

**MCA**  
**Summary of Legislation**  
**October 2006**

**Gaming Bill Amended To Delete Local Ordinance Preemption**

The House and Senate have been trying to pass an amendment to the slots bill for months now. Each chamber has passed **Senate Bill 862** twice. They simply haven't been able to agree on the final version of the bill, so the House and Senate keep passing it back and forth. On October 17<sup>th</sup>, the House amended it again and sent the new version back to the Senate. This latest version struck language that may have caused Philadelphia to follow the International Building Code rather than the City's more stringent building codes. If the wording in the bill remains unchanged, the Philadelphia building codes will apply to any casinos built there. However, the bill does limit Philadelphia's and Pittsburgh's zoning authority over casinos

**Mechanic's Lien Amendment Moving in House**

Even though the Legislature enacted a new mechanic's lien bill in June of this year, the General Building Contractors Association of Philadelphia has been lobbying to create additional changes before the new law goes into effect (January 1, 2007). **House Bill 2959** originally would have made a number of changes involving how a lien is filed, but it was amended in the House Labor Relations committee on October 4<sup>th</sup> to address only the issue of "double jeopardy". The proponents of the bill claim that the new law could cause a contractor to have to pay twice for the same work thus creating a "double jeopardy" issue.

The bill was reported out of committee, but may now be stalled in the House. Opposition to the bill from some subcontractor groups from the southeastern part of the State appears responsible for the initial delay. More recently, the home builders have also promoted amendments to that bill which would delay the effective date of the new law until July of 2007 and expand the residential exemption (i.e. allow for waivers on all residential projects, not just those under \$1 million). With limited time left in this legislative session, there is only a remote chance of any mechanic's lien bill passing this year.

**Legislative Activity**

**HB 236 RE: Regulatory Impact on Small Businesses (by Rep. Tina Pickett, et al)**

Amends the Regulatory Review Act further providing for legislative intent, for proposed regulations and procedure for review. "Small business" is defined to mean a business entity including its affiliates that is independently owned or operated and has less than 100 full time employees or has gross annual sales of less than \$6 million. The act is intended to improve State rulemaking by creating procedures to analyze the availability of more flexible regulatory approaches for small businesses in accordance with certain findings. For any regulation subject to the act, a small business that is adversely affected or aggrieved by final agency action is entitled to judicial review of agency compliance for a period of 18 months from the date of the final agency action. The act is not intended to create a right or benefit, substantive or procedural, enforceable at law by a person against another person or against the Commonwealth, its agencies or its officers.

**Passed House, 5/10/2006 (193-4)**

**Passed Senate, 10/18/2006 (37-11)**

**Signed in the House and Senate, 10/23/2006**

**In the hands of the Governor, 10/24/2006 Last day for Governor's action 11/3/2006**

**HB 881 RE: PA Construction Code Act Applicability (by Rep. Bob Allen, et al)**

Amends the PA Construction Code Act by providing that a municipality may not require any construction document to be prepared by an architect or other license design professional unless the work is required to be performed by an architect or any other licensed professional by the Architects Licensure Law or other applicable statute. The bill provides that the fee for an appeal to the board of appeals for a municipality that is administering and enforcing this act would be less than the costs of the public notice of the hearing, appearance fee for the court reporter and administrative fees as necessary. The bill states that in the case of an appeal or request for variance or extension of time involving the construction of a one-family or two-family residential building, the board of appeals would convene a hearing within 30 days of the appeal and would render a

written decision to the parties within five business days of the last hearing. If the board fails to act within the time period, the appeal would be deemed granted. In interpreting a provision of a code adopted by regulation of the department as part of the UCC, a construction code official, a board of appeal and a court would consider and rely upon relevant written interpretations of the UCC, or the regulations promulgated under this act or any municipal construction code ordinance. The bill also provides timelines for a municipality's decision to grant or deny an application. It requires the code administrator to identify the elements of any application not in compliance with the relevant provisions of the UCC and provide a citation of the specific provision. Under the bill, a construction code official or a third-party agency is allowed to perform inspections if a code administrator fails to complete a requested inspection within two business days after the request. A municipality is required to provide notice to the department of any proposed ordinance amending the requirements of the UCC and the department is required to post the notice on its Internet website. The bill states that a permit is not required for the installation, alteration or repair of generation, transmission, distribution, metering or other related facilities and/or equipment. Money would be equally distributed for the purpose of education and training programs provided by the Pennsylvania Construction Codes Academy for municipal code officials and individuals employed by third-party agencies under contract to a municipality and to a PA based housing research center located at a land grant university for the construction industry.

**Passed House, 7/1/2006 (183-15)**

**Reported as amended from Senate Appropriations Committee, 10/3/2006**

**2 Senate Floor amendment(s) adopted, 10/18/2006**

**Laid on the table, 10/23/2006**

**HB 1215 RE:** Independent Contractors WC (by Rep. Mark Mustio, et al)

Amends the Workers' Compensation Act defining "independent contractor" as the owner of any business entity who does not employ other persons and who meets the following requirements: (1) has a written agreement to perform specific work for a specific amount of money; (2) controls the means and manner of work performed, subject to any federal or state regulatory requirements; (3) receives compensation for work performed for a commission or on a per-job basis and not on an hourly, daily or other time period and realizes a profit or loss from such work; (4) is not prohibited from making comparable services available to the general public; (5) maintains a separate business and furnishes significant tools, materials and equipment to perform work; (6) holds one or more bank accounts for purposes of paying business expenses or other expenses related to work performed; and (7) is not treated as an employe for the purposes of income or employment taxation with regard to work performed. The bill provides that the contractor, subcontractor, and/or insurers are not liable for compensation to independent contractors and that independent contractors aren't required to present proof of insurance. The bill also states that the independent contractor must register with the department and the department will establish regulations and a program for registration of independent contractors to include renewal time frames and random audits and procedures. Once registered, a person will be considered an independent contractor unless a withdrawal of registration is made. Registrations and withdrawals will be kept as public information and an electronic directory of all registered contractors will be established. Benefits can be awarded if it is proven that a person was coerced to file a registration. It is considered an offense for an employer to knowingly force an employee to file application or to use false information with intent to defraud on an application.

**Laid on the table, removed from the table, 10/17/2006**

**HB 2213 RE:** Training Of Inspectors (by Rep. Rod Wilt, et al)

Amends the Pennsylvania Construction Code Act further providing for training of inspectors by stating that by October 1, 2006, current code administrators must meet the training and certification requirements of this act in order to be certified. The bill states that the department would establish a process for citizens to register complaints about the technical competency of code administrators. If the department determines that there is reasonable cause to believe a code administrator is not technically competent, the department may require the code administrator to appear before a technical competency board to determine the individual's technical competency. The bill states the department is empowered to decertify a code administrator for a reason other than technical competency if it determines there is just cause. Lastly, the code administrator has the right to receive a hearing before the department on decertification.

**Rereferred to House Labor Relations Committee, 9/27/2006**

**HB 2251 RE:** LLC Registration Requirements (by Rep. Tom Stevenson, et al)

Amends Title 15 (Corporations & Unincorporated Associations) repealing annual registration requirements for registered limited liability partnerships and limited liability companies and making an editorial change.

**Reported as amended from House Commerce Committee, read first time, and laid on the table, 10/18/2006**

**Removed from the table, read second time, and Rereferred to House Appropriations Committee, 10/23/2006**

**HB 2696 RE:** Uniform Construction Code Advisory Council (by Rep. Dave Steil, et al)

Amends the Pennsylvania Construction Code Act providing for the Uniform Construction Code Advisory Council. The Council would gather information from the general public, including municipal officers, building code officials, construction code officials, licensed design professionals, builders and property owners, concerning issues with the Uniform Construction Code raised by council members, the general public, or changes proposed by the General Assembly. The Council would evaluate the information and make recommendations. The bill also provides for the composition of the Council.

**Reported as amended from House Labor Relations Committee, read first time, and laid on the table, 10/4/2006**

**Removed from the table, read second time, and rereferred to House Appropriations Committee, 10/16/2006  
Amended on House floor and Passed House, 10/23/2006 (189-0)**

**HB 2727 RE:** Painters Licensure Act (by Rep. Tom Gannon, et al)

Provides for licensure for painters; establishes the State Board of Painters and provides for their powers and duties; establishes fees, fines, and civil penalties; and makes an appropriation. The State Board of Painters would be created within the Department of State and charged with various duties including regulating the licensing of individuals engaged in providing painting services, contracting with a professional testing organization to administer tests to qualified applicants for licensure, maintaining a registry of licensees and ensuring various reporting requirements are met. Individuals who are not licensed could not provide painting services and business entities could only use the title the term "painter" or "painting contractor" in connection with the entity if at least one employee or the owner of the entity is licensed as a painter. Only licensed individuals could use the title "licensed journeyman painter" and the abbreviation "L. J.P." Qualifications for various classes of painters are further provided for under the act as are disciplinary options. Reciprocity with other states is also provided for subject to certain conditions. The sum of \$85,000 would be appropriated from the Professional Licensure Augmentation Account to the Department of State for the payment of costs associated with this bill. This amount would have to be repaid by the board within three years of the beginning of issuance of licenses.

**Reported as amended from House Professional Licensure Committee, read first time, and tabled, 10/4/2006**

**HB 2959 RE:** Mechanic's Lien Law (by Rep. Dennis Leh, et al)

Amends the Mechanics' Lien Law further providing for right of owner to limit claims to unpaid balance of contract price. The bill states that the maximum amount for which an interest in real property may be subject to a lien for one or more lien claims would not be greater than the price of the contract between the owner and the contractor less the amount of payments made. Also, the bill also provides for lien claims filed by a subcontractor in privity of contract with the contractor. Lastly, the bill provides for the effect of breach of contract.

**Referred to House Labor Relations Committee, 9/27/2006**

**Reported as amended House Labor Relations Committee, read first time, and laid on the table, 10/4/2006**

**SB 655 RE:** Use of Title "Engineer" (by Sen. Roger Madigan, et al)

Amends the Engineer, Land Surveyor and Geologist Registration Law providing for the definition of "geologist-in-training" and for the use of the terms "engineer" and "engineering"; further providing for general powers of the board and for procedure for licensing as professional geologist; and providing for continuing professional engineering competency and education requirements. The bill defines "geologist-in-training" and specifies that the title of "engineer" may only be used by an individual licensed as a professional engineer unless the individual is a locomotive engineer, an operating engineer, a project engineer in the construction industry, or an individual who is not offering engineering services or engaged in the practice of engineering as defined by law. The bill provides details for continuing professional engineering competency requirements and for the licensing of professional geologists.

**Passed Senate, 6/26/2006 (50-0)**

**Reported as amended from House Professional Licensure Committee, read first time, and laid on the table, 10/17/2006**

**Removed from the table, read second time, and rereferred to House Appropriations Committee, 10/18/2006  
Reported as committed from House Appropriations Committee, 10/23/2006**

**SB 1000 RE:** Home Improvement Consumer Protection Act (by Sen. Tommy Tomlinson, et al)

States that no person would hold himself out as a contractor nor would a person perform any home improvement without first registering with the Bureau of Consumer Protection in the Office of Attorney General. The bill states

that the bureau would maintain a toll-free telephone number from which a caller can obtain information as to whether a contractor is registered with the bureau. The bill outlines the procedures for registration as a contractor, and requires that each application for a certificate for a home improvement contractor or renewal of that certificate would be accompanied by a fee of \$50, and would be renewed on a biennial basis. After completion of the application and payment of the fee, the bureau would issue the home improvement contractor a registration certificate identifying the name of the individual contractor, name and address of the business and a registration number. The legislation also outlines the requirements in home improvement contracts. The bill also provides for the offense of home improvement fraud, and provides for penalties. Lastly, registration under this act would preclude any requirement of payment of a fee or registration of any home improvement contractor by any political subdivision. Political subdivisions would be permitted to require building permits and local enforcement of the building code for that political subdivision, for which a reasonable fee may be charged.

**Passed Senate, 6/26/2006 (36-14)**

**Reported as committed from House Consumer Affairs Committee, read first time, and laid on the table, 10/4/2006**

**Removed from the table, read second time, and Rereferred to House Appropriations Committee, 10/4/2006**

**SB 1104 RE: One-Call System** (by Sen. Tommy Tomlinson, et al)

Amends the Underground Utility Line Protection Law further providing for the title of the act, for definitions, for duties of facility owners and for the duties of the One Call System; providing for liability, fees and governance of the One Call System; further providing for applicability; providing for the duties of project owners and for rights of the Auditor General; further providing for the governing board of the One Call System, for fines and penalties and for applicability to certain pipeline systems and facilities; providing for a voluntary payment dispute resolution process, for best efforts, for removal or tampering with a marking, for determination of position and type of lines and for impairment of rights and immunities; further providing for expiration; repealing provisions of the Propane and Liquefied Petroleum Gas Act, concerning the prohibition of certain liquefied petroleum gas facilities or distributors from being subject to the Underground Utility Line Protection Law; and making an editorial change.

**Passed Senate, 6/26/2006 (50-0)**

**Passed House, amended, 10/24/2006 (195-0)**

**SB 1305 RE: Budget Transfers** (by Sen. Pat Vance, et al)

Amends the Administrative Code by adding that transfers of appropriations of state funds must be made only as expressly authorized by law. The bill states the Secretary of the Budget would provide, at least ten days prior to any transfer, written notice to the chairmen of the House and Senate Appropriations Committees. Transfers would be subject to review for form and legality by the Attorney General in the same manner as deeds, leases and contracts to be executed by commonwealth agencies. The bill states that agreements between agencies or other documents providing for transfers between appropriations of state funds would be deemed public records for the purposes of the Right-To-Know Law.

**Passed Senate, 10/4/ 2006 (28-21)**

**Reported as committed from House Appropriations Committee, read first time, and laid on the table, 10/17/2006**

**Removed from table and read second time, 10/18/2006**

**SB 1331 RE: Sales Tax Exemptions** (by Sen. Rob Wonderling, et al)

Amends the Tax Reform Code by exempting from the sales and use tax the purchase of a tangible item furnished to the public at cost by a government agency or court. This exclusion would also include the duplication or electronic transfer of an official document and the transfer of tangible personal property directly connected with the sale, use, duplication or electronic transfer of the official document.

**Passed Senate, 10/17/2006 (50-0)**

**Referred to House Finance Committee, 10/18/2006**

**Reported as committed from House Finance Committee, read first time, and laid on the table, 10/23/2006**

## **New Bills Introduced**

**HB 2936 RE: School Construction Costs** (by Rep. Bev Mackereth, et al)

Amends the Public School Code further providing reimbursement for costs related to school district construction or renovations by adding the cost of employing a construction manager to oversee new school construction and improvements related to school safety to the reimbursement equation.

**Referred to House Education Committee, 9/25/2006**

**HB 3003 RE: Prevailing Wage (by Rep. Ron Marsico, et al)**

Amends the PA Prevailing Wage Act by adding that "public work" includes combination rehabilitation/reconstruction projects where non-maintenance items exceed fifteen percent of the total project cost; and "maintenance work" includes the following actions taken on roads: (1) replacement in kind, or compliance with current Department of Transportation design criteria and standards, of guide rails, curbs, pipes, line painting and other related road equipment; (2) repair of pavement service by laying bituminous material up to three and a half inches thick or up to four hundred twenty pounds per square yard on asphalt pavement, cement concrete or other hard surface, including associated milling, and related work raising existing paved shoulders to new grade; or patching of cement concrete surface to include joint spalling and repair work; (3) widening of existing alignment which does not result in additional lanes or new shoulders; and (4) bridge cleaning, washing, resurfacing with blacktop, minor non-structural repairs or improvements and painting except when combined with complete bridge rehabilitation.

**Referred to House State Government Committee, 10/5/2006**

**HB 3012 RE: PA Construction Code Act Exclusions (By Rep. Ron Miller, et al)**

Amends the PA Construction Code Act, further providing for application. The bill would exclude temporary structures that are erected for a period of less than 180 days from the application requirement of the construction code.

**Referred to House Local Government Committee, 10/17/2006**

**HB 3018 RE: Storm Water Best Management Practices and Improvement Tax Credit Program (by Rep. Tom Gannon, et al)**

Established to encourage private investment in the implementation of best management practices on land development activities that change the surface characteristics of the land and alter its storm water runoff characteristics. Eligible applicants would receive a tax credit of up to \$150,000 under this program. The legislation outlines what projects qualify for a tax credit, the amount of credit that would be received and standards for those projects. The State Conservation Commission, in consultation with the Departments of Revenue and Environmental Protection, would annually report to the General Assembly on the Storm Water Best Management Practices and Improvement Tax Credit Program and would conduct a review and evaluation of the effectiveness of the program in reducing pollution and creating habitat.

**Referred to House Environmental Resources and Energy Committee, 10/17/2006**

**HB 3020 RE: State Public School Building Authority Act (by REP. Tom Caltagirone, et al)**

Amends the State Public School Building Authority Act further providing for purposes and powers of the Authority by stating that all contracts between the Authority and school districts would be conditioned upon the preparation of general plans for centralized design of physical plants, for the orderly development of improved attendance areas and administrative units, and for the improved housing of the public schools of PA.

**Referred to House Education Committee, 10/17/2006**

**HB 3045 RE: Separations Act Waivers (by Rep. Steve Nickol, et al)**

Amends the Public School Code further providing for work to be done under contract let on bid by adding that the department may approve a waiver of the provisions that require separate contracts for the construction, reconstruction, repairs, maintenance or work of any other nature upon a school building, school property or a building or portion of a building leased under the provisions of section 703.1.

**Referred to House Education Committee, 10/18/2006**

**HB 3047 RE: High-Performance, State-Funded Buildings Standards Act (by Rep. Carole Rubley, et al)**

Requires facilities leased or owned by the state to comply with certain energy and environmental standards outlined in the Act.

**Referred to House Environmental Resources and Energy Committee, 10/18/2006**

**HB 3048 RE: High-Performance Buildings Tax Credit (by Rep. Carole Rubley, et al)**

Amends the Tax Reform Code establishing a High-Performance Buildings Tax Credit to a taxpayer, whether owner or tenant, for either the construction of a high-performance building or the rehabilitation of a building which is not a high-performance building into a high-performance building. The legislation provides for the amount of the tax credit and eligibility standards.

**Referred to House Finance Committee, 10/18/2006**

**SB 1344 RE:** Pennsylvania Construction Code Act Repeal (by Sen. Bob Regola, et al)  
Act repealing the Pennsylvania Construction Code Act and providing for duties of the Secretary of Labor and Industry.

**Referred to Senate Labor and Industry Committee, 10/11/2006**

**SB 1345 RE:** Elevator Regulation Law (by Sen. Bob Regola, et al)  
Reenacting and amending the Elevator Regulation Law restoring the act to the state in which it existed prior to repeal by the Pennsylvania Construction Code Act and providing for duties of the Secretary of Labor and Industry.

**Referred to Senate Labor and Industry Committee, 10/11/2006**

**SB 1346 RE:** Fire and Panic Act (by Sen. Bob Regola, et al)  
Amends the Fire and Panic Act providing for classes of buildings, for special requirements, for automatic fire-detection devices, for standards for family child day-care homes, for egress, for fire extinguishers, for legislative review, for places of public assembly, for motion picture permits, for licensing of projectionists, for approval of plans, for use and occupancy permits, for discontinuance of use, for noncompliance and for violations.

**Referred to Senate Labor and Industry Committee, 10/11/2006**

**SB 1347 RE:** Reenacting Previous Construction Acts (by Sen. Bob Regola, et al)  
Act reenacting the act entitled "An act requiring that certain buildings and facilities adhere to certain principles, standards and specifications to make the same accessible to and usable by persons with physical handicaps, and providing for enforcement," restoring the act to the state in which it existed prior to repeal by the Pennsylvania Construction Code Act and providing for duties of the Secretary of Labor and Industry.

**Referred to Senate Labor and Industry Committee, 10/11/2006**

**SB 1349 RE:** Building Energy Conservation (by Sen. Bob Regola, et al)  
An Act reenacting and amending the act entitled "An Act providing for the regulation for energy conservation purposes of the construction of buildings, the establishment of a Building Energy Conservation Committee and a Board on Variances, appeals and for penalties," restoring the act to the state in which it existed prior to repeal by the Pennsylvania Construction Code Act and providing for duties of the Secretary of Labor and Industry.

**Referred to Senate Environmental Resources and Energy Committee, 10/11/2006**

**SB 1351 RE:** Restroom Facilities (by Sen. Bob Regola, et al)  
Reenacts the act entitled "An act providing for restrooms in facilities where the public congregates; and requiring that restroom facilities be provided for women on an equitable basis," restoring the act to the state in which it existed prior to repeal by the Pennsylvania Construction Code Act and providing for duties of the Secretary of Labor and Industry.

**Referred to Senate Labor and Industry Committee, 10/11/2006**

**SB 1352 RE:** Solar Energy System Incentives Program Act (by Sen. Ted Erickson, et al)  
Establishes a Solar Energy System Incentives Account in the General Fund for the creation and administration of the Act. The program's purpose is to provide for the creation, development, administration, management and implementation of a program to provide financial incentives for the purchase and installation of solar energy systems. Under the Act, an individual could receive a rebate on his or her purchase of a solar energy system if it is 1.0 kilowatts or larger for a solar photovoltaic system, or provides at least 30% of a building's hot water consumption for a solar thermal system from July 1, 2006, through June 30, 2015. Further requirements are listed for installation and type of system and total rebates possible through its use.

**Referred to Senate Environmental Resources and Energy Committee, 10/12/2006**

**SB 1361 RE:** Healthy Living Committees (by Sen. Gib Armstrong, et al)  
Amends the Insurance Company Law by adding that employers purchasing a health insurance policy may apply to the Insurance Department for certification of any established Healthy Living Committee in its workplace developed for the purpose of helping employees live longer, healthier lives by promoting health and wellness among employees. Upon the renewal of the health insurance policy, the employer would receive a 5% discount in the rate, for up to five years.

**Referred to Senate Banking and Insurance Committee, 10/12/2006**

**Referred to Senate Banking and Insurance Committee, 10/13/2006**

**SB 1368 RE:** Redevelopment Assistance Capital Projects (by Sen. Bob Jubelirer, et al)  
Amends the Capital Facilities Debt Enabling Act by increasing the limitation on redevelopment assistance capital projects for which obligations are outstanding from \$2,650,000,000 to \$2,900,000,000.

**Referred to Senate Appropriations Committee, 10/13/2006**

**Reported as committed from Senate Appropriations Committee, and read first time, 10/16/2006**

**Read second time, 10/17/2006**

**2006 HOUSE Fall Session Schedule**

**November 13, 14, 15, 20, 21, 22, 27 (non-voting)**

**Fall Senate session schedule (tentative)**

**November 20, 21**

**Session Ends 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>**