

LEG REG REVIEW

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LEG REG REVIEW is a periodic newsletter produced by Vince Phillips who retired from active lobbying after 31 years of advocacy in Harrisburg. It contains news on the legislative and regulatory scene in Pennsylvania that may be of interest to the Insurance and Business Communities. Annual subscriptions are \$100 and information may be obtained by contacting PHILLIPS ASSOCIATES at 717/728-1217 or e-mail to xenobun@aol.com.

IN CONCLUSION...

The House and Senate each have two session days scheduled before the end of the 2023-24 legislative session – unless reconvened for what is termed as a ‘lame duck session’. The House meets on November 12 and 13 while the Senate reconvenes on November 13 and 14.

The House has no insurance bills on third consideration for the November 12 calendar as of October 29. Third consideration means that the legislation can now be voted on by the chamber. There are two insurance bills on second consideration by the House. One more consideration is needed before the final vote can take place. Since the House has two days in session, potentially, these could be voted on the second day. They are:

- **House Bill 589** (Kinkead-D-Allegheny) would establish a state-run insurance program for landslide occurrences. The bill’s text does not indicate that, unlike last Workers Compensation insurer of last resort SWIF, licensed insurance agents are not referenced as marketing this state-run program. Link: (<https://www.legis.state.pa.us/cfdocs/billInfo/billInfo.cfm?sYear=2023&sInd=0&body=H&type=B&bn=0589>).
- **House Bill 2360** (Donahue-D-Lackawanna) requires that construction contractors register with the state and verify compliance with PA laws governing Workers Compensation, Unemployment Compensation as well as state and Federal statutes regarding employee benefits. Not included in this legislation are home improvement contractors since they are already regulated by Act 132 of 2008. HB 2360 covers:
 - “A firm engaging in *erection, reconstruction, demolition, alteration, modification, custom fabrication, building, assembling, site preparation and repair or maintenance work on real property...*
 - *any work in connection with a construction project including the erection of scaffolding*
 - *Subcontractor of any tier*
 - *Staffing agency supplying workers*
 - *Construction or project manager”*

NOTE: Even if the House passes these, the Senate must still concur. Enactment may not be likely.

The Senate has one bill on third consideration potentially affecting auto insurance. **House Bill 2426** (Gallagher-D-Phila.) would eliminate so-called ‘plate flipping devices’ as a response to the growing use of this device to switch between two registration plates or hide a registration plate from view by flipping the registration plate so that it is no longer visible.

INSURANCE LEGISLATION SIGNED INTO LAW

Governor Josh Shapiro signed a flurry of bills into law based on the increased tempo of bills reaching him in the waning days of the 2023-24 legislative session. In all, he signed 35 bills this month as of October 29. Five involve insurance. Fifteen of the 35 were signed on October 29.

- **MANDATED BENEFIT: House Bill 2268 or Act 104 of 2024** (Markosek-D-Westmoreland) mandates speech therapy for treating stuttering health insurance coverage.
- **MANDATED BENEFIT: House Bill 1608 or Act 115 of 2024** (Cephas-D-Phila.) requires health insurers covering individuals receiving Medicaid and Medicaid contracted Managed Care Organizations (MCOs) to accept Department of Health pre-authorization for coverage for doulas’ pre-natal, birthing and post-partum services. Act 115 also establishes a doula certification program and establishes best practices for doulas providing these maternal services.

NOTES: Act 115 requires approval by the Centers for Medicare & Medicaid for the inclusion of doula services in what PA Medicaid covers. The **House Appropriations Committee Fiscal Note** says that it will not increase tax dollars spent on Medicaid since the MCOs will pay for them (<https://www.legis.state.pa.us/WU01/LI/BI/FN/2023/0/HB1608P3740.pdf>).

- **WORKERS COMPENSATION: Senate Bill 1232 or Act 126 of 2024** (Pennycuick-R-Bucks) provides for insurers to offer direct deposit as an option to receive Workers Compensation payments.
- **WORKERS COMPENSATION: Senate Bill 365 or Act 121 of 2024** (Bartolotta-R-Greene/Washington/Beaver) extends WC coverage to first responders suffering from a post-traumatic stress injury (PTSI). The legislation defines a first responder as:
 - Professional or volunteer firefighter who responds to emergency calls
 - PA State Police officer
 - An emergency medical services provider or a peace officer who responds to emergency calls

NOTE: The Senate Appropriations Committee Fiscal Note says: *Local governments will also incur increased workers' compensation costs. There are 806 full-time police departments, 90 part-time police departments, 33 paid fire companies, 117 paid and volunteer fire companies, 1,679 volunteer fire companies and 1,259 emergency medical services agencies that will now provide PTSI coverage to first responders. The State Workers' Insurance Fund (SWIF), private insurance and local trusts provide insurance coverage to these entities. SWIF is the provider of last resort and will provide coverage to any entities that are unsuccessful in obtaining or retaining coverage in the private market or that are not self-insured. Insurance costs may increase as a result of expanded PTSI coverage.* Given the level of detail, here is a link to the text: <https://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2023&sessInd=0&billBody=S&billTyp=B&billNbr=0365&pn=1944>.

UNDERGROUND UTILITY LIABILITY: Senate Bill 1237 or Act 127 of 2024 reauthorizes the PA One Call Law until December 31, 2031. Act 127 specifies that “*the excavator shall have sole responsibility to submit each locate request to the One Call system*” to locate underground utility lines. It adds ‘trenchless technology’ to the list of covered actions. Lines or facilities installed before April 30, 2018 are grandfathered unless there are maps of the lines/facilities meeting which then must meet One Call specific requirements. Act 127 also prohibits “*provisions in any contract, public or private, which attempt to limit the rights of excavators shall not be valid for any reason, and any attempted waiver shall be void and unenforceable as against public policy...*” Given the level of detail, following is a link to the new law: <https://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?year=2023&sInd=0&body=S&type=B&bn=1237>

INSURANCE PRODUCER BILL PENDING GOVERNOR’S APPROVAL

Senate Bill 1241 (Gebhard-R-Lebanon) eliminates the current requirement of 24 hours of pre-licensing instruction before a producer (agent) licensing test can be taken. It was amended to require three hours of Ethics training for all agents and a mandated two-hour continuing education course on Flood Insurance for P/C-licensed agents. SB 1241 went to the Governor on October 21.

TAX APPEAL REDESIGN SIGNED INTO LAW

Senate Bill 1051 or Act 123 of 2024 (Hutchinson-R-Venango) makes changes to the tax appeals process conducted by the Revenue Department. Among the bill’s provisions are extending the deadline for a taxpayer to appeal a Personal Income Tax assessment from the Revenue Department to the Board of Appeals or to appeal a decision by the Board of Appeals to the Board of Finance & Revenue from the current 60 days to 90 with a possible extra 30 days. Also, there will be a Settlement Conference process as a substitute for the normal appeals process.