

ACTIVE/PRIORITY ISSUES – GENERAL CONSTRUCTION

Issue	Current Law	Proposals/Pending Legislation	Status	Position/Action Items
<p>Separations Act – <i>School Mandate Waivers</i></p>	<p>Act 16 of 2000 created the Mandate Waiver Program in the Department of Education. Under the program a school entity may request a waiver from the separate prime requirement for school construction projects.</p>	<p>Senator Jake Corman (R-Centre) has introduced SB 250 which would eliminate the June 2010 sunset provision of the Education Empowerment Act.</p> <p>The Pennsylvania School Boards Association will be introducing legislation (most likely in the Senate) that would give school districts the option of choosing single prime or multi-prime bidding without bidding the project both ways.</p>	<p>Both bills are likely to pass the State Senate and could be part of the Education Code bill that will be part of the budget negotiations for FY 2009-2010.</p> <p>Since the beginning of 2009, one career center and six school districts (A.W. Beattie Career Center and Antietam, Avon Grove, Columbia Borough, Grove City Area, Oil City Area and Parkland School Districts) have received approval from the Department of Education to utilize single prime contracting. At least five more districts are awaiting similar approval.</p>	<p>GCAP strongly supports both pieces of legislation and all efforts to give school districts the option of utilizing single prime contracting for school construction projects.</p>
<p>HB 400 – Employee Misclassification Prevention Act</p>	<p>The PA Workers’ Compensation Act and the Unemployment Law require employers to maintain certain records and make contributions based on employment with the employer.</p>	<p>HB 400 would create the Employee Misclassification Prevention Act to protect employees in construction from being misclassified as “independent contractors and penalize employers who intentionally engage in this practice. This bill is identical to HB 2400 from last session.</p>	<p>On May 5, the State House passed HB 400 (Lentz, D-Delaware).</p> <p>During the weeks leading up to the vote, GCAP advised House Members that these practices result in lost tax revenue, higher workers’ comp premiums, illegal profits and a grossly uneven playing field for those who abide by the rules.</p> <p>In addition, Terry McDonough provided testimony on behalf of GCAP at an April 2 hearing by the House Labor Relations Committee on the bill.</p> <p>As passed, the House version included a re-scaling of penalties and a rebuttable presumption protection for employers.</p> <p>HB 400 is in the Senate Labor and Relations Committee.</p>	<p>GCAP continues to support the general intent of HB 400. However, GCAP has told the State Senate Labor and Industry Committee that additional changes are required to make the bill an even more effective tool to combat the problem of employee misclassification.</p> <p>The most important of these changes is a specific safeguard for general contractors and subcontractors who operate in full compliance with the law, regardless of the business or hiring practices of their subcontractors or sub-sub.</p> <p>GCAP is working with Senate staff on acceptable amendments to the bill.</p>

Mechanics Lien Law	The Mechanic's Lien Law was amended last session to prohibit the waiver of contractor's lien rights under most circumstances. It also extended lien rights to 2 nd tier subcontractors.	Senator Pat Browne (R-Lehigh) has introduced SB 563. It is identical to SB 726 which passed the Senate 50-0 last session. The bill protects general contractors having to pay twice for the same work – double jeopardy.	SB 563 is currently in the Senate Labor and Industry Committee. The issue received increased attention recently as a result of issues caused by a home builder in Southeastern PA. GCAP is working on separate legislation and amendments to SB 563 and other legislation to further clarify and strengthen the double jeopardy provisions of the bill.	GCAP strongly supports legislation to protect general contractors from the double jeopardy. As such we will continue to work on language to fix the double jeopardy issue in the current legislative session. GCAP has offered to meet with the Interior Finish Contractors Association (IFCA) – one of the subcontractors interested in moving legislation on the issue. GCAP offered multiple dates and is waiting to hear from IFCA.
Prevailing Wage	The Prevailing Wage law applies to public projects over \$25,000.	As in most sessions, legislation has been introduced to make changes to Prevailing Wage such as raising the project threshold, exempting local governments from the requirement, etc.	In addition to the legislation that has already been introduced, tough budget years tend to draw focus to the overall fiscal impact of Prevailing Wage. <i>However, no immediate action on any Prevailing Wage legislation is expected.</i>	GCAP opposes legislation intended to weaken Prevailing Wage
Crane Licensure	Last Session, the Governor signed into law the Crane Operator Licensure Act which provides for state licensure of crane operators	Rep. Civera has introduced HB 702. Basically, when they passed the Crane Operator Licensure Act last session they included a grandfather clause for those with certain experience, etc. The problem is they made the grandfathering time period effective immediately – before the board created by the act even meets. Rep. Civera's bill simply extends the grandfathering clause to coincide with when the board meets, etc. There are no other substantive changes.	The bill remains in the House Professional Licensure Committee.	GCAP will continue to monitor and introduce amendments to the bill as needed.

ACTIVE/PRIORITY ISSUES – STATEWIDE BUSINESS AND INDUSTRY

Issue	Current Law	Proposals/Pending Legislation	Status	Position/Action Items
Business Privilege Tax	In a recent decision (<i>Redina v. Harrisburg</i>), the Pennsylvania Supreme court overturned prior case law covering a municipality’s ability to impose a business privilege tax (BPT) on anybody doing business within its borders – regardless of whether or not they maintain a permanent base of operations there. In <i>V.L. Rendina v. Harrisburg</i> , the state Supreme Court reversed a Commonwealth Court finding that a contractor was not subject to a city’s BPT because he did not maintain a permanent office within the city limits. The Supreme Court held that Act 511 allows municipalities to impose a tax on <u>any</u> entity exercising the privilege of “doing business within their jurisdiction.”	<p>The Supreme Court’s decision in <i>Redina</i> runs completely counter to all previous rulings which provided that a business entity must have a permanent base of operations within the municipality’s borders for it to be subject to taxation by that municipality.</p> <p>Therefore, Senate Finance Chairman Pat Browne (R-Lehigh) has introduced SB 601 to resolve this issue. His bill would reverse the <i>Redina</i> decision by statute and require that a BPT may only be levied on an entity that maintains a permanent basis of operations in the municipality – the way things were before the Supreme Court reversed previous precedent in <i>Redina</i>.</p>	<p>In early May, GCAP successfully lobbied members of the Senate Finance Committee to report SB 601 from Committee. The bill is now in Senate Appropriations.</p> <p>GCAP is a lead member of a business coalition (PA Chamber, PA Institute of CPAs, Associated Contractors of Pennsylvania, etc.) working to pass this legislation.</p> <p>On May 18, Scott Bishop represented GCAP at a meeting with Senate Appropriations to discuss the merits of the bill.</p>	GCAP strongly supports SB 601 and will continue working with its coalition partners to keep the bill moving forward in the legislative process.
Illegal Immigration Issues – <i>Access to public benefits</i>	Immigration matters are largely a federal issue. However, many states are attempting to better control the impact of illegal immigrants under its jurisdiction.	Several lawmakers, including Senate President Pro Tempore Joe Scarnati (R-Jefferson) have introduced legislation intended to limit access to public benefits (i.e. Senate Bill 9).	<p>The jury is still out as to what a state/local government may or may not do with regard to illegal immigration. It is likely that this issue will continue to be debated by the General Assembly.</p> <p>The State Senate passed SB 9 on April 1. The bill remains in the House State Government Committee.</p>	GCAP supports legislation to limit access of illegal immigrants to public benefits. GCAP will issue a position statement on legislation related to these issues as appropriate.

June Legislative Calendar

Currently Scheduled House Session Days: June 1, 2, 3, 8, 9, 10, 15, 16, 17, 22, 23, 24, 29 and 30

Currently Scheduled Senate Session Days: June 1, 2, 3, 8, 9, 10, 15, 16, 17, 22, 23, 24, 29 and 30

Copies of any bill highlighted in this report or any other legislation are available from the GCAP office. They are also available via the Internet at: <http://www.legis.state.pa.us/WU01/LI/BI/billroom.htm>.