



BUILD UP!

NORTH AND SOUTH CAROLINA BUILDING DIVISIONS NEWSLETTER

CAROLINAS AGC – APRIL 15, 2009

JULY 9-12 BUSS MEETING IN HILTON HEAD

We've got a strong lineup for our 2009 Building-Utility-Subcontractor/Specialty Contractor Meeting, "Surviving Tough Times." The July 9-12 meeting, to be at the Westin Hilton Head Island Resort & Spa, will have an **early-bird special rate** and feature:

- **Thurl Bailey**, who guided the NC State Wolfpack Men's Basketball Team to a national championship, on how to survive and succeed with a smile.
- **How to be an Employee Friendly Employer & Avoid Union Problems**, a panel discussion with Mark Stublely, Ogletree Deakins; Claudia Dodgen, Crowder Construction; and Steve Gennett, CAGC CEO and President.
- **The Future of Construction and What to Expect**, a visionary video of Doug Pruitt, President of AGC of America.
- **Hot Topics Affecting Your Bottom Line:** To-the-point presentations, from top experts, on getting more work via BIM; what you should know about immigration and other timely HR issues; what to expect with market outlooks; giving you the education and training edge with Project Supervision; partnering and contractor-sub teamwork.
- For our Building Division Meeting, Chairman Tim Kennedy of Trident Construction will discuss division activities; Vice Chair John Muter of Barnhill Contracting will talk about bonding issues; Frank Elmore, Elmore & Wall, will offer a ConsensusDOCs update.

Wendy Cockerman, Weaver Cooke, will discuss Green Building; Michael Dorman, Multivista Carolinas, Construction Photography to Save You Big Bucks; Scott Dorney, NC Military Business Center, Multi-Billion-Dollar Construction Plans. CAGC staff will discuss major legislative issues in both Carolinas that affect your business.

- For the Spouses Brunch, Brenda Richards, "one of our own who has hit the big time," will discuss children's adventure books she has written involving Europe and the U.S.
- To help wind down, we'll have a Captain's Choice golf tourney at scenic Port Royal Robber's Row and a dinner-dance featuring The Headliners, guaranteed to be fun for all.

We plan to get registration packets out by late April. Sponsorships are still available and we would like to thank the following for already agreeing to be sponsors:

International Code Council: Keynote Speaker
Smith, Currie & Hancock: Keynote Speaker
Johnston, Allison & Hord: Friday Breakfast
The Rutherfordord: Friday Golf Tournament Refreshments
Elmore & Wall: Friday Reception
Shumaker, Loop & Kendrick: Saturday Breakfast
BB&T/Boyle Vaughan Insurance: Saturday Reception
Safran Law Offices: Saturday Dance/Band
Ogletree Deakins: Saturday Dinner
Multivista: Meeting Breaks
Ferguson Waterworks: Friday Golf Lunches

NORTH CAROLINA GOVERNMENT RELATIONS

What We Have Done for You Lately: The state Legislature convened its long session on Jan. 28, 2009. Topping lawmakers' list is a \$3-billion-plus budget shortfall for the coming fiscal year; topping our list is more infrastructure funding for building, highways and utility work – a tough task. Your NC lobbyists – NC Building Director Dave Simpson, NC Highway-Heavy Director Berry Jenkins and Utility Director Allen Gray – have been involved with these priorities to date:

Overbillings: At Carolinas AGC's request, and with much staff and member involvement, [House Bill 568](#) and [Senate Bill 367](#) have been introduced to solve problems with unfair franchise taxes being applied to some contractor overbillings. Because of CAGC's involvement here, the NC Department of Revenue in December recently stopped applying the tax in this area until the issue is resolved, a move that could save the construction industry **hundreds of thousands of dollars**.

Federal Stimulus Funding: North Carolina stands to receive about \$6 billion from the package, of which about \$2 billion goes for construction. Of that \$2 billion, North Carolina could get \$1.3 billion for highway and school construction, with \$735 million for highways and bridges and \$103 million for public transit. For more info, go to: <http://www.cagc.org/advocacy/>.

Card Check/Collective Bargaining: Hundreds of CAGC members, many of them Building Division members, have made Card Check contacts with members of Congress with **Thank & Thump**: [click here](#) to both thank the legislators who declined to co-sponsor the Employee "Free Choice" Act AND to "thump" those who support it. Meantime, CAGC is involved with ongoing NC legislative efforts to build opposition to this – and related collective bargaining bills -- as a founding member of North Carolinians to Preserve Employee Free Choice.

Government Doing Construction Instead of You: CAGC has defeated or watered down a number of force account bills that otherwise have the potential of becoming statewide legislation. Mecklenburg County, for example, wanted to raise the ceiling for force account work – allowing local government to do construction work instead of the construction industry – from a \$125,000 maximum to \$825,000. CAGC was successful in limiting the legislation only to a few greenway projects, not including utility work and limited to no more than \$300,000. The City of Asheville wanted to do similar force account work and CAGC and its members kept that level at no more than \$250,000 for a few security-related jobs. Both bills still are moving in the Legislature.

Public Private Partnerships: At the board's request, an ad hoc committee recently was formed to provide input to CAGC staff on the issue. Committee members include James Triplett of United Contractors, Doug Allen of J. H. Allen, John Muter of Barnhill Contracting, John Rankin of Balfour Beatty, Keith Coltrain of Elmore & Wall, and Jerry Smith of T. A. Loving as well as other CAGC members who since have expressed interest on the issue. After several months of negotiations, it was agreed that:

The current open, competitive bidding systems are adequate and should be kept intact as is, especially with the economy in such bad shape. The alternative delivery systems in place for state and local work help preserve transparency in government concerning public bidding and offer the best deal for taxpayers, public owners and a level playing field for the construction industry. The PPP/design-build proposal generally would not create new revenue streams; rather, it would take away funding for what otherwise would have gone to public construction work.

The State Building Commission for years has considered and will continue to consider, on a project-by-project basis, alternative delivery systems for state and local government beyond the current systems allowed: at-risk construction management, single-prime bidding, multi-prime bidding, public private partnerships for schools, and design build authorized for some public work. CAGC was a major supporter of legislation that gave the commission such authority. [Senate Bill 822](#) still is alive in the Legislature.

Bad Lien Proposal: The North Carolina Land Title Association filed [Senate Bill 803](#), a bill that would make substantial changes to our existing lien law, including what CAGC thinks would amount to a rush to the courthouse every time property was sold so that contractors and subcontractors could retain their lien rights and not lose payment rights. CAGC helped organize a coalition to oppose the proposal, which still is alive in the Legislature.

Other CAGC Efforts: CAGC staff and members successfully helped restore a proposal from Gov. Bev Perdue which otherwise would have taken the 70-year-old Apprenticeship and Training program out of the NC Department of Labor and placed it under the NC Community College System with much less funding. Efforts continue here on this ongoing issue. CAGC is trying to amend legislation that would significantly water down commercial construction issues before the State Building Code Council. CAGC also met with House Rules Chair Bill Owens, D-Pasquotank, to encourage him to keep in the deep freeze a bill that would require employers to garnish wages involving employee debts, a time-consuming and unsavory proposal.

CAGC helped organize a recent news conference featuring nearly two dozen lawmakers to voice support for career technical education for construction and other training. CAGC continues to help lead efforts to oppose legislation that would hurt statute of repose laws and put more liabilities on the construction industry. CAGC will continue to try to help make e-verify and immigration-related bills more positive for business. While CAGC was successful so far in killing a bill that would gut competitive bidding for several building and bridge projects for the Town of Holly Springs, we have not been successful to date in defeating a Senate-passed bill that would eliminate competitive bidding for a number of Cabarrus County school construction projects.

SOUTH CAROLINA GOVERNMENT RELATIONS

What We Have Done for You Lately: Your SC lobbyists – SC Building Director Leslie B. Hope, SC Highway-Heavy Director Sammy Hendrix and Utility Director Allen Gray – are busy. The South Carolina legislative session kicked off in Columbia on Jan. 13, now marking the half-way point of the current session. With the downturn in the economy and so many cuts to the state's budget, it has been challenging.

And, legislators, in an effort to save the state some additional revenue, have already decided on four weeks they will take leave and are pushing to adjourn the session three weeks early. Since it costs the state \$50,000 a week when the House and Senate are in session, seven weeks off will allow the state to save a little money. Below are some highlights of the session thus far:

Landfill Bill Passes Senate: The full Senate recently amended and gave final approval to [Senate Bill 324](#), a bill that would place a moratorium on permits for expanding current landfills and also for the construction of any new landfills. Currently, there is a stakeholders' group working through the landfill regulations to address the capacity of waste that can be accepted in Class 3 (Solid Municipal Waste) landfills.

The full Senate amended the bill so that the proposed moratorium would only apply to Class 3 landfills and would remain in effect until the stakeholders' group completes its work on the regulations or until Dec. 31, 2010, whichever is earlier. As amended and passed by the Senate, the bill exempts construction and demolition landfills and onsite landfills. The House referred the bill to the House Agriculture and Natural Resources Committee.

Special Inspection Legislation: The full House Labor, Commerce and Industry committee recently approved [Senate Bill 268](#), the Special Inspections legislation. Chapter 17 of the State Building Code requires the use of special inspectors on large projects for the inspection of high strength bolts, steel fabrication and elements, sprayed fireproofing, and structural concrete to name a few.

The bill creates a statewide registry for special inspectors so that owners and contractors are able to locate special inspectors for any area of the state by simply logging onto the Department of Labor, Licensing and Regulation's (DLLR) website. The bill mandates that the Building Codes Council, under DLLR, will use current staff to set up the registration process and publish a list of registrants on their website.

Building Energy Efficiency Standard Act: The Coastal Conservation League and the State Energy Office recently filed the Energy Standard Act which would require South Carolina to adopt the International Energy Conservation Code (IECC) as the energy standard and to provide that all new and renovated buildings must comply with this standard. The bill would also require that local building officials would be responsible for enforcing the energy standard.

The bill was filed in an effort to allow South Carolina to receive federal energy stimulus funding, which Gov. Mark Sanford has already requested. Initially, it was thought that the 2009 version of the IECC was needed in order to apply for the stimulus funding, but it was clarified that it was not necessary to require builders to comply with the 2009 IECC which was adopted less than a month

ago. Instead, the bill was amended to require compliance with the 2006 IECC which is the current standard for commercial contractors.

CAGC supported the amended energy requirements in the bill; however there was one section of the bill we opposed and that was a deal breaker for us to be able to support the entire bill. When this bill was filed, the term “local enforcement agency” was changed throughout the bill to “local building official,” except in one section of the bill. The section in question allowed any “person or party,” not the “local building official,” to issue an injunction on the sale, delivery, use, occupancy, erection, alteration or installation of a building covered by this chapter. That would mean that **any** “person or party” could completely stop a project if they felt the builder was violating the energy standards.

Fortunately, CAGC caught this wording in the bill early and lobbied hard to get it changed to allow a local building official, not a person or party, to issue an injunction as they would be most knowledgeable of any code violations. This bill received approval in a House Labor, Commerce and Industry Subcommittee -- with the amendments offered by CAGC.

Business Community Opposing Negative Legal Bill: While this bill has received little traction to date, CAGC, in conjunction with the South Carolina Civil Justice Coalition, is strongly opposing [House Bill 3553](#). The bill, which was introduced by Rep. Bakari Sellers, eliminates the statute of repose and statute of limitations for actions brought by and on behalf of the state.

This legislation would create never-ending opportunities for lawsuits, including false claim actions brought on behalf of the state by private persons, and would create liability for any business that ever entered into a contract with the state. Potential liability would extend back for decades, making lawsuits nearly impossible to defend. That would significantly increase litigation and legal costs and would be very harmful to the business climate of our state.

Secret Ballot Legislation: [House Bill 3305](#), a constitutional amendment to guarantee a worker’s right to a secret ballot in a union election, has passed the House and has been referred to the Senate Judiciary Committee. This amendment would maintain the status quo with regard to labor unions and does not change any right-to-work laws or make it more difficult for labor unions to organize.

Congressional Republicans are working on an amendment to the Employee Free Choice Act (EFCA). Under the proposal, any state which has adopted a constitutional amendment to preserve the secret ballot in their state would not be subjected to the passage of the federal EFCA.

SC Legislature/Governor Still Squabbling Over Stimulus: Members of the legislature are still trying to find a way to get the federal stimulus money to the state, while Gov. Sanford continued to stand firm on his position to pay down state debt. While he did reserve the \$700 million available to the state before the April 3 deadline, Sanford still says he will not request the \$700 million in question until he and the legislature reach a deal to pay down current state debt.

Senate Finance Subcommittee chairs took to the Senate floor recently to discuss the reality the state faces if the federal stimulus funds are not allowed to flow into the state. The chairs reported that faced with additional budget cuts and the lack of stimulus funds, South Carolina would be forced to take dire actions such as doing away with the OSHA program at the SC Department of Labor, Licensing and Regulation, closing three prisons which would allow for the early release of 3,100 prisoners and laying off over 450 prison employees, and drastically decreasing education funding at the cost of \$122 million for K-12 education and \$44 million for higher education.

Quote of the Quarter: *"Wisdom is the reward we get for a lifetime of listening when we'd have preferred to talk."*

- Doug Larson

"You will see a budget that is fair. It's certainly not going to bring us roses in the morning."

- Senator A. B. Swindell, Co-Chair, NC Senate Appropriations, referring to the roughly \$2 billion in spending cuts proposed in the \$20 billion Senate budget.

Dave Simpson, NC Building Division Director
P. O. Box 30998, Raleigh, NC 27622
(919) 781-3270, ext. 5724
dsimpson@carolinasagc.org

CarolinasAGC
Home of **iBuild**
www.cagc.org

Leslie Bomar Hope, SC Building Division Director
P. O. Box 1868, Columbia, SC 29202
(803) 799-5380, Ext. 5515
lhope@carolinasagc.org