



2009 ASA-NM Legislative Session Bill Watch – updated 2-24-09

Below are summaries of the bills your ASA-NM Legislative team are tracking to help protect and improve the environment in which you do business:

HB= House Bill SB= Senate Bill

You can track the progress of these bills by going to: <http://www.nmlegis.gov> click on bill locator

As new bills are added to our watch list they will be updated on our website – www.asa-nm.org

HB 44 - Provides \$500,000 in funding and sets forth the details of a pilot high school pre-apprenticeship training program. Rep. R.J. Berry is the sponsor, and the impetus is the declining work force pool available to contractors.

HB 94 - Postpones until July 1, 2011 the date by which cities and counties must decide whether to take on the code enforcement program. This issue has festered for years between CID and the city and county governments. This bill simply postpones the drop-dead date by two years.

HB 254 - Contractors who lose their license for violating the licensing act would have to sit out for three to five years before applying for reinstatement. Current law provides for a one-year wait period.

HB 300 - makes several changes to the state's lien law statutes. New material added to existing law would require a lien claimant to state the reason for non-payment by the owner or contractor that gave rise to the lien claim. Also, the county clerk would be able to decide whether the lien was complete as for form and information. Finally, a district court would have the power to decide whether a lien was frivolously filed, and award damages, costs, and attorney's fees to an owner or contractor. The lien claimant would then have 15 days to defend the lien in court.

HB 313 - would create a "construction crimes bureau" within CID to investigate and provide evidence and testimony to local prosecutorial authorities in cases of fraud by persons offering construction services. This bill is a major initiative of CID this session.

HB 324 - repeals a current law providing for the issuance of annual maintenance permits to entities like Intel that perform significant equipment repair and replacement, and instead allow CID to issue those permits by rule. This is another CID initiative.

HB 329 - mirrors Senate Bill 33 in allowing the Workforce Solutions Dept. to use labor union contracts as the basis for determining prevailing wage rates on public works projects.

HB 478 - Rep. Rehm - upgrades penalties for unlicensed contracting, considerably amends existing statute on types of violations that can lead to penalties.

HB 506 - raises the cap on attorney fees that can be awarded under the workers' compensation or occupational disease and disablement acts. The current cap under the comp. act is \$16,000, with an additional \$2,500 available for appeals work. Under the comp statute, the new cap would be \$20,000, with up to another \$5,000 available for additional legal work on the basic case if the comp. judge determines it is justified. \$10,000 in fees could be awarded by the comp. judge if an appeal to the appeals court or Supreme Court is successful. Under the occupational disease statute, the current limit of \$12,500 would be increased to \$27,500, with an additional \$2,500 available if found to be justified by the comp. judge. The maximum amount available for discovery would be raised to \$3,000 from the current \$1,000, making it mirror the amount specified under the workers' comp. statute. The Worker's Comp. Coalition voted to approve a new cap of \$20,000 including appeals. The amounts in this bill were proposed by Carlos Martinez, an attorney who represents employers. We will work to restore the coalition-proposed limits.

HB 512 - would have the Construction Industries Commission regulate propane dealers, including handling consumer complaints. The Legislature has been trying for years to figure out how to deal with this thorny industry. While this bill doesn't have any direct impact on the association, adding work to CID could mean less attention is paid to the construction industry.

HB 599 - Rep. Cervantes - requires cities and counties to use the state-approved building codes as the standard when they adopt their own codes. Not sure how this would affect the so-called "green" building requirements in Albuquerque and elsewhere.

HB 685 - endorsed by CID, is aimed at providing a better definition of "employee" under the licensing act. According to CID Director Lisa Martinez, it should give contractors guidance about which of their workers must be licensed by the agency.

HB 689 - puts in place a two-year limit on enforcement actions taken by the Construction Industries Commission under several subsections of the Licensing Act. The two-year "clock" is begun by substantial completion or issuance of a certificate of occupancy of a construction project.

HB 733 - Creates the "residential construction consumer protection fund" to reimburse homeowners who are defrauded or damaged by a homebuilder as determined by a court. A scale of fees on every residential construction permit is imposed; fees are collected sufficient to maintain a maximum balance of \$2.8 million. House Speaker Ben Lujan is carrying this measure for the Construction Industries Division.

HB 768 - amends the Hoisting Operators Safety Act to impose new penalties on those who lease or operate cranes and other lifting devices without a license. AGC is promoting this legislation.

HB 787 - amends the state Procurement Code for single-price agreements that may be awarded by a single state agency for multiple construction projects to allow a maximum award of \$2 million per year instead of the current limit of \$2 million over a four-year period. It also provides an \$8 million maximum award over four years. This is a design and build bill, and Lisa Cooley of Centennial Contractors Enterprises is asking if we want any amendments to propose them in the first committee.

SB 33 - Allows the Workforce Solutions Dept. (formerly the state Dept. of Labor) to use wages set by union contracts to establish prevailing wages. The department is supposed to survey wages around the state, but apparently fails to do so.

SB 46 - Another pre-apprentice training program for the public schools. This one would be administered by the state Public Education Dept.

SB 76 - Provides statutory guidelines for the awarding and administration of lump sum settlements to injured employees under the Workers Compensation Act.

SB 180 - Requires employee leasing contractors to post a surety bond. Contractors in business prior to Sept. 30, 1993 would have to purchase a \$25,000 bond; contractors who begin business after that date would need to post a \$100,000 bond.

SB280 - would create the "construction building inspection fund." Revenue would come from fees paid by cities and counties to CID for conducting inspections that the local inspection agency was unable to perform because of understaffing. The money would be used to aid CID inspection efforts generally.

SB 303 - by Sen. Michael Sanchez would establish "presumptive causation" under the worker's compensation statutes for firefighters who contract any of a list of chronic diseases or cancers. If passed, this legislation would open the door in the future for workers in numerous other occupations to claim automatic benefits due to their work environment. The Business and Labor Workers Compensation Coalition (ASA-NM is a member) did not endorse this proposal, and we argued that this coverage, if enacted, should be provided by city and county fire departments under a separate compensation or health coverage plan.

SB 326 - by Sen. Ingle would amend the medical fee schedule in the Workers Compensation Act to set maximum payments for injuries based on the "New Mexico health care providers related current procedural terminology codes." I believe this is aimed at containing arbitrary increases in medical costs by providers.

SB 328 - by Sen. Nava would require persons bidding on school public works projects of over \$125,000 in value to: 1. commit to paying wages prescribed under the Public Works Minimum Wage Act; 2. provide health insurance or medical coverage for their workers, and; 3. require workers to submit to drug testing and not allow workers who fail such tests on the work site. This bill contains an emergency clause, which means it becomes law as soon as it is signed by the governor.

SB 363 - Amends Subcontractors Bonding Act to exempt subs from the bond requirement when the school capital outlay is a design and build project, or the prime contractor is a construction manager at risk, or the project proposals are competitive and qualification-based based. This is the latest attempt by Bob Gorrell of the public school capital outlay finance authority to make an end-run on the bonding act.

SB 385 - Sen. McSorley - The "Job Security Act" would allow employees who are granted annual or sick leave to take that leave to provide health care for sick or injured family members or to participate in a child's educational activities.

SB 579 - sets a \$20,000 limit on attorney's fees in workers compensation cases, up from the \$16,500 limit in current law. This is the bill endorsed by the Business and Labor Workers Compensation Coalition. It is the counterpoint to House Bill 506 that you have already seen.

SB 609 - Sen. McSorley - boosts the maximum benefit period for secondary mental impairment under the Worker's Comp Act from the current 100 weeks to 500 weeks. To my knowledge this proposed legislation has not been endorsed by either the workers comp. advisory council or the business and labor worker's comp. coalition.