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*House of Representatives*  
**COMMONWEALTH OF PENNSYLVANIA**

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February 23, 2011

**MEMO**

**TO:** All House Members

**FROM:** Representative Ron Marsico, Majority Chairman  
House Judiciary Committee

**SUBJECT:** Cosponsorship of Legislation to Amend Prevailing Wage Act

In the near future I plan to reintroduce my legislation from last session (HB 787) to amend the Prevailing Wage Act to provide a clear definition of what actions taken with respect to road repairs are subject to the act's requirements. "Maintenance work" is exempt from the act's requirements and the term is defined in the act as "the repair of existing facilities when the size, type, or extent of such facilities is not thereby changed or increased. To determine what maintenance work is considered to be with respect to roads, municipalities use to rely on a publication issued by PennDot entitled "Policies and Procedures for the Administration of the County Liquid Fuels Tax Act of 1931 and The Liquid Fuels Tax Act 655" (Publication 9), effective January 2003. In addition, a subsequent unsigned and undated MOU (dated 4/29/2005, PennDOT Publication 51, Bid Package Preparation Guide, Exhibit 4A) between PennDot and the Department of Labor & Industry clarified the Publication 9 guidelines for what road repair work was considered "maintenance work" and thus exempt from the Prevailing Wage Act. It is important to note that, in general, municipalities appeared to be content with these guidelines. This legislation will put "into statute" these guidelines.

I am introducing this legislation as a direct result of an attempt in 2006 by the Rendell Administration to impose stricter standards on what road repair work is subject to the Prevailing Wage Act. In March, 2006 PennDOT issued updated guidelines which were to become effective April 1, 2006; these new guidelines were to replace the PennDOT/L&I 4/29/05 MOU guidelines. The new guidelines more strictly interpreted what road repair actions would be considered "construction" (and not "maintenance work"), and they brought more repair actions under the jurisdiction of the act. Due to immense public opposition to the new guidelines, the Governor rescinded them on April 8, 2008.

It is also important to note that there have been two recent Commonwealth Court decisions (*Ebensburg* and *Youngwood*) which ruled that previously exempt road repair actions (curb/sidewalk replacement and milling/repaving) are subject to the Prevailing Wage Act. Adoption of the old guidelines, as proposed in my legislation, will effectively countermand these decisions.

This legislation proposes to put "into statute" road repair guidelines that municipalities, traditionally followed, and accepted. This legislation is supported by the Pennsylvania State Association of Township Supervisors and the Pennsylvania State Association of Boroughs.

Cosponsors on last session's bill were BEAR , BOYD , BROOKS , CAUSER , CREIGHTON , CUTLER , FAIRCHILD , GINGRICH , GRELL , GROVE, HARPER , HARRIS , KAUFFMAN , M. KELLER , MAHONEY , MENSCH , MILLARD , MILLER , PICKETT , QUINN , RAPP , REICHLEY , ROAE , ROHRER , SAYLOR , STEVENSON , TRUE , TURZAI , WATSON , MOUL , ROCK , GILLESPIE and DENLINGER

If you would like to co-sponsor this legislation, please contact Anna or Michelle at 783-2014 or via e-mail at [mmoore@pahousegop.com](mailto:mmoore@pahousegop.com). Thank you for your consideration.