



MCA

SUMMARY OF LEGISLATION

OCTOBER 2009

101 Days Late, Pennsylvania Has A Budget

Gov. Edward Rendell approved a \$27.799-billion budget on October 9, 101 days after the June 30 deadline. The bill, **House Bill 1416**, passed 107-93 in the Pennsylvania House of Representatives, almost entirely on party lines, on October 7, and 42-7 in the Senate two days later. The bill had previously passed both Chambers in different forms, sending it to a conference committee, where it sat most of the summer and into fall. House leaders then took the unusual step of rescinding the House's insistence on its amendments, sending it back to the body, where it was amended with the agreement, and sent back to the Senate, where it was ratified. The Governor then signed it into law, and the historic impasse was concluded.

"While the budget I have signed today is late, it's a responsible budget, given the economic condition of the nation and the state," Rendell said in a press release. "The budget that reached my desk meets the threshold I established for recurring revenue, and does it without increasing broad-based taxes like income or sales tax."

With the approval of this budget, the state was finally able to distribute payments to school districts, counties, and social service organizations, which have been waiting for state funding for more than three months. The budget includes \$2.6 billion in federal stimulus funds, draws heavily from the state's Rainy Day Fund, levies taxes on casino table games and increases the cigarette tax by 25 cents, among other measures.

"Funding for most state services was frozen or cut, with the cost of running prisons and health care for the poor and disabled being two exceptions," according to the Pennsylvania Budget and Policy Center's web site. "Federal fiscal stimulus money was used to fund both of those areas, supplementing reduced state funding."

Two other parts of the budget package were also passed along with the spending plan embodied in HB 1416. **House Bill 1531**, which outlines revenue and tax changes to fund the budget, and **HB 1614**, which provides the narrative for the imposition of the new taxes, were also signed into law. Legislation to authorize table games at Pennsylvania casinos and bills called "non-preferred" appropriations which grant money to various schools and museums (including Penn State, Temple and Pitt) have still not been enacted.

Multiple Prime Waivers Still Unresolved

This year's Commonwealth budget impasse was different than previous budget fights for numerous reasons. Obviously, it was roughly 3 months late and many programs were eliminated or seriously scaled back due to lack of funds. But the budget was also notable because it marked the first time in years that it did not include a long list of other bills that typically pass with the budget. In particular, there was no bill to amend the public school code. For the last decade or so, the Legislature always passed a school code amendment at the same time that the budget bill passed. That was necessary if there were changes needed to address the distribution formula for school districts. At the same time, other issues affecting public schools could also be addressed in what was commonly referred to as the "omnibus" school code bill. The contents of that bill would be negotiated by the legislative leaders just like other budget matters and then the agreed to provisions would be enacted along with the Commonwealth budget.

Contractors opposed to the Pennsylvania Department of Education's mandate waiver program had hoped that waivers of the multiple primes requirement for school construction would be addressed in the omnibus school code bill. But with no public school code bill voted on, no legislative

changes could be made. While this certainly isn't the only policy issue left unresolved in the wake of the budget, it is the most serious for construction contractors. The Department has continued to issue waivers of the multiple primes requirement. Remarkably, the waivers continue even though the Secretary of Education supported the Mandate Waivers Task Force recommendation to require any school districts who wanted such a waiver to bid the project both ways (single prime and multiple prime) and to take the less expensive option.

There is no certainty that the Legislature will pass an amendment to the Public School Code in the near future. There are encouraging signs though. There are already several bills introduced that, if passed, would implement the Task Force recommendation. Some of these legislative proposals have been offered by legislators that previously had not supported the Separations Act. House Bill 1986, for example, was introduced by Representative Sam Rohrer and 11 other conservative House members. The cost savings arguments in favor of multiple prime bidding appear to have won over the support of many fiscal conservatives. In the event that a Public School Code bill does come up for a vote, the multiple primes forces appear to be growing. If the Legislature doesn't act by June of next year, the mandate waiver program will sunset and no school code waivers of any kind can be issued.

Senate Committee Holds Hearings on Sprinkler Requirement

The Senate committee on Labor and Industry held a public hearing on October 6 to hear testimony on a new provision under the statewide building code that requires sprinklers in newly constructed residential buildings. The Pennsylvania home builders association has been lobbying to block the implementation of this provision for several years, ever since it was made a part of the International Building Code (IBC). Pennsylvania adopted the updated IBC in its entirety this spring despite efforts by the builders to get the sprinkler provision removed by the advisory council that signs off on updates to the Pennsylvania code.

The fight has now shifted to the Legislature where bills have been introduced to strip the sprinkler requirement from the Uniform Construction Code (UCC). One such bill, Senate Bill 1001, was the topic of the hearing. The bill is supported by home builders and some municipal representatives. Fire protection and building code groups oppose it. Much of the testimony centered on the process used that led to the inclusion of the sprinkler requirement in the IBC and ultimately the Pennsylvania UCC. Supporters of the bill contend that the process was tainted and want the legislature to intervene. Not surprisingly, opponents of the bill dispute that there was anything amiss with the process.

L & I Announces Meeting of Uniform Construction Code (UCC) Review And Advisory Council

The Department of Labor and Industry will have a meeting on Thursday, November 12, 2009, 10:00 a.m. to 5:00 p.m. at 651 Boas Street, Room E-100, Harrisburg, PA 17121. Additional information concerning the meeting may be found on the Department's website at www.dli.state.pa.us/codes. Scroll down and click on the link for UCC Review and Advisory Council. Questions concerning this may be directed to Edward Leister at (717) 783-6304.

Sen. Mensch Sworn Into Senate

The state Senate has a new member. Former State Rep. Bob Mensch was sworn into office October 19 as the state Senator for the 24th Senatorial District, which includes parts of Bucks, Lehigh, Montgomery and Northampton counties. Mensch, who had been a state representative from Montgomery County's 147th Legislative District, defeated Democrat and Lansdale Borough Councilwoman Anne Scheuring on Sept. 29 in a special election to replace retired Sen. Rob Wonderling, R-Montgomery. Mensch will now serve out the remainder of Wonderling's term, and he is expected to seek re-election in 2010 to remain in office. House Speaker Keith McCall has 60 days to call a Special election to replace Mensch. Wonderling's departure and Mensch's swearing-in led to a shake-up of Committee Chairs in the Senate. **The following Senators have been appointed as new Chairs of the indicated Senate Committees: Transportation – John Rafferty; Law & Justice – John Pippy; Policy – Ted Erickson; Health & Welfare – Patricia Vance; Aging & Youth – Kim Ward.** Mensch has been named Vice Chair of the Senate Public Health & Welfare Committee and as a Member of Communications & Technology, Game & Fisheries, Veterans Affairs & Emergency Preparedness and Rules & Executive Nominations

Legislative Activity

[HB 1196](#) RE: Code Administrator Appeals (by Rep. Scott Boyd, et al)

Amends PA Construction Code Act further providing that a board of appeals shall consider variance requests, requests for extensions of time and appeals of decisions of code administrators. The bill also outlines requirements for code administrator appeals.

Reported as committed from House Labor Relations Committee, read first time, and laid on the table, 10/9/2009

[HB 1416](#) RE: 2009-2010 PA Budget (by Rep. Dwight Evans, et al)

General Appropriation Act of 2009 provides from the General Fund for the expenses of the Executive, Legislative and Judicial Departments of the Commonwealth, the public debt and the public schools for the fiscal year July 1, 2009, to June 30, 2010, 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, 2009; to provide appropriations from the State Lottery Fund, the Energy Conservation and Assistance Fund, the Aviation Restricted Revenue Account, the Hazardous Material Response Fund, The State Stores Fund, the Milk Marketing Fund, the Home Investment Trust Fund, the Emergency Medical Services Operating Fund, the Tuition Payment Fund, the Banking Department Fund, the Firearm Records Check Fund, the Ben Franklin Technology Development Authority Fund and the Tobacco Settlement Fund to the Executive Department; to provide appropriations from the Judicial Computer System Augmentation Account to the Judicial Department for the fiscal year July 1, 2009, to June 30, 2010; to provide appropriations from the Motor License Fund for the fiscal year July 1, 2009, to June 30, 2010, for the proper operation of the several departments of the Commonwealth and the Pennsylvania State Police authorized to spend Motor License Fund moneys; to provide for the appropriation of Federal funds to the Executive Department of the Commonwealth and for the payment of bills remaining unpaid at the close of the fiscal year ending June 30, 2009; to provide for the additional appropriation of Federal and State funds from the General Fund, from the State Lottery Fund and from the Tobacco Settlement Fund for the Executive Department of the Commonwealth for the fiscal year July 1, 2008 to June 30, 2009, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 2008; and making interfund transfers for the fiscal year July 1, 2008, to June 30, 2009.

Conference Committee meeting held, 10/5/2009

House dissolves committee on conference 10/6/2009

D. Evans rescinds his motion that the House insist upon its amendments, and House recede from its non-concurrence in Senate amendments 10/6/2009

Rereferred to House Rules Committee, 10/6/2009

Re-reported on concurrence as amended from House Rules Committee, 10/7/2009

House concurred in Senate amendments to House amendments, as further amended by the House 10/7/2009

Received as amended in Senate and rereferred Senate Rules and Executive Nominations Committee, 10/8/2009

Re-reported on concurrence as committed Senate Rules and Executive Nominations Committee, 10/9/2009

Senate concurred in House amendments to Senate amendments, as further amended by the House, 10/9/2009

Signed in the Senate and House 10/9/2009

Approved by the Governor 10/9/2009. Act No. 10A of 2009

[HB 1418](#) RE: Capital Budget Act of 2009-2010 (By Rep. Dwight Evans, et al)

Provides for the capital budget for the fiscal year 2009-2010. Also itemizes transportation assistance projects to be constructed or acquired or assisted by the Department of General Services or the Department of Transportation, together with their estimated financial costs. Authorizes the incurring of debt without the approval of the electors for the purpose of financing the transportation assistance projects. In addition, states the estimated useful life of the projects and makes appropriations.

Read third time and passed House, 10/3/2009 (137-59)

Received in the Senate and referred to Senate Appropriations Committee, 10/5/2009

Reported as committed from Senate Appropriations Committee, read first time, and Recommitted to Senate Appropriations Committee, 10/9/2009

Reported as committed from Senate Appropriations Committee, read second time, and Rereferred to Senate Appropriations Committee, 10/19/2009

[HB 1531](#) RE: Tax Code Changes (by Rep. Bud George, et al)

Amends Tax Reform Code further providing for time for filing returns, for time of payment, for continuation of the Military Family Relief Assistance Program through taxable years ending December 31, 2015, and for payment of taxes withheld, and providing for an educational improvement tax credit and for a **limited tax amnesty program for the period July 1, 2009, through June 30, 2010**. Participants in past amnesty programs would not be eligible to

participate in this program; participants in this program would not be eligible to participate in future programs. Participants in the program shall make payment of all taxes and 50% of all interest due to the commonwealth. The department may assess and collect from a taxpayer all penalties and interest forgone through the tax amnesty program within two years after the end of the program if the taxpayer becomes delinquent for three consecutive periods of payment or the taxpayer becomes delinquent and is eight or more months late in payment of taxes due or filing of returns on an annual basis. All revenue generated by the program shall be distributed as follows: (1) all money from General Fund sources shall be deposited in the General Fund no later than June 30, 2010; (2) all revenue from Motor License Fund sources shall be deposited in the Motor License Fund no later than June 30, 2010; and (3) all revenue from Liquid Fuels Tax Fund sources shall be deposited in the Liquid Fuels Tax Fund no later than June 30, 2010. In addition, certain licensees must file returns on a semi-monthly basis. Other reporting requirements and related deduction estimates are also adjusted. The bill establishes the Educational Improvement Tax Credit and provides for its objectives, administration and management. Various support levels and scholarship requirements are also laid out, as well as other rules governing the distribution of tax credits.

Passed House, 9/17/2009 (196-0)

Passed Senate, 9/25/2009 (47-1)

Re-reported on concurrence as amended from House Rules Committee, 10/1/2009

House Concurred in Senate amends to House amendments 10/2/2009 (103-98)

Received as amended in Senate and rereferred to Senate Rules and Executive Nominations Committee, and Re-reported on concurrence as amended from Senate Rules and Executive Nominations Committee, 10/5/2009

Senate Concurred in House amends to Senate amendments, 10/6/2009 (35- 14)

Received as amended in House and rereferred House Rules Committee, 10/6/2009

Re-reported on concurrence as committed House Rules, and House concurred in Senate amendments (102-96)

Signed in the House and Senate

Approved by the Governor 10/9/2009 Act 48 of 2009

[HB 1952](#) RE: Continuation Of Government Services In The Event Of A Budget Impasse (by Rep. Brian Barbin) A Joint Resolution proposing an amendment to the PA Constitution providing for a mechanism to establish continuation of government services in the event of a budget impasse. The bill states that in the event that a general appropriation act and a general revenue act or acts have not been enacted within 31 days of the beginning of a new fiscal year, the immediate past year appropriation act and revenue act or acts shall be imposed by operation of law until such time as the new fiscal year appropriation act and the new fiscal year revenue act or acts have been passed by both Houses of the General Assembly and signed by the Governor.

Laid on table in House State Government Committee, 10/6/2009

[SB 1001](#) RE: Sprinklers (by Sen. Bob Robbins, et al)

Amends the Pennsylvania Construction Code Act requiring any ordinance requiring fire sprinkler systems in residential buildings shall provide for the design and installation of such systems consistent with the provisions of the International Residential Code (2009) or its successor triennial revisions; providing exemptions to the fire sprinkler requirement.

Public hearing held in Senate Labor and Industry Committee, 10/6/2009

[SB 1085](#) RE: Supplemental General Appropriation Act of 2009 (by Sen. Jake Corman, et al)

Provides from the General Fund for the expenses of the Executive, Legislative and Judicial Departments of the Commonwealth, the public debt and the public schools for the fiscal year July 1, 2009, to June 30, 2010, 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, 2009; to provide appropriations from the State Lottery Fund, the Energy Conservation and Assistance Fund, the Aviation Restricted Revenue Account, the Hazardous Material Response Fund, The State Stores Fund, the Milk Marketing Fund, the Home Investment Trust Fund, the Emergency Medical Services Operating Fund, the Tuition Payment Fund, the Banking Department Fund, the Firearm Records Check Fund, the Ben Franklin Technology Development Authority Fund and the Tobacco Settlement Fund to the Executive Department; to provide appropriations from the Judicial Computer System Augmentation Account to the Judicial Department for the fiscal year July 1, 2009, to June 30, 2010; to provide appropriations from the Motor License Fund for the fiscal year July 1, 2009, to June 30, 2010, for the proper operation of the several departments of the Commonwealth and the Pennsylvania State Police authorized to spend Motor License Fund moneys; to provide for the appropriation of Federal funds to the Executive Department of the Commonwealth and for the payment of bills remaining unpaid at the close of the fiscal year ending June 30, 2009; to provide for the additional appropriation of

Federal and State funds from the General Fund, from the State Lottery Fund and from the Tobacco Settlement Fund for the Executive Department of the Commonwealth for the fiscal year July 1, 2008 to June 30, 2009, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 2008; and making interfund transfers for the fiscal year July 1, 2008, to June 30, 2009.

Reported as committed from Senate Appropriations Committee, read second time, and Recommitted to Senate Appropriations Committee, 10/2/2009

Reported as amended from Senate Appropriations Committee, 10/5/2009

Read third time and passed Senate, 10/6/2009 (43-6)

Received in the House and referred to House Appropriations Committee, 10/6/2009

Reported as committed from House Appropriations Committee, read first time, and laid on the table, 10/7/2009

New Bills Introduced

The following bills have been introduced since the last report.

[HB 2033](#) RE: The Fair Employment Act (by Rep. Darryl Metcalfe, et al)

Requires all employers, including government entities, in the Commonwealth to enroll in the federal Employment Eligibility Verification Program (E-verify). Provides it is unlawful for any employer to employ, or employer or business entity to permit the employment of, an unauthorized alien. Further provides as a condition for the award of any Commonwealth contract or grant to an employer for which the value of employment, labor or personal service shall exceed \$10,000, the employer shall provide written documentation affirming its enrollment and participation in the E-verify Program. Also provides compensation, whether in money or in kind or in services, provided to any unauthorized alien shall not be allowed as a business expense deduction from any Commonwealth income tax or business tax. Further provides for violations, enforcement and local ordinances.

Introduced and referred to House State Government Committee, 10/14/2009

[HR 510](#) RE: Highway Construction Materials Study (by Rep. Julie Harhart, et al)

Resolution requesting PennDOT to conduct a study of the slate industry for the purpose of devising the best means of utilizing the slate waste by-product as a component in highway construction and civil engineering projects.

Introduced and referred to House Transportation Committee, 10/16/2009

[SB 1113](#) RE: False Claims Act (By Sen. Anthony H. Williams, et al)

Provides for liability for false claims, for adoption of Congressional intent of the Federal False Claims Act, for treble damages, costs and civil penalties, for powers of the Attorney General and for qui tam actions.

Introduced and referred to Senate Judiciary Committee, 10/8/2009

[SB 1114](#) RE: Moratorium on Building Code Regs (by Sen. Bob Robbins, et al)

Amends the Pennsylvania Construction Code Act requiring that the department shall not promulgate regulations adopting the 2009 ICC International Building Code or the 2009 International Residential Code, and the regulations adopting the 2006 versions of those codes shall remain in effect until December 31, 2012, and until such time as the department shall adopt the 2012 triennial versions of those codes. Additionally the bill requires the Legislative Budget and Finance Committee to undertake a comprehensive review of this act and submit a report on its findings to the Labor and Industry Committee of the Senate and the Labor Relations Committee of the House of Representatives within one year of the effective date of this section, and provides for its contents.

Introduced and referred to Senate Labor and Industry Committee, 10/6/2009

Upcoming Meetings of Interest

TUESDAY - 11/10/09

House Commerce Committee (PUBLIC HEARING)

9:00 a.m., Room 60, East Wing

Public hearing on:

[HB 1776](#) (Bear) - providing for a housing and economic revitalization rebate program; imposing duties on the Pennsylvania Housing Finance Agency; and establishing the Build Pennsylvania Fund.

Remaining 2009 Session Schedules

SENATE SESSION SCHEDULE FOR 2009

TBA

HOUSE SESSION SCHEDULE FOR 2009

November 9, 10, 16, 17, 18

December 7, 8, 9, 14, 15, 16 (Non-voting)

Copies of all bills of interest can be accessed via the Internet at:
<http://www.legis.state.pa.us/WU01/LI/BI/billroom.htm>.