first time, and laid on the table, 10/9/2019

Environmental Building Standards

NONE

Liability

NONE

Local/State Government/Regulations

[HB 1469](#) RE: Code Enforcement Contracting (by Rep. Doyle Heffley, et al)

Amends the Pennsylvania Construction Code Act, in adoption and enforcement by municipalities, further providing for administration and enforcement. Adds language allowing a municipal code official to utilize third-party agencies to supplement the municipal code enforcement program's plan review and inspection services in categories which its program does not possess the necessary personnel to administer. Provides for administration and enforcement by third-party agencies subject to certain requirements when a municipality opts to administer and enforce the act by retaining two or more third-party agencies. Also allows a city of the first class (Philadelphia) to designate an existing departmental board that has jurisdiction over building standard appeals to act as the board of appeals of the city of the first class.

Reported as committed from Senate Appropriations Committee, 10/16/2018

Amended on Senate floor, read third time, and passed Senate, 10/17/2018 (31-18)

Received as amended in House and rereferred House Rules Committee, 10/17/2018

[SB 652](#) RE: [Critical Infrastructure Protection Act \(CIPA\)](#) (by Sen. Mike Regan, et al)

Amends Title 18 (Crimes and Offenses), in burglary and other criminal intrusion, further providing for the offense of criminal trespass by establishing an offense for critical infrastructure facility trespass. Provides differing grading for the offense depending whether it is a first offense, whether the defendant is a minor, and whether there is an intent to damage or obstruct the operation of the facility.

Removed from the table, 10/9/2018

[SB 1005](#) RE: County Code Recodification (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; providing for military and veterans affairs; and making editorial changes.

Reported as committed from House Appropriations Committee, read third time, and passed House, 10/1/2018 (183-0)

Received as amended in Senate and rereferred Senate Rules and Executive Nominations Committee, 10/1/18

Re-reported on concurrence as committed from Senate Rules and Executive Nominations Committee, and Senate concurred in House amendments, 10/15/2018 (49-0)

Signed in the Senate, 10/15/2018

Signed in the House, 10/16/2018

Approved by the Governor, 10/24/2018 (Act No. [154](#) of 2018)

Local/Property Tax Reform

NONE

Mandate Waivers

NONE

Mechanic's Lien

NONE

Permitting

NONE

Prevailing Wage

Professional Licensure

NONE

Sales/Use Tax

NONE

School Construction

NONE

Transportation

NONE

Worker's Comp

NONE

[HB 1840](#) RE: Physical Examination or Expert Interview (by Rep. Rob Kauffman, et al)

Amends the Workers' Compensation Act, in liability and compensation, further providing for schedule of compensation, for computation of benefits and for physical examination or expert interview. Allows 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. If such determination results in an impairment rating that meets a threshold impairment rating that is equal to or greater than 35 per centum impairment, the employee shall be presumed to be totally disabled and shall continue to receive total disability compensation benefits. If the determination is less than 35 percent, the employee shall then receive partial disability benefits provided that no reduction shall be made until sixty days' notice of modification is given. Further provides for physical examination or expert interview.

Sen. Corman motion to revert to prior printer number, PN 3802 passed, 10/16/2018

Read third time, and passed Senate, 10/17/2018 (34-15)

Signed in the House and Senate, 10/17/2018

Approved by the Governor, 10/24/2018 (Act No. [111](#) of 2018)

[SB 676](#) RE: Uninsured Employers Guarantee Fund (by Sen. John Gordner, et al)

Amends Workers' Compensation Act relating to the **Uninsured Employers Guarantee Fund**. Provides if an employee alleges an injury that is incurred with an employer which is domiciled in another state and which has not secured the payment of compensation as required by the act, the employee is required to provide the fund and to any worker's compensation judge hearing a petition against the fund, a written notice, denial, citation of law or court or administrative ruling from such other state or an insurer licensed to write insurance in that state as to that employer, indicating that the employee is not entitled to workers' compensation benefits in that state. No compensation shall be payable from the fund until the employee submits the required information. Requires a claim petition to be filed within 180 days after notice of the claim is made to the fund. Requires an employee to provide proof of wages before filing a claim of lost wages under the act. Adds language allowing the fund to establish lists of at least six designated health care providers that are accessible in each county in specialties relevant to the treatment of work injuries in the Commonwealth. Transfers \$4 million from the Workers' Compensation Administrative Fund to the Uninsured Employers Guarantee Fund. Also provides for uninsured employer obligations and for administrative penalties and stop-work orders. Requires the Department of Labor and Industry to annually submit a report to the House and Senate Labor and Industry committees outlining the department's efforts to identify and prosecute uninsured employers, any penalties resulting from that activity, the status of claims and operations, including the number of claims filed, pending and paid in the past year and an analysis of the administrative expenses of the fund. Increases the Uninsured Employers Guaranty Fund assessment from 0.1 percent to 0.25 percent. Requires the department to reduce the current year UEGF assessment if prior year assessment exceeds 130 percent of prior year expenditures. Reduces the cap on the excess amount that may be maintained in the Workmen's Compensation Administration Fund from 133 percent to 120 percent. Requires the department to report reasonable suspicion of underreporting or delinquency and the department may suspend a license or certification for an employer subject to a stop-work order.

Removed from the table, 10/15/2018

White motion to revert to prior printer number, PN 1289 granted, read second time, and rereferred to House

Appropriations Committee, 10/16/2018

Reported as committed from House Appropriations Committee, read third time, and passed House, 10/17/2018 (185-0)

Signed in the Senate and in the House, 10/17/2018

Approved by the Governor, 10/24/2018 Act No. [132](#) of 2018

Workforce Development

NONE

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/>

THURSDAY - 12/6/18

Independent Regulatory Review Commission

10:00 a.m., 14th Floor Conference Rm., 333 Market Street, Harrisburg

To consider the following regulations:

- Reg. No. 3129 Department of Labor & Industry #12-109: Uniform Construction Code

2018 FALL SENATE SESSION SCHEDULE (Subject to change)

November 14

2018 HOUSE SESSION SCHEDULE

November 13

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

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