

American Society of Landscape Architects PA/DE Chapter

Summary of Legislation

May 2017

Prompt Pay Bill Scheduled For Action

A bill that would strengthen the Pennsylvania prompt pay law for contractors, subcontractors and design professionals has been advanced by the House Commerce committee. Notably, **House Bill 566** provides a legal mechanism for a subcontractor to stop work on a private construction project if not paid. The bill amends the Contractor Subcontractor Payment Act by inserting additional provisions to help companies get paid. Those provisions include:

- Preventing waivers of rights under the act
- Allowing suspension of work after a notice has been sent and the designated time period has elapsed
- Clarifies that payments may be withheld for deficiency items but non-deficiency items must be paid for on time
- After substantial completion a contractor may provide security in order to release retainage

The Bill was reported out of the House Commerce committee on June 6th by a unanimous vote. The full House is expected to take up the bill before the end of June. It should be noted that some construction groups representing general contractors are opposing it.

Senate Environmental Resources and Energy Committee Approves McDonnell Nomination; Full Senate Concurs

The **Senate Environmental Resources and Energy Committee** met May 9 to consider the nomination of **Patrick McDonnell** to be secretary of the Department of Environmental Protection. Below are some highlights of the hearing. McDonnell made opening remarks thanking the committee for allowing him to appear, noting his 20-year experience in state government has allowed him to see every aspect of the agency, requiring him to put an emphasis on collaboration to address ongoing challenges in the department. **He noted work toward improving the permitting process through advanced technology**, increasing the obligation to the Chesapeake Bay, and reinvesting in the employees of the department. He added he takes the leadership role seriously and it is due to the employees of the department, that it is able to meet its core mission despite budget cuts.

McDonnell thanked his wife and children for their support in his new role and thanked the committee for its work over the last year as he has been serving in the acting secretary capacity and offered to work together to address shared challenges.

Sen. Joe Scarnati (R-Jefferson) noted he met with McDonnell recently to outline some concerns and he left that meeting with a great sense that McDonnell will work a balance in the department. He noted no matter who is in their district, legislators place an emphasis on **economic development** while taking care of the environment, something he said is evident in Act 13 and the building of pipelines. He said these activities should be continued after McDonnell is confirmed.

The nomination was unanimously favorably reported to the Senate. The full Senate confirmed McDonnell on May 23.

DEP Invites Public Comment to Help Develop State Plan to Improve Local Water Health In Chesapeake Bay Watershed Counties

The Department of Environmental Protection is seeking public comment on the Commonwealth's Phase 3 Watershed Implementation Plan for the Chesapeake Bay. Details are available in the Pennsylvania Bulletin. Comments should be submitted by July 7 at www.ahs.dep.pa.gov/eComment, to ecomment@pa.gov, or by mail to the Department of Environmental Protection, Policy Office, Rachel Carson State Office Building, PO Box 2063, Harrisburg, PA 17105-2063.

DEP Small Water Systems Technical Assistance Center Board Meeting Cancellation

The June 8 meeting of the Small Water Systems Technical Assistance Center Board has been cancelled. The next meeting is scheduled for Thursday, July 13, 2017, at 9 a.m. in the Rachel Carson State Office Building, Harrisburg. Questions should be directed to Dawn Hissner, Bureau of Safe Drinking Water, at dhissner@pa.gov or (717) 772-2189. Agenda and meeting materials are available at <http://www.dep.pa.gov>.

Legislative Activity

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

Bidding / Contracting

[HB 1387](#) RE: [Contractor and Subcontractor Payment](#) (by Rep. David Maloney, et al)

Amends the Contractor and Subcontractor Payment Act further providing for application of act by prohibiting waiver by contract or agreement; for owner's withholding of payment for good faith claims by establishing if an owner withholds payment from a contractor for a deficiency item, the owner shall remit payment to the contractor for each other item that has been satisfactorily completed under the construction contract; for contractor's and subcontractor's payment obligations by adding construction contracts; for errors in documentation by requiring once written notice has been received by the person who sent the incorrect invoice, the person receiving the invoice shall pay the correct amount of the invoice on the due date; for retainage by establishing upon reaching substantial completion of its own scope of work, a contractor or subcontractor may 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; for contractor's and subcontractor's withholding of payment for good faith claims by adding if a contractor or subcontractor withholds payment from a subcontractor for a deficiency item, the contractor or subcontractor withholding payment shall remit payment to the subcontractor for each other item that has been satisfactorily completed under the construction contract; and for penalty and attorney fee by requiring the claim holder to comply with section 6 or 11.

Introduced and referred to House Commerce Committee, 5/18/2017

Budget Related Bills

[SB 651](#) RE: Capital Budget Project Itemization Act of 2017-2018 (by Sen. Pat Browne, et al)

provides for the capital budget for fiscal year 2017-2018; itemizing public improvement projects, furniture and equipment projects, transportation assistance projects, redevelopment assistance, flood control projects, Keystone Recreation, Park and Conservation Fund projects, Environmental Stewardship Fund projects, State forestry bridge projects, park and forest management projects, State ATV/ Snowmobile Fund projects, Pennsylvania Fish and Boat Commission projects, Oil and Gas Lease Fund projects and Motor License Fund projects to be constructed, acquired or assisted by the Department of General Services, the Department of Conservation and Natural Resources, the Department of Environmental Protection, the Department of Transportation or the Pennsylvania Fish and Boat Commission, 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 Environmental Protection, the Department of Transportation or the Pennsylvania Fish and Boat Commission; authorizing the use of current revenue for the purpose of financing the projects to be constructed, acquired or assisted by the Department of Conservation and Natural Resources or the Department of Transportation stating the estimated useful life of the projects; making a related repeal; and making appropriations.

Reported as committed from Senate Appropriations Committee and read first time, 5/8/2017

Read second time, and rereferred to Senate Appropriations Committee, 5/9/2017

Reported as amended from Senate Appropriations Committee, 5/22/2017

Read third time, and passed Senate, 5/23/2017 (50-0)

Received in the House and referred to House Appropriations Committee, 5/25/2017

[SB 697](#) RE: Capital Budget Act of 2017-2018 (by Sen. Patrick Browne, et al)
Appropriates \$1,615,000,000 for the capital budget for the fiscal year 2017-2018. Effective July 1, 2017, or immediately, whichever is later.

Introduced and referred to Senate Appropriations Committee, 5/22/2017

Environmental Building Standards

[HB 1365](#) RE: Permit Fees (by Rep. Mary Jo Daley, et al)
Amends the Pennsylvania Sewage Facilities Act further providing for permits by establishing the local agency may charge a fee, not to exceed \$100 (changed from \$25), to verify the system is located in accordance with the siting requirements.

Introduced and referred to House Local Government Committee, 5/9/2017

[SB 144](#) RE: [Change to Act 537 \(PA Sewage Facilities Act\)](#) (by Sen. Gene Yaw, et al)
Amends Pennsylvania Sewage Facilities Act authorizing the inclusion of alternative systems in the site planning process.

Read second time, and rereferred to Senate Appropriations Committee, 5/8/2017

Reported as committed from Senate Appropriations Committee, 5/22/2017

Local/State Government/Regulations

[HB 913](#) RE: [Amend Town Code/Storm Water Fee](#) (by Rep. Garth Everett, et al)
Amends Title 8 (Boroughs & Incorporated Towns) adding language allowing an incorporated town council to assess fees for storm water management activities and facilities without the need to establish a municipal authority.

Reported as amended from House Local Government Committee, read first time, and laid on the table, 5/10/2017

[HB 914](#) RE: Fees for Storm Water Management (by Rep. Garth Everett, et al)
Amends Title 8 (Boroughs & Incorporated Towns) adding language allowing a borough to assess fees for storm water management activities and facilities without the need to establish a municipal authority.

Reported as amended from House Local Government Committee, read first time, and laid on the table, 5/10/2017

[HB 915](#) RE: Fees for Storm Water Management (by Rep. Garth Everett, et al)
Amends the First Class Township Code adding language allowing the board of commissioners to assess fees for storm water management activities and facilities without the need to establish a municipal authority.

Reported as amended from House Local Government Committee, read first time, and laid on the table, 5/10/2017

[HB 916](#) RE: Fees for Storm Water Management (by Rep. Garth Everett, et al)
Amends Title 11 (Cities) adding language allowing a city to assess fees for storm water management activities and facilities without the need to establish a municipal authority.

Reported as amended from House Local Government Committee, read first time, and laid on the table, 5/10/2017

[HB 1380](#) RE: [Amending the Pennsylvania Construction Code Act](#) (by Rep. Patrick Harkins, et al)
Amends the Pennsylvania Construction Code Act, in preliminary provisions, further providing for definition of "commercial building" and for Uniform Construction Code Review and Advisory Council by adding residential buildings, establishing a commercial construction code review process, and allowing the council to recommend that a new or amended provision contained in a triennial code is not consistent with the intent and purpose of the act or otherwise inappropriate for inclusion; and, in Uniform Construction Code, further providing for revised or successor

codes by permitting the department to promulgate final-omitted regulations under the act to adopt the ICC triennial code revisions for commercial buildings within three months of the receipt of the written recommendation by the council or by December 31 of the year of issuance of the new code.

Introduced and referred to House Labor and Industry Committee, 5/18/2017

[SB 242](#) RE: [Updates to the Pennsylvania One Call Law](#) (by Sen. Lisa Baker, et al)

Amends the Underground Utility Line Protection Law further providing extensively for definitions, for duties of facility owners, for duties of the One Call System, for duties of excavators, for duties of designers, for duties of project owners and for penalties; providing for enforcement, for underground utility line protection fund and for compliance; and further providing for One Call System authority and for expiration. Among the many changes, facility owners shall maintain existing records of main lines abandoned on or after the effective date and to mark, locate or identify the main lines if possible, based upon the existing records. A damage prevention committee is established to review reports of violations, issue warnings and determinations and require persons to attend damage prevention educational programs. The act expires December 31, 2024, (changed from 2017). Portions are effective immediately and the remainder is effective in 180 days.

Laid on the table, removed from the table, 5/24/2017

[SB 269](#) RE: Uniform Construction Code Review and Advisory Council (by Sen. Lisa Baker, et al)

Amends the Pennsylvania Construction Code Act, in preliminary provisions, further providing for definitions, adding that the Uniform Construction Code Review and Advisory Council shall also gather information from construction trades and consumer representatives; repealing provisions providing for review; reconstituting the membership of the council and providing for removal of members; requiring members to participate in person, via teleconference, or via video conference; establishing technical advisory committees; providing for review of updated sections and adoption of updated sections into Uniform Construction Code; in Uniform Construction Code, further providing for revised or successor codes; in adoption and enforcement by municipalities, further providing for administration and enforcement; in training and certification of inspectors, further providing for education and training programs; and, in exemptions, applicability and penalties, further providing for applicability to certain buildings. Additionally, the fee collected shall be allocated as follows: 40 percent in the Municipal Code Official Training Account, 40 percent in the Construction Contractor Training Account, and 20 percent in the Review and Advisory Council Administration Account to be used by the Department of Labor and Industry.

Reported as committed from Senate Appropriations Committee, 5/8/2017

Amended on Senate floor, 5/23/2017

Read third time and passed Senate, 5/24/2017 (40-10)

Received in the House and referred to House Labor and Industry Committee, 5/25/2017

[SB 561](#) RE: [Legislative Approval of Economically Significant Regulations](#) (by Sen. John DiSanto, et al)

Amends the Regulatory Review Act further providing for definitions, for proposed regulations and procedures for review and for final-form regulations and final-omitted regulations and procedures for review; and providing for concurrent resolution required for economically significant regulations. Estimates of the cost of a proposed regulation shall be verified by the Independent Fiscal Office prior to the agency submitting them to the commission. Further, the legislature shall adopt a concurrent resolution for economically significant regulations. If the General Assembly does not adopt the concurrent resolution in the time prescribed, the final-form regulation or final-omitted regulation shall be deemed not approved and such regulation shall not take effect. This shall not apply to emergency-certified regulations.

Reported as committed from Senate Rules and Executive Nominations Committee, and read first time, 5/8/2017

Amended on Senate floor, read second time, and rereferred to Senate Appropriations Committee, 5/24/2017

[SB 663](#) RE: [Third Party Municipal Contracts](#) (by Sen. Dan Laughlin, et al)

Amends the Pennsylvania Construction Act, in adoption and enforcement by municipalities, further providing for administration and enforcement by requiring the retention of three (increased from one) or more construction code officials or third-party agencies to act on behalf of the municipality for administration and enforcement of the act. Further, the bill provides for fee limitations by stipulating that a municipality administering and enforcing this act shall collect fees that represent the actual administrative costs of code enforcement and annually report to the department regarding the fees collected and costs of the program.

Introduced and referred to Senate Labor and Industry Committee, 5/2/2017

Professional Licensure

[HB 1343](#) RE: Continuing Education Carryover (by Rep. Harry Readshaw, et al)

Amends the act entitled, "An act empowering the General Counsel or his designee to issue subpoenas for certain licensing board activities; providing for hearing examiners in the Bureau of Professional and Occupational Affairs; providing additional powers to the Commissioner of Professional and Occupational Affairs; and further providing for civil penalties and license suspension," adding that in addition to disciplinary powers and duties, boards and commissions shall have the power to provide for the carryover of any continuing education credits in excess of the number required for biennial renewal. The carryover shall be valid for one biennial renewal term only.

Introduced and referred to House Professional Licensure Committee, 5/5/2017

Local/Property Tax Reform

[HB 1318](#) RE: Residential Property Tax Elimination Act (by Rep. Keith Gillespie, et al)

Authorizes school districts to levy, assess, and collect a tax on personal income or a tax on earned income or net profits as a means of abolishing property taxation by the school district. Increases the Commonwealth personal **income tax from 3.07 percent to 4.5 percent** and increases the **sales and use tax from 6 percent to 7 percent** and **expands that tax to include food and clothing**. The moneys from the tax increases and expansion shall be transferred to the Residential Property Tax Elimination Fund established under the act. Further provides for definitions, limitation, preemption, referendum, continuity of tax, collections, and exemption and special provisions. The act shall take effect upon the enactment of the amendment to the Pennsylvania Constitution adding language allowing the General Assembly, by law, to make special tax provisions that prohibit a school district from imposing a tax on real property that is classified as residential property

Introduced and referred to House Finance Committee, 5/2/2017

Mandate Waivers

NONE

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NONE

Permitting

[HB 1326](#) RE: Water Obstruction and Encroachment Permits (by Rep. Mike Hanna, et al)

Amends Title 27 (Environmental Resources) adding a new chapter relating to water obstruction and encroachment permits providing the fee for a permit for a de minimis impact project is \$100. Further provides for definitions.

Introduced and referred to House Environmental Resources and Energy Committee, 5/2/2017

[HB 1352](#) RE: [Expedited Environmental Protection Act](#) (by Rep. Stephen Bloom, et al)

An act providing for review of certain applications submitted to the Department of Environmental Protection.

Introduced and referred to House Environmental Resources and Energy Committee, 5/9/2017

[HB 1353](#) RE: [Fairness in Environmental Protection Permitting](#) (by Rep. Stephen Bloom, et al)

An act requiring the Department of Environmental Protection to provide certain notice relating to incomplete and technically deficient applications.

Introduced and referred to House Environmental Resources and Energy Committee, 5/9/2017

[SB 692](#) RE: Permit-Exempt Septic System Inspection Fees (by Sen. John Blake, et al)

Amends the Pennsylvania Sewage Facilities Act further providing for permits by establishing the local agency may charge a fee, not to exceed \$100 (changed from \$25), to verify the system is located in accordance with the siting requirements.

Introduced and referred to Senate Environmental Resources and Energy Committee, 5/15/2017

School Construction

[HB 1315](#) RE: Prototypical School Facility Designs (by Rep. Keith Gillespie, et al)

Amends the Public School Code providing for the establishment of a central clearinghouse of prototypical school facility designs for access by school entities. The Department of Education must review and evaluate submitted plans for inclusion in the clearinghouse using certain standards. The bill requires the Legislative Budget and Finance Committee after the fifth year of operation to conduct a study of the department's program to determine the savings incurred by school entities that have participated in the program.

Introduced and referred to House Education Committee, 5/2/2017

Transportation

NONE

Worker's Comp

NONE

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 Labor and Industry Committee, read first time, and laid on the table, 5/23/2017

Removed from the table, 5/24/2017

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/>

MONDAY - 6/5/17

House Consumer Affairs Committee

10:00 a.m., Room B31 Main Capitol

Public hearing on legislation amending the Underground Utility Line Protection Act

TUESDAY - 6/6/17

House State Government Committee

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

Public hearing on state government regulations: burdens, abuses and legislative oversight

House Commerce Committee

Off the Floor, Room 205, Ryan Office Building

To consider HBs [HB 566](#) (Contractor and Subcontractor Payment Act) & 1484

WEDNESDAY - 6/7/17

House Professional Licensure Committee

9:30 a.m., Room G-50, Irvis Office Building

To consider:

[HB 442](#) (Christiana) - plumbing contractors licensure; and

HB 1106 (Emrick) - Amends the Engineer, Land Surveyor and Geologist Registration Law, further providing for definitions, for continuing professional competency requirements and for exemption from licensure and registration.

2017 SENATE SESSION SCHEDULE

June 5, 6, 7, 12, 13, 14, 19, 20, 21, 22, 26, 27, 28, 29, 30

2017 HOUSE SESSION SCHEDULE

June 5, 6, 7, 8, 12, 13, 14, 19, 20, 21, 22, 26, 27, 28, 29, 30

Fall schedule will be released in June

State Board of Landscape Architects Meeting Schedule

2017 Meeting Dates (Subject to Change)

June 15, August 17, November 16

PUBLIC WELCOME

All Board meetings are held at Penn Center, 2601 N. 3rd Street, Harrisburg, PA, at 9:30 a.m.

Other meeting dates may be scheduled as needed.

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

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