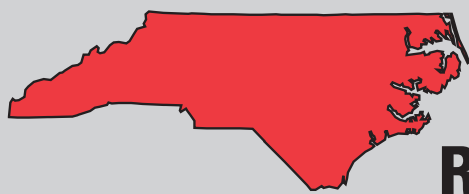


2010 Legislative Report

Your dues dollars at work

Where would YOUR BUSINESS be without Carolinas AGC's successes in our state legislatures?



North Carolina Legislative Report

"Given the bad budget situation, Carolinas AGC had an outstanding session," said Bill Marshburn, chair of CAGC's NC Legislative Committee. "Our lobbyists were major players in helping the construction industry get significant refunds for overbillings, preserving open bidding on public construction, putting in place a Mobility Trust Fund, cutting what would have been lots of unneeded and risky red tape, and getting badly needed infrastructure funding for building, transportation and utility projects."

Before adjourning the short session July 10, the NC General Assembly **approved nearly \$1 billion toward construction projects.**

Rather than raising taxes, lawmakers made deep, across-the-board cuts and provided no raises to state employees to help trim an initial \$800 million shortfall for this year's \$19 billion budget. There's an expected \$3 billion deficit in next year's budget partly because of the anticipated loss of federal stimulus funds.

During the three-month short session designed to fine-tune the budget, CAGC tracked hundreds of bills and accomplished our top goals.

Some of CAGC's top accomplishments included helping lead efforts that resulted in:

- Enactment of legislation that will provide **sizable refunds for taxable years 2007, 2008 and 2009 for franchise taxes applied for overbillings.** This retroactive legislation follows CAGC's successful efforts last year which, effective January 1, 2010, prevent the NC Department of Revenue from applying the franchise

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South Carolina Legislative Report

The South Carolina Legislature ended the second year of a two-year session with its adjournment June 3. While the legislature unfortunately failed to approve any funding for construction, there were **several bills that CAGC worked to pass, and many others we worked to defeat,** in order to avoid additional regulatory burdens during an already difficult climate.

During the 2010 legislative session, Carolinas AGC:

- Pushed for the successful passage of a constitutional amendment that would **protect the rights of workers in South Carolina to vote by secret ballot.** The constitutional amendment, which will be on the ballot this November, will allow voters the option to amend the state constitution to protect an individual's right to vote by secret ballot in a union election. **We urge our members to vote "yes" on this question in November.**
- Helped successfully lobby for an **Economic Development** bill that: adds a modernized port tax credit to attract more shipping volume and warehouse/distribution facilities; extends the fee-in-lieu agreements for manufacturing property which includes the construction of the facilities; and increases tax incentives for capital investments that attract new businesses and encourage the expansion of existing businesses. This legislation is expected to have a positive impact on the construction industry.
- Reviewed and supported legislature-approved regulations that comply with last year's legislation to create a **statewide registry for special inspectors.** The regulations provide procedures for the registration of inspectors performing special inspections on large or complex buildings and structures. The regulations also

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tax to overbillings— that is, funds that will be but have not yet been paid to subcontractors and suppliers for services performed or materials provided.

- Educating lawmakers— in part with a Legislative Day in June attended by dozens of architect, engineering and construction representatives— on the value of how construction and design can sustain or create about 25,000 jobs for each \$1 billion spent there. While legislation that would have resulted in two new engineering facilities at NC State and NC A&T universities was not successful, **legislators approved nearly \$1 billion toward construction.**

- **Preserving open, competitive bidding on public work.** CAGC helped lead efforts to defeat a special provision tucked away in the House budget bill, in a 102-2 vote, that would have significantly undermined, and in some cases gutted, the competitive bid system on public school construction in North Carolina.

- Creating the NC Mobility Fund. CAGC— along with the NC DOT, the Office of the Governor and other industry associations— helped **obtain NC DOT funding** in the 2010-11 budget. This was extremely significant in that it accomplished several CAGC objectives:

- To get **progressive funding increases** of \$31 million in 2011-12, \$45 million in 2012-13 and \$58 million in 2013-14, which will continue for all future years. This additional funding will be used for mobility and congestion-relief projects of regional or statewide significance. The initial utilization will be for the northern roadway work involving the replacement of the Yadkin River Bridge.

- To progressively **eliminate all transfers from the Highway Trust Fund to the General Fund**— a political issue used by lawmakers and others to defend opposition for additional transportation funding.

- To provide the framework for lobbying for additional revenues once NC DOT develops criteria by which projects could utilize this funding source.

- Defeating proposed lien legislation that would have forced contractors, subs and suppliers to go to local courthouses to file liens to ensure payment on private construction work. CAGC assembled a coalition of other groups in the construction industry to accomplish this goal.

- **Restoring nearly \$55 million to the Senate budget bill for construction training and other vocational education** in the state's 115 public school systems; CAGC continued working with the NC DOL to ensure that costs for apprenticeship programs remain reasonable. CAGC helped form a legislative effort (involving about 100 vocational education supporters throughout the state) that reinforced to lawmakers that the 2009 overall graduation rate for public high schools is 71.8 percent, compared with an 86.5 percent graduation rate for students completing career and technical education pathways.

- Assisted in sending proposed legislation, which would have restricted NC DOT's ability to use alternative financing methods, to the NC General Assembly's study commission for its review. The Office of the State Treasurer, who proposed the legislation, was concerned about DOT's Design-Build-Finance model being used to fund the remaining section of the Charlotte Outer Loop. The alternative financing model had been supported by a ruling from the Attorney General's office but the State Treasurer did not agree with the ruling. Having the Study Commission review the ruling should allow NC DOT to continue using creative financing measures to deliver its program, and will provide increased market opportunity for CAGC members.

CAGC led efforts to defeat a special provision that would have significantly undermined, and in some cases gutted, the competitive bid system on public school construction in NC.

- Helping get infrastructure funding by meeting (as members of the AIA-NC-led NC Recovery Coalition) with State Treasurer Janet Cowell and State Budget Director Charlie Perusse to encourage support for raising the state's debt ceiling from 4 to 4.25 percent, **freeing up another \$225 million per year from the General Fund for state construction work.**

- Helping assemble a wide-ranging coalition that, against strong odds, successfully defeated proposed legislation that would have given North Carolina-based companies a 5 percent bidding advantage over other companies with main offices elsewhere. Such a move would have **driven up costs for taxpayers and hindered open, competitive bidding, and could have sparked bidding wars with other states on public construction work.** The result of our work complies with the CAGC Board of Directors' policy of supporting open bidding on public construction work.

- Continuing to try to defeat local legislation that would harm the public bidding laws, including a bill that would have allowed the Town of Matthews to do unlimited public-private partnerships without new revenue

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establish the registration categories, conditions, and requirements for special inspectors.

- **Introduced SC Underground Safety legislation** in the Senate that would amend the state’s outdated underground utility safety and damage prevention law. The legislation brings clarity to the law by specifying each stakeholder’s responsibilities in the "call before you dig process," as well as establishes a state authority to oversee the process. In addition, S.1068 incorporates Common Ground Alliance “Best Practices” into law which provide the most effective guidelines to ensure safety. This legislation will be a top priority for CAGC in 2011.
- **Worked successfully to make sure DHEC Restructuring legislation was defeated** in Committee. Carolinas AGC opposed the legislation because we feel strongly that science, not politics, should drive the regulatory and environmental permitting process.
- **Defeated a Right to Cure** bill filed in Senate that would have allowed for a class action law suit against general contractors and subcontractors without the claimant having first sent the contractor or subcontractor a right to cure notice.

Highlights of 2009 Session (the first of the two-year session)

Despite the session-long focus on stimulus funding, Carolinas AGC actively lobbied legislature members on the pros and cons of industry-related legislation on behalf of our members.

- Special Inspection legislation was signed into law that created a **statewide registry for special inspectors through the Building Codes Council**, under the Department of Labor, Licensing and Regulation (LLR). LLR has set up the registration process and will publish a list of registrants on its website so that owners and contractors will know who is certified as a Special Inspector in South Carolina. Carolinas AGC coordinated with other special interest groups to draft a bill that would streamline this process, sought out sponsors, had the bill filed in the Senate by Sen. Glenn McConnell and in the House by Rep Bill Sandifer, and testified in favor of the legislation in both chambers.
- CAGC **testified against and successfully amended legislation that would have placed a two-year moratorium on the construction and expansion of all landfills** in the state, including construction and demolition (C&D) landfills. Carolinas AGC testified in opposition to the bill and to moratoriums in general, but at the very least requested an exemption for C&D landfills. The Senate agreed to the request by Carolinas AGC and amended the bill as such.

- The legislature approved a bill that would require local building officials to enforce the 2006 IECC energy standards for commercial contractors. Carolinas AGC offered two amendments to the bill, both of which were approved. The first mandated that **the local building official is the one person able to issue an injunction** on the sale, delivery, use, occupancy, erection, alteration, or installation of a building covered by this chapter — not any person or party who feels a building might not meet energy standards. The second change clarified that any projects which had already received the proper permits prior to the passage of the bill were not subject to the new requirements.

Carolinas AGC supported a port restructuring bill that **allowed the State Ports Authority (SPA) to be run**


more like a business. The bill no longer allows the current or any future governor to hire and fire at-will. Instead, it encourages long term board members, as well as a CEO, to provide for economic growth and stability for the future development of the SPA.

2011 Legislative Outlook

The legislature will reconvene January 11, 2011. Carolinas AGC will: push for the passage of a strong SC Underground Safety bill; encourage the legislature to support a bond bill for higher education construction; push for the passage of strong tort reform bill; and closely monitor all legislation that could impact the state’s immigration, public bidding, right to cure, environmental, and tax laws.

CAGC pushed for the successful passage of a constitutional amendment that would protect the rights of workers in SC to vote by secret ballot in a union election.

For more information on Government

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sources or compliance with state public bidding laws.

- **Supporting several successful bills which pave the way for more utility funding** in future years as well as supporting a NC DOT Study of Debt Affordability. CAGC supported the General Assembly's requiring the Joint Legislative Transportation Oversight Committee to retain the UNC Kenan-Flagler Business School to perform a study on the appropriate use of debt for strategic transportation projects.
- Working with a NC-led State Chamber coalition to successfully defeat a House-passed bill that would move North Carolina away from comparative fault to contributory negligence— a measure which, if successful, would increase liability and insurance costs for the construction industry.
- Helping move successful legislation to reappoint CAGC Building Division Chair John Muter to the NC State Building Commission.

Short Session Follows Solid Long Session for Construction Industry


Adjournment of the short session marked the end of the two-year legislative session. The NC General Assembly's long sessions (held in odd-numbered years) usually last

about nine months, from late January through late summer. CAGC accomplishments in the first year of the biennium in 2009 included:

- Exempting construction from a new statute of repose that, effective Oct. 1, 2009, increased from 6 years to 12 years in North Carolina.
- Putting together a wide-ranging coalition of construction industry, local governments and public schools interests that successfully opposed legislation that would have allowed Public Private Partnerships to seek unsolicited bids for public construction work. This legislation, as originally written, would have eliminated the traditional public bidding system on many jobs at a time when there already is limited opportunity to do public construction work because of limited funding.
- Helping lobby for successful legislation that allowed the NC Turnpike Authority to sell \$750 million in bonds for Triangle Expressway projects.
- Defeating or weakening legislation that allowed local governments to increase dramatically the amount of work they could do with their own forces. For example, Mecklenburg County wanted to raise the force account limit from \$125,000 to \$850,000, but we were able to reduce that to \$300,000 and only involve limited construction work over a short time frame. Also, CAGC single-handedly defeated a bill that would have allowed the Town of Holly Springs to negotiate with a single bidder on building, highway and utility work projects.
- Working successfully with a business coalition, led by the State Chamber, to oppose legislation on the Senate floor that would have resulted in very harsh penalties concerning e-verification, including loss of business. CAGC also worked with other business lobbyists to oppose successful bills that would have allowed state employees to have collective bargaining rights, a precedent-setting step that could have spilled over to business and industry.

2011 Legislative Outlook

The long session will begin January 26, 2011. Issues CAGC will be involved with will include the state budget picture, trying to secure additional infrastructure funding, Public Private Partnerships, safer laws for underground utility work, problems with double payment issues for general contractors, variations to the state's public bidding laws, e-verification and immigration issues, collective bargaining, and environmental and lien laws.

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