

Building the Successful Case for Repeal of 3% Withholding

AGC members built a strong foundation for repeal based in fact, reason and activism

The overwhelming votes in the House and Senate for repeal of 3% withholding was the culmination of over 5 years of work by AGC, AGC Chapters, AGC members and our coalition partners. This document discusses the activities undertaken and measures some of the success along the way. It is important to note that this concerted effort produced a significant bipartisan victory in an era when bipartisanship seldom happens. AGC members made a concerted effort after this year's AGC convention to get cosponsors, and educate industry partners such as public officials, subcontractors and suppliers in our push to get 3% repealed in 2011. AGC members from all regions of the country, all types of construction and all types of occupations within construction firms sent emails, made phone calls and made visits urging members of Congress to cosponsor the 3% repeal bills and vote for repeal. We estimate that at least 80% of the House cosponsors and 90% of the Senate Cosponsors of the 3% repeal bills personally met with AGC members or AGC staff. In addition to face-to-face meetings, more than 18,000 letters urging repeal were delivered to members of the House and Senate using the AGC Legislative Action Center. It was the focus of members, Chapters and the national staff applying constant pressure over the last 5 years that lead to the final, overwhelming votes for repeal.

History of Repeal Efforts

The 3 percent withholding tax was signed into law as part of the Tax Increase Prevention Act of 2005 (TIPRA) on May 17, 2006, the same day that Senator Larry Craig (R-ID) introduced the first 3% repeal bill in the Senate. The 3% withholding provision was snuck into TIPRA without any hearing and this big tax bill was quickly rushed through the House and Senate. Our education efforts began immediately and we slowly gained support for repeal. By the end of 2006 had a repeal bill introduced in the House, HR 6242, but we had only gained 3 cosponsors at the end of 2006. As you can see in the chart below, in each succeeding Congress we were successful in getting a bill introduced early and gaining new cosponsors. We dropped down in cosponsors in 2009 and 2010, largely because early in 2009 we were successful in getting the implementation date of the law delayed by a year in the stimulus bill in early 2009. Special thanks should go to Congressman Wally Herger of California. Congressman Herger was the Republican lead on the bill in the House throughout the process and he instantly understood the unfairness of the 3% withholding on our industry.

Year	Bills introduced	Date of Introduction	Cosponsor
2006 109th Congress	HR 6242	9/28/2006	3
	S 2821	5/17/2006	0
2007-2008 110th Congress	HR 1023	2/13/2007	260
	S 777	3/6/2007	15
2009-2010 111th Congress	HR 275	1/7/2009	171
	S 292	1/21/2009	14
2011 112th Congress	HR 674	2/11/2009	269
	S. 89/164/1720/1762	1/25/2009	39

AGC Actions Added Cosponsors as Repeal Gained Momentum

AGC leaders believed that the merits of 3% repeal provided ample justification for Congress to repeal it. With a political void left following repeal of the 1099 reporting mandate, AGC seized the opportunity to make the 3% withholding tax the ‘new 1099 issue’ to rally construction firms, small businesses, farmers, doctors, state and local governments, and like-minded supporters to create the momentum and groundswell essential to making it a priority for Congress.

Our objective was to put repeal of 3% withholding on the Congressional agenda by raising Congress’ awareness of the impact of the issue through a coordinated grasstops and grassroots action and education campaign. Based on the final House and Senate votes and based on how the cosponsorship of 3% repeal grew after key AGC legislative initiatives, the chart below shows that this effort was extremely successful.

		Cosponsors
		112 th
January	Bills S.89 and S.164 introduced: Sen. David Vitter (R-LA) introduced S. 89, the Withholding Tax Relief Act of 2011, and Sen. Scott Brown (R-MA) introduced S. 164, the Withholding Tax Relief Act of 2011 with a pay-for.	0
February	AGC Letter to Congress: On February 23, 2011 AGC sent to every member of the U.S. House a letter in support of H.R. 674, a bill to repeal the 3 percent withholding mandate on government contracts. AGC lobbyists begin asking members of the House and Senate to cosponsor repeal bills.	15
March	AGC Issue Alert: On March 16 th AGC sent an Issue Alert to the membership updating them on the 3 percent withholding provision and encouraging them to contact their legislators. AGC Letter to Congress: On March 17, 2011 AGC sent to all Senators a Key Vote letter in support of S.Amdt.212 to S.493, a bill to repeal the 3 percent withholding mandate on government contracts. The Amendment was ultimately not offered and no vote was held. AGC National Convention: AGC educated the membership on the withholding during these meetings. AGC lobbyists continue asking members of the House and Senate to cosponsor repeal bills.	58
April	Targeted AGC Alerts: In April, AGC sent targeted alerts to members in Michigan, Utah, Montana and Iowa. The states represented key elected officials and encouraged high level grassroots. The call to action was specific in asking for personal messages, on company letterhead, phone calls or in-person meetings. The alert also asked for reports back to AGC to allow for proper follow-up.	76
May	Congressional Hearing: on May 26, 2011 AGC member and Municipal & Utilities Division Chair Mike Murphy (Turner Murphy Company, Rock Hill, S.C.) testified in favor of repealing the 3 percent withholding at a hearing before the Contracting and Workforce Subcommittee of the House Small Business Committee. Federal Contractors Conference: Over 100 personal visits were made to legislators’ offices in support of repeal and several offices cosponsored the legislation as a result. AGC lobbyists work 3% repeal request into all meetings with members of Congress. Transportation Construction Coalition: AGC members visited legislators during the annual fly-in and made 3 percent a top concern. AGC lobbyists continue urging members of the House and Senate to cosponsor repeal bills. IRS Regulations: On May 9 th the IRS issued final regulations, delaying the implementation date by a year.	141

June	<p>AGC Letter to Congress: On June 9, 2011 AGC sent to every member of the U.S. Senate a letter in support of an Amendment by Sens. Snowe and Brown to repeal the 3 percent withholding mandate on government contracts (a vote was not held).</p> <p>AGC Issue Alerts: Between June 29 – July 1, 2011, AGC sent state specific alerts updating cosponsors and specific calls to action. AGC lobbyists followed up on grassroots emails and calls with personal visits.</p>	177
July-	<p>AGC Survey: During the summer, AGC surveyed the membership on what impact the repeal law would have on their company. The survey generated over 1,200 responses. AGC members also ramped up grassroots contacts and personal meetings with members of the House and Senate during the August recess. AGC lobbyists continued to urge action on 3% repeal.</p>	227
September	<p>AGC Testifies at IRS Hearing: On September 12, 2011 AGC CEO Steve Sandherr testified at a public hearing at the Internal Revenue Service (IRS) on proposed regulations to change the effective date of the 3 percent withholding mandate to Jan. 1, 2013 for new and materially modified contracts, and to Jan. 1, 2014 for all contracts (new and existing). AGC expressed opposition to the imposition of the 3% withholding. We supported the implementation delay and opposition to imposing the 3 percent government withholding mandate on existing contracts on Jan. 1, 2014.</p>	249
October	<p>House Vote: House passes the Withholding Tax Relief Act, HR 674, a bill to repeal the 3 percent withholding by a vote of 405 to 16.</p> <p>Senate Vote: On October 20, 2011, the Cloture Motion on S. 1726, the Withholding Tax Relief Act fails to garner the 60 votes necessary. Vote was 57 to 47.</p> <p>Committee Action: On October 18, 2011 the House Committee on Ways and Means approved, unanimously H.R. 674, which will repeal 3 percent withholding.</p> <p>Legislation Introduced: on October 17, 2011 Senator Mitch McConnell (R-Ky.) introduced S. 1726, the Withholding Tax Relief Act of 2011</p> <p>AGC Issue Alerts: On October 26, 2011, AGC sent issue alert on upcoming House vote on repeal. On October 21, 2011, AGC sent a thank you to past grassroots activists on repeal. On October 4, 2011, AGC sent an issue alert on repeal. AGC lobbyists continued to push for repeal.</p> <p>AGC Letters: On October 26, 2011, AGC sent a Key Vote Letter in support of H.R.674, the Withholding Tax Relief Act, a bill to repeal 3 percent withholding on government contracts. October 20, 2011 AGC sent a Key Vote Letter in support of S.1726, the Withholding Tax Relief Act of 2011, a bill to repeal 3 percent withholding on government contracts.</p> <p>AGC Press Event: On October 21, 2011, AGC and its statewide chapter, the Montana Contractors Association, released new construction employment data for Montana and other states during a visit to the new I-15 & Custer Avenue Interchange project in Helena, Mont. The associations also released an analysis of how the 3 percent tax withholding measure will affect construction hiring and business trends in Montana and across the country.</p>	270
November	<p>AGC in the News: Between November 10-14, 2011, numerous news outlets reported on AGC’s reaction to Senate passing repeal bill.</p> <p>AGC Issue Alert: On November 10, 2011, AGC sent Issue alert on Senate passing bill. On November 4 and 7, 2011, AGC sent Issue Alerts on Senate to vote on repeal.</p> <p>Senate Vote: On November 10, 2011, Senate passes H.R. 674, a bill to repeal the 3 percent withholding law after amending it slightly by a vote of 95 to 0 with one Senator voting present.</p> <p>Final House Vote: After 5 years, AGC gets to thank everybody who played a roll in this successful effort.</p>	270

AGC Timeline of Activities:

The timeline below shows the extent of AGC activities and work with our coalition partners pushing for repeal. AGC testified before Congress twice urging repeal. AGC testified before the IRS twice urging repeal. AGC members have repeatedly met with the IRS and other federal agencies to detail the complexity and unfairness of the requirement. This year we began weekly updates in the Construction Legislative Week in Review, listing all new cosponsors as they were added in the House and Senate. We also conducted a survey which garnered responses from more than 1200 AGC members detailing the impact of 3% withholding on their businesses. We released the information nationally and held a widely

covered press event while the Congress was considering repeal. Repeal efforts were prominent again this year during our Federal Contractors Meeting in April, the May TCC fly-in and during our National Chapter Leadership Conference in September. In addition to national grassroots, we targeted critical states such as Michigan, Montana, Iowa and Utah, generating dozens of individual contacts with key decision-makers in the House and Senate. AGC never equivocated the solution to the problem was repeal, and not some minor modification to the 3% withholding requirement.

AGC Timeline of Activities in 2011:

- November 10-14, 2011 – AGC in the News: Bloomberg News, ENR, BIG SKY BUSINESS JOURNAL, SUPPLY HOUSE TIMES, PLUMBING AND MECHANICAL MAGAZINE, SITE PREP MAGAZINE, and CONSTRUCTION EQUIPMENT GUIDE reported on AGC’s reaction to Senate passing repeal bill.
- November 10, 2011 – AGC Issue Alert: Senate passes bill update.
- November 10, 2011 – Senate Vote: Senate passes H.R. 674, a bill to repeal the 3 percent withholding law after amending it slightly by a vote of 95 to 0 with one Senator voting present.
- November 7, 2011 – AGC Issue Alert: Senate to vote on repeal
- November 4, 2011 – AGC Issue Alert: Senate to vote on repeal
- October 27, 2011 – House Vote: House passes the Withholding Tax Relief Act, HR 674, a bill to repeal the 3 percent withholding by a vote of 405 to 16.
- October 26, 2011 – AGC Issue Alert: House to vote on repeal
- October 26, 2011 – AGC Letter: AGC Key Vote Letter in support of H.R.674, the Withholding Tax Relief Act, a bill to repeal 3 percent withholding on government contracts.
- October 21, 2011 – AGC Issue Alert: Thank you to past grassroots activists on repeal
- October 21, 2011 – AGC Press Event: AGC and its statewide Chapter, the Montana Contractors Association, released new construction employment data for Montana and other states during a visit to the new I-15 & Custer Avenue Interchange project in Helena, Mont. The associations also released an analysis of how the 3 percent tax withholding measure will affect construction hiring and business trends in Montana and across the country.
- October 20, 2011 – Senate Vote; Cloture Motion on S. 1726, the Withholding Tax Relief Act fails to garner the 60 votes necessary. Vote was 57 to 47.
- October 20, 2011 – AGC Letter: AGC Key Vote Letter in support of S.1726, the Withholding Tax Relief Act of 2011, a bill to repeal 3 percent withholding on government contracts.
- October 18, 2011 – Legislation Marked Up: The House Committee on Ways and Means approved, unanimously H.R. 674, which will repeal 3 percent withholding.
- October 17, 2011 - Legislation Introduced: Senator Mitch McConnell (R-Ky.) introduced S. 1726, the Withholding Tax Relief Act of 2011.
- October 4, 2011 – AGC Issue Alert: Take Action on repeal
- September 15, 2011 President Obama includes one year delay of 3% withholding in his Jobs package
- September 12, 2011 – Public Hearing at IRS: AGC CEO Steve Sandherr testified at a public hearing at the Internal Revenue Service (IRS) on proposed regulations to change the effective date of the 3 percent withholding mandate to Jan. 1, 2013 for new and materially modified contracts, and to Jan. 1, 2014 for all contracts (new and existing). AGC expressed support for the implementation delay and opposition to imposing the 3 percent government withholding mandate on existing contracts on Jan. 1, 2014.
- Summer – AGC Survey: AGC surveys membership on impact the repeal law will have on their company. Over 1,200 responses.

- June 29 – July 1, 2011 – AGC Issue Alert: State specific alerts updating on cosponsors.
- May 26, 2011 - Congressional Hearing: AGC member and Municipal & Utilities Division Chair Mike Murphy (Turner Murphy Company, Rock Hill, S.C.) testified in favor of repealing the 3 percent withholding at a hearing before the Contracting and Workforce Subcommittee of the House Small Business Committee.
- May 24-25, 2011 – Transportation Construction Coalition Fly-In: During fly-in, AGC members lobbied Congress in favor of 3% withholding repeal. The fly-in attracted over 300 attendees.
- May 9, 2011 – IRS Regulations: The IRS published final regulation on the implementation of 3% withholding and delayed the date one year.
- May 2-5, 2011 – AGC Federal Contractors Conference: During the conference, AGC members launched an all-out offensive on the legislative front with a series of organized Capitol Hill visits to provide information on repeal of 3% withholding tax. Over 100 visits were made to Members of Congress.
- April – Targeted Grassroots: AGC sent targeted alerts to members in Michigan, Utah, Montana and Iowa. The states represented key elected officials and encouraged high level grassroots action. The call to action was specific in asking for personal messages on company letterhead, phone calls or in-person meetings. The alert also asked for reporting back to AGC to allow for proper follow-up.
- March 30, 2011 –Coalition: Letter to Senate in support of amendment to S. 493 that repeals the 3% law
- March 21-25, 2011 – AGC 92 Annual Convention: AGC holds annual convention and educates and recruits members to contact Congress in favor of 3% withholding repeal
- March 17, 2011 – AGC Letter: AGC sends all senators a Key Vote letter supporting S.Amdt.212 to S.493, a bill to repeal the 3% withholding mandate on government contracts. The Amendment was not offered and no vote was held.
- March 16, 2011 – AGC Issue Alert: AGC sends an Issue Alert to membership updating them on 3% withholding provision and encouraging them to contact their legislators
- March 14, 2011 – AGC in the News: AGC was mentioned and quoted in a Bloomberg News article.
- February 23, 2011 – AGC Letter: AGC sends every member of U.S. House a letter in support of H.R. 674.
- February 11, 2011 – Legislation Introduced: Rep. Wally Herger (R-CA) introduced H.R. 674, a bill to repeal the 3% withholding mandate
- January 28, 2011 – Coalition: Letter to Chairman Issa
- January 25, 2011 – Legislation Introduced: Sen. David Vitter (R-LA) introduced S. 89, the Withholding Tax Relief Act of 2011, and Sen. Scott Brown (R-MA) introduced S. 164, the Withholding Tax Relief Act of 2011 with a pay-for.

Recurring Activities: AGC **lobbyists** meet with congressional members and staff on importance of repeal, AGC provides update in **weekly newsletter**, AGC updates **webpage** devoted to repeal, AGC members make personal visits urging repeal.