

American Society of Landscape Architects
Summary of Legislation
September 2010

INDEPENDENT REGULATORY REVIEW COMMISSION
Action Taken by the Commission
[40 Pa.B. 5655]
[Saturday, October 2, 2010]

The Independent Regulatory Review Commission met publicly at 10:30 a.m., Thursday, September 16, 2010, and announced the following:

Regulations Deemed Approved under Section 5(g) of the Regulatory Review Act—Effective September 15, 2010:

State Board of Landscape Architects #16A-619: Fees—Landscape Architect (amends 49 Pa. Code § 15.12)

Legislative Activity

[HB 400](#) RE: Construction Workplace Misclassification Act (by Rep. Bryan Lentz, et al) (PN 4289) Provides that, for the purposes of Workers' Compensation, Unemployment Compensation and improper classification of employees, an individual who performs services in the construction industry is an independent contractor only if: (1) the individual has a written contract to perform such services; (2) the individual is free from control or direction over performance of such services both under the contract of service and in fact; and (3) as to such services, the individual is customarily engaged in an independently established trade, occupation, profession or business. The bill provides for determination of violation and penalties. Additionally, the Secretary of the Department of Labor & Industry may petition a court to issue a stop-work order. Penalties collected shall be paid into various Workers' Compensation and Unemployment Compensation Funds. The department shall report annually to the General Assembly. The department shall not be required to enforce this act until adequate funding is appropriated. (Prior Printer Number: 1162, 1652, 1707)

Reported as amended from Senate Labor and Industry Committee, and read first time, 9/21/2010

Read second time and Rereferred to Senate Appropriations Committee, 9/22/2010

Reported as committed from Senate Appropriations Committee, 9/28/2010

Read third time and passed Senate, 9/29/2010 (34-13)

as amended in House and rereferred House Rules Committee, 9/29/2010

[HB 1450](#) RE: Environmental Advisory Councils (by Rep. Dan Deasy, et al) (PN 4013) Amends Title 53 (Municipalities Generally) transferring provisions relating to environmental advisory councils; authorizing a municipal corporation to establish an environmental advisory council to advise other local government agencies; adding the Geologically Hazardous Areas Act providing for the designation and regulation of geologically hazardous areas throughout this Commonwealth to protect people and limit property damage and the disruption of commerce from the possible dangers associated with land development in areas that are prone to landslides, sinkholes or other geologic hazards; imposing duties and conferring powers on the State Conservation Commission, the Department of Community and Economic Development, the Department of Environmental Protection, the Department of Conservation and Natural Resources and municipalities; and providing for enforcement and remedies. (Prior Printer Number: 1791)

Reported as committed from House Rules Committee, and laid on the table, 9/13/2010

Removed from the table and rereferred to House Appropriations Committee, 9/14/2010

[HB 2041](#) RE: The Towing and Towing Storage Facility Standards Act (By Rep. Anthony DeLuca, et al) (PN 4278) Provides for standards for towing; establishes notification requirements regarding fees for towing, storage and other related services and its hours of operation; and prohibits storage fees. (Prior Printer's Number: 2824, 3127, 3191)

Reported as amended Senate Consumer Protection & Professional Licensure Committee, and read first time, 9/21/2010

[HB 2066](#) RE: Independent Fiscal Office Act (By Rep. Anthony DeLuca, et al)

(PN 4394) Creates the independent fiscal office, which is to provide revenue estimates to the General Assembly. An estimate as to the state's fiscal condition and future projections for the next five years must be provided by the office by November 15. Also, impacts of revenue bill and new taxes must be analyzed by the office. The sales and use tax law must be analyzed by the office. Other discretionary duties are provided. An initial revenue estimate is due by the office on May 1 and an official estimate is due to the General Assembly by June 15. Contents of the revenue estimate are provided and the governor must submit an appropriations bill not to exceed revenue estimates. Expenditure reports are due to the office, along with revenue reports. A budget committee is provided for to determine the appropriations budget for the next year. Access to fiscal data is also provided. (Prior Printer Number: 2845, 2999, 3192)

Reported as committed from Senate Finance Committee, and read first time, 9/22/2010

Read second time, and Recommitted to Senate Finance 9/27/2010

Reported as amended from Senate Finance Committee, and Rereferred to Senate Appropriations Committee, 9/28/2010 Rereported as committed from Senate Appropriations 9/29/2010

[HB 2141](#) RE: "Small Business" Definition in Procurement (by Rep. Ron Buxton, et al)

(PN 4023) Amends Title 62 (Procurement) redefining "small business" as a business in the United States which is independently owned, is not dominant in its field of operation, and employs 250 or fewer employees. The small business employee limit may be waived in certain enumerated circumstances. (Prior Printer Number: 3083)

Reported as committed from House Rules Committee, and laid on the table, 9/13/2010

Removed from the table and Rereferred to House Appropriations Committee, 9/14/2010

[HB 2142](#) RE: Surety Bond Guarantee Fund Program Act (by Rep. W. Curtis Thomas, et al)

(PN 3955) Provides for the establishment of the Surety Bond Guarantee Program to assist disadvantaged businesses to competitively bid for governmental contracts; imposes duties on the Department of Community and Economic Development; establishes the Surety Bond Guarantee Fund; provides for contracts eligible for guarantee and for participation by disadvantaged businesses; and makes an appropriation of \$5 million to DCED, of which up to 10% may be used for administrative costs. An applicant shall be deemed eligible to participate in the program if the department determines that an applicant meets all of the following qualifications: (1) the applicant is a disadvantaged business certified by the department; (2) the applicant's business is in the construction or building trade industry; (3) the applicant has been actively operating its business for at least one year; (4) the applicant has the experience and financial fitness appropriate to a qualified contract; (5) the applicant has agreed to subcontract no more than 75% of the work to be performed under a qualified contract; (6) the applicant has demonstrated an inability to secure bonding under normal market conditions; (7) the applicant or one of its owners, officers, directors, principals or agents has not committed or been convicted of certain activities; and (8) the business meets any other program requirements that establish criteria for eligibility that the department shall adopt by regulation within 180 days of the effective date of this act. (Prior Printer Number: 3084)

Reported as committed from House Rules Committee, and laid on the table, 9/13/2010

Removed from the table and Rereferred to House Appropriations Committee, 9/14/2010

[HB 2143](#) RE: Contracting Opportunities for Disadvantaged Businesses (By Rep. Cherelle Parker, et al)

(PN 4024) Amends Title 62 (Procurement) providing for oversight and responsibility for significantly increasing contracting opportunities for disadvantaged businesses and requiring best practices for each contractor. Other oversight responsibilities are placed upon the department. (Prior Printer Number: 3085)

Reported as committed from House Rules Committee, and laid on the table, 9/13/2010

Removed from the table and Rereferred to House Appropriations Committee, 9/14/2010

[HB 2144](#) RE: Department of Minority and Women Business Development (By Rep. Babette Josephs, et al)

(PN 3086) Amends the Administrative Code establishing the Department of Minority and Women Business Development and providing for its powers and duties and making editorial changes.

Reported as committed from House Rules Committee, and laid on the table, 9/13/2010

Removed from the table and Rereferred to House Appropriations Committee, 9/14/2010

[HB 2145](#) RE: Mentor-protégé program (by Rep. Kenyatta Johnson, et al)

(PN 4025) Amends Title 62 (Procurement), in small and disadvantaged businesses, adding a section providing Commonwealth agencies shall adopt and institute with the Department of General Services assistance, a mentor-protégé program to assist, support and enable small businesses to successfully compete for prime and subcontract awards by partnering with large companies, which shall serve as mentors, in State contracts. Further provides the mentor-protégé arrangement between a prime contractor and a minority-owned, women-owned or disadvantaged subcontractor shall be an important factor considered or weighed by the Commonwealth agency awarding a

contract. Also provides the department shall establish the appropriate and applicable guidelines and criteria for firms to participate in a mentor-protégé program. (Prior Printer Number: 3087)

Reported as committed from House Rules Committee, and laid on the table, 9/13/2010

Removed from the table and Rereferred to House Appropriations Committee, 9/14/2010

[HB 2146](#) RE: Pennsylvania Unified Certification Program (By Rep. Vanessa L. Brown, et al) (PN 4026) Amends Title 62 (Procurement) authorizing the Department of General Services to accept the certification granted to a disadvantaged business under the Pennsylvania Unified Certification Program as established by the department in accordance with the federal Department of Transportation requirements. Prohibits the department from certifying or accepting the certification of any owner of a disadvantaged business who is not a United States citizen or lawful permanent resident. Requires a governmental agency to accept the certification of any disadvantaged business certified by DGS under the Unified Certification Program and authorizes each governmental agency to establish a disadvantaged business utilization program. (Prior Printer Number: 3088)

Reported as committed from House Rules Committee, and laid on the table, 9/13/2010

Removed from the table and Rereferred to House Appropriations Committee, 9/14/2010

[HB 2147](#) RE: Small Business Reserve Program (By Rep. Anthony Payton, et al) (PN 4027) Amends Title 62 (Procurement) authorizing the Department of General Services the authority to establish a small business reserve program for small and disadvantaged businesses. The purpose of the program is to bid on Commonwealth contracts without competing with larger businesses. Directs the department to structure its procurement procedures to reserve up to 10% of the total dollar value of its procurement contracts for direct designation to qualified small and disadvantaged businesses. Provides a contract designated for the program shall be awarded to the small or disadvantaged business that: submits the lowest bid; is the lowest evaluated bid or proposal; or is in the best interest of the Commonwealth. Further provides that participation in the program shall not preclude a small or disadvantaged business from participating in other Commonwealth procurement. Further provides for the promulgation of regulations and for submission of an annual report by the department. (Prior Printer Number: 3089)

Reported as committed from House Rules Committee, and laid on the table, 9/13/2010

Removed from the table and Rereferred to House Appropriations Committee, 9/14/2010

[HB 2148](#) RE: Monitoring of a Contractors' Performance (by Rep. Karen Beyer, et al) (PN 4028) Amends Title 62 (Procurement), in small and disadvantaged businesses, providing guidelines for the monitoring of a contractors' performance. (Prior Printer Number: 3090)

Reported as committed from House Rules Committee, and laid on the table, 9/13/2010

Removed from the table and Rereferred to House Appropriations Committee, 9/14/2010

[HB 2149](#) RE: Procurement Contracting (By Rep. Mark Mustio, et al) (PN 4287) Amends Title 62 (Procurement), in general provisions, providing for public access to procurement information; in source selection and contract information, further providing for competitive sealed proposals; in small and disadvantaged businesses, further providing for definitions and providing for authority to waive employee limit, for mentor-protégé program, for small business reserve program, for alternative certification, for oversight and responsibility and for contractor performance and general conditions; in small and disadvantaged businesses, establishing a surety bond guarantee program; and, in contracts for public works, further providing for contractors' and subcontractors' payment obligations.

Reported as committed from House Rules Committee, and laid on the table, 9/13/2010

Removed from the table and Rereferred to House Appropriations Committee, 9/14/2010

Reported as committed from House Appropriations Committee, amended on House floor, and read second time, 9/21/2010

Read third time, and passed House, 9/27/2010 (189-0)

[HB 2291](#) RE: Capital Budget for the Fiscal Year 2010-2011 (By Rep. Dwight Evans, et al) (PN 4386) Act providing for the capital budget for the fiscal year 2010-2011; itemizing public improvement projects, furniture and equipment projects, transportation assistance projects, redevelopment assistance capital projects, flood control projects, Keystone Recreation, Park and Conservation Fund projects, Environmental Stewardship Fund projects, State forestry bridge projects, General Fund current revenue projects, State ATV/Snowmobile Fund projects, State transportation enhancement funds projects and State Stores Fund current revenue projects to be constructed or acquired or assisted by the Department of General Services, the Department of Community and Economic Development, the Department of Conservation and Natural Resources, or the Department of Transportation, together with their estimated financial costs; authorizing the incurring of debt without the approval of the electors for the purpose of financing the projects to be constructed, acquired or assisted by the Department of General Services, the Department of Community and Economic Development, the Department of Conservation and Natural Resources, the Department of Environmental Protection or the Department of

Transportation; stating the estimated useful life of the projects; providing an exemption; providing for limitation on certain capital projects; making appropriations; and making a repeal. (Prior Printer Number: 3357, 4311)

Reported as amended from Senate Appropriations Committee, and read first time, 9/22/2010

Read Second time, 9/27/2010

Amended on Senate floor, 9/28/2010

Read third time and Passed Senate, 9/29/2010 (43-4)

Vote on final passage reconsidered 9/29/2010

Passed Senate, 9/29/2010 (42-5)

Received as amended in House and rereferred House Rules Committee, 9/29/2010

[HB 2460](#) RE: Pennsylvania MESA Initiative Act (By Rep. Jim Roebuck, et al)

(PN 3887) Establishes a program to increase exposure, educational motivation, and achievement of students in science, **engineering**, or mathematics. The program is to be coordinated by the Department of Education and the department is to work with all commonwealth agencies so there is no duplication. A MESA Oversight Commission is established and the commission is given powers and responsibilities and the appointment of commission members is detailed. The commission is to submit an annual report to the General Assembly noting the progress of the program. (Prior Printer Number: 3647)

Reported as committed from House Rules Committee, and laid on the table, 9/13/2010

Removed from the table and Rereferred to House Appropriations Committee, 9/14/2010

[HR 954](#) RE: Put the Brakes on Fatalities Day (By Rep. Stan Saylor, et al)

(PN 4322) A Resolution designating October 10, 2010, as "Put the Brakes on Fatalities Day" in Pennsylvania.

Introduced as noncontroversial resolution, 9/27/2010

Adopted, 9/29/2010 (198-1)

New Bills Introduced

[HB 2758](#) RE: Affordable Small Group Health Care Coverage (by Rep. Anthony DeLuca, et al)

(PN 4318) Amends The Insurance Company Law adding an article providing for affordable small group health care coverage, providing for enforcement, and making inconsistent repeals. The bill states the premium for a small group health benefit plan shall not be adjusted by an insurer more than once each year, except as provided in the bill. An insurer shall base its rating methods and practices on commonly accepted actuarial assumptions and sound actuarial principles. Rates shall not be excessive, inadequate or unfairly discriminatory. The bill also outlines fair marketing standards that all insurers and producers must meet. At least once per year, the Insurance Department may require each insurer to file certain reports relating to finances and expenses. The reports shall be available online for public access. The Insurance Department and the Department of Education shall promulgate regulations as necessary for the implementation and administration of the new article. Lastly, the bill provides for small employer groups by stating that a group of two or more small employers may form a purchasing group for the purpose of purchasing a small group health benefit plan.

Introduced and referred to House Insurance Committee, 9/24/2010

Upcoming Meetings of Interest

NONE

2010 HOUSE FALL SESSION SCHEDULE

October 4, 5, 6

November 8, 9, 10, 15, 16

2010 SENATE FALL SESSION SCHEDULE

October 12, 13, 14

November 18 (Ceremonial Session to Elect an Interim President Pro Tempore)

Session ends officially at midnight on November 30

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

<http://www.legis.state.pa.us/WU01/LI/BI/billroom.htm>