

MCA
Summary of Legislation
April 2012

Bill to Eliminate Double Taxation Moves in House

Legislation designed to eliminate the possibility of contractors paying double local taxes is moving in the PA House and could face a final vote in the coming weeks. **Senate Bill 405** proposes to overturn a 2007 PA Supreme Court ruling that stemmed from a case where a contractor was forced to pay local business privilege and mercantile taxes simply because it had a job site trailer on the project site. Prior to the ruling in *V.L. Rendina, Inc. v. City of Harrisburg*, 938 A.2d 988 (Pa. 2007), contractors paid such taxes only where they had a permanent place of business. This decision has led to double taxation on contractors that do work in the 312 municipalities that are eligible to levy the tax.

Senate Bill 405 amends the Local Tax Enabling Act so that this double taxation would no longer be permitted. The bill passed the Senate last year and was recently reported out of the House Finance committee. It is not a sure thing to pass the House though. Local government associations and school districts are lobbying against the bill because it would result in the loss of income for the jurisdictions that levy the tax. Members are asked to contact their legislators and urge support for this common sense bill.

State House & Senate Primary Report: 5 Incumbent State House members Lose, Holden and Altmire defeated

Most state Reps had little or no opposition, but 5 sitting state House members were defeated in their re-election attempts on April 24, three of them among the longest serving in the House.

Philadelphia state Rep. Babette Josephs lost her primary to Democratic primary challenger Brian Sims. Josephs has served her Center City district since 1985.

The longest serving current Republican member of the House, Rick Geist, chair of the House Transportation committee, lost by 196 votes out of the 5,104 votes cast, a victory for the Tea Party, who managed to knock off another member of the establishment. Geist's district is based in Blair county in south central PA, including Altoona.

Another Committee Chairman, Democrat Joe Preston from the Pittsburgh-area was also defeated. Preston, elected in 1982 is the senior Democrat on the Consumer Affairs committee. He lost by a 2:1 margin to the Post-Gazette- endorsed Ed Gainey.

Two-term Rep. Kevin Murphy, from Lackawanna County was defeated by Marty Flynn. Murphy came under fire over the last couple weeks for lying about his college degree from the University of Scranton.

Another Lackawanna County House member, Democrat Ken Smith, could not overcome a ton of bad publicity over back taxes owed on his closed family restaurant. Kevin Haggerty defeated Smith by 270 votes.

The biggest scare of the night was the near unseating of Speaker of the House Sam Smith by unknown Chris Dush. Speaker Smith won by 458 votes out of the 6,381 votes cast in the race.

Former House Speaker Bill DeWeese, on the same day, resigned, was sentenced to jail time and was re-nominated by his Democratic constituents to run for his current position. The 35-year House veteran handed in his resignation just prior to being sentenced to 30-60 months in jail for

the five felonies a Dauphin County jury handed down to him last month. Despite his conviction a state judge ordered that he could remain on the primary ballot as the Democrat nominee for state House in the 50th District.

Statewide Races

Democrat-turned Republican Tom Smith took 41 percent of the vote to clinch the Republican nomination to face incumbent Bob Casey for his U.S. Senate seat. The former coal mine owner from Armstrong County overwhelmed the state GOP's endorsed candidate, Chester County entrepreneur Steve Welch, and former state Rep. Sam Rohrer, and several others.

Kathleen Kane, former Lackawanna County prosecutor beat former Bucks County Congressman Patrick Murphy with 54 percent of the vote. Dave Freed of Cumberland County is the Republican nominee for Attorney General.

State Rep. John Maher of Allegheny County, the endorsed GOP candidate, beat back a challenge from Frank Pinto to capture the Republican nomination for Auditor General by a wide margin. Maher also is running for his House seat. Maher will face fellow state Rep. Eugene DePasquale in November. DePasquale was unopposed in the primary, and also won the nomination for his House seat. There will be a special election next spring in either his or Maher's seat, depending on who wins.

Congressional Race Reports

York County State Rep. Scott Perry won a crowded Republican primary for Congress in the 4th District being vacated by the retiring incumbent, Todd Platts. Perry will likely win the seat, as the registration is overwhelmingly Republican in the new district.

In a newly drawn 12th district, Democrat Mark Critz beat fellow incumbent Jason Altmire in the combined district. Critz represented just 27 percent of the new district but it produced 40 percent of the total votes.

Tim Holden's congressional career is over, as Matt Cartwright handily beat the 20-year incumbent, the dean of the state's congressional delegation. Holden was a solid "Blue Dog" vote in Congress. He fell victim to the reapportionment lines, and continued anti-incumbent sentiment.

Republican Tim Murphy took 63 percent of the vote and easily beat back a challenge from former Senate staffer Evan Feinberg in the 18th Congressional district in Allegheny County.

State Senate Roundup:

Republican Attorney John McNally cruised to victory in the race to succeed the retiring Jeff Piccola. McNally will take on Democrat Rob Teplitz. Interestingly, if the current redistricting proposal is approved, Teplitz will not be a resident of the 15th in 2014.

Incumbent Republican, Dave Argall beat back a well-funded challenge from energy company executive Brian Rich in the 29th Senate district. Argall will face former Democrat State Rep. Tim Seip in November.

The name ID that D. Raja created in his losing 2011 race for Allegheny County Executive paid dividends this year, as he won the three-way race for the GOP nomination to succeed John Pippy, who is retiring. Since no Democrat filed for the seat, Raja is the Senator-elect, though he does not live in the newest version of the 37th District, as currently drawn by the Legislative Reapportionment Commission, either.

Democrat Sean Wiley, the preferred candidate of state Democrats, won the four-way race for the nomination in the 49th district race to replace Republican Sen. Jane Earll. Wiley will face Republican Janet Anderson this fall. Anderson ran unopposed in the primary, and is a district staffer for Earll. This could be one of the most watched races in the state, as Democrats see it as a real chance to pick up a seat and close the gap in the Senate.

State House Reports

While most voters were choosing representation for the 2013-14 session, several districts filled vacancies as well.

In the special election to determine the successor to Chelsa Wagner in the 22nd district in Allegheny County, who was elected Allegheny County Controller last year, Democrat Martin Schmotzer defeated Republican Chris Cratsley, 59 percent to 41 percent. Schmotzer, however, will only serve out the remaining eight months of Wagner's term, as he was simultaneously defeated by Erin Molchany in the Democratic primary for the ensuing full two-year term beginning in 2013. Molchany and Cratsley will face off in November.

In the 134th district in the Lehigh Valley, Republican newcomer Ryan Mackenzie won this seat despite a \$100,000 campaign against him by the political arm of Planned Parenthood. The seat was formerly held by State Rep. Doug Reichley, now a judge in Lehigh County. Mackenzie also won the primary for the full term.

Democrat Madeleine Dean beat Republican attorney Nick Mattiacci by a 56-44 percent margin in the 153rd district seat to succeed now-Montgomery County Commissioner Josh Shapiro. Mattiacci and Dean will face each other in the fall General Election.

Democrat Ed Neilson, a political rep for IBEW Local 99, beat Republican Dave Kralle to win this seat formerly represented by Kralle's former boss, Denny O'Brien, now a Philadelphia City Councilman. Kralle won the GOP primary and will meet Neilson again in November.

Former state Rep. Harold James easily won back the 186th district seat he lost to Kenyatta Johnson in 2008. Johnson won a seat on Philly City Council last fall, creating the opening for James' return. Interestingly, James will not be on the ballot in November for the seat next term. Jordan Harris overwhelmingly won the Democratic nomination, and since no Republican ran, or could win anyway, Harris will be the new Representative in January.

Democrat Gary Williams easily won the Special election to succeed Jewell Williams, who won the County Sheriff seat in 2011, defeating several other candidates, including Jewell Williams' daughter. Williams was not on the ballot for the regular primary. Democrat J.P. Miranda will face Republican Steve Crum this fall in the race for the 197th House District seat. Miranda won 40 percent with 2,977 votes.

Legislative Activity

The following bills were acted on by the General Assembly this month.

BIDDING / CONTRACTING

None

BUDGET RELATED BILLS

NONE

ENVIRONMENTAL BUILDING STANDARDS

None

HEALTH CARE REFORM

NONE

LOCAL/STATE GOVERNMENT/REGULATIONS

[HB 1602](#) RE: Mechanics' Lien (by Rep. Tom Killion, et al)

Amends the Mechanics' Lien Law further providing for formal notice by subcontractor to the prothonotary of the Court of Common Pleas of the relevant jurisdiction as condition precedent to beginning construction. Requires the owner to post a copy of the notice for the duration of the project. Further provides a subcontractor shall lose the right to a lien with respect to an improvement to a residential property when the owner has paid the full contract price to the contractor. Form of the notice is provided for and a model notice given. Further provides for priority of lien.

Received in the Senate and referred to Senate Labor and Industry, 4/10/2012

[HB 2031](#) RE: Carbon Monoxide Alarm Standards Act (By Rep. Frank Farry, et al)

Requires a carbon monoxide detector to be installed in each existing residential building having a fossil fuel-burning heater or appliance, fireplace or an attached garage at the time of sale. Carbon monoxide detectors must be installed within one year in multifamily dwellings. Ensures that residents and building owners retain the ability to choose any carbon monoxide devices - whether alarms or detectors - that are listed and installed in accordance with the applicable national consensus standards. The bill provides for occupant responsibilities in rental units and for penalties.

Reported as amended from House Consumer Affairs Committee, read first time, and laid on the table, 5/1/2012

[SB 1136](#) RE: High-Performance State Government Buildings Standards Act (By Sen. John Rafferty, et al)
Requires the design, construction and renovation of certain state buildings to comply with specified energy and environmental building standards. The bill outlines minimum criteria for high-performance building standards. The Department of General Services, in consultation with the Department of Environmental Protection, shall develop and issue regulations for compliance.

Reported as amended from Senate Environmental Resources and Energy Committee and read first time, 4/2/2012

PREVAILING WAGE

[HB 1685](#) RE: Determination of the Prevailing Wage (by Rep. John Bear, et al)
Amends the Pennsylvania Prevailing Wage Act to place duties on the Department of Labor and Industry regarding the determination of the prevailing wage. Requires each type of work be classified and put on a publicly accessible website. Provides the sources that may be used to determine classifications and requires the classifications to be used until project completion.

Laid on the table, removed from the table, 4/4/2012

TRANSPORTATION

[HB 3](#) RE: Public-Private Transportation Partnerships (By Rep. Rick Geist, et al)
Amends Title 74 (Transportation) adding a chapter providing for public-private transportation partnerships and making a related repeal.

Read third time and passed House, 4/4/2012 (128-66)

Received in the Senate and referred to Senate Transportation Committee, 4/10/2012

[HB 1915](#) RE: Capital Projects (by Rep. Karen Boback, et al)
Supplements Act entitled "an Act providing for the adoption of capital projects related to the repair, rehabilitation or replacement of highway bridges to be financed from current revenue or by the incurring of debt and capital projects related to highway and safety improvement projects to be financed from current revenue of the motor license fund," itemizing public highway projects to be constructed by the department of transportation from current revenue in the Motor License Fund. The bill estimates the useful life of each project to be 30 years, and appropriates all moneys received from the federal government for the construction of the public highway projects specifically itemized. Stipulates funding from the act for any project is available only to the extent that federal funds are not available for such project.

04-20-12 S Received in the Senate and referred to Senate Appropriations

[HB 2242](#) RE: The Capital Budget Act of 2011 for Highways Damaged by Hurricane Irene and Tropical Storm Lee (by Rep. Matt Baker, et al)

Itemizes \$66,783,000 to be expended for highway capital budget projects for flood-damaged highways to be financed from revenue from the Motor License Fund.

Received in the Senate and referred to Senate Appropriations, 04-20-12

UNEMPLOYMENT/WORKERS COMP

None

Upcoming meetings of Interest

2012 SPRING SENATE SESSION SCHEDULE

May 1, 2, 7, 8, 9, 21, 22, 23

June 4, 5, 6, 11, 12, 13, 18, 19, 20, 25, 26, 27, 28, 29

2012 SPRING HOUSE SESSION SCHEDULE

May 1, 2, 7, 8, 9, 21, 22, 23

June 4, 5, 6, 11, 12, 13, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29

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

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