



BUILD UP!

NORTH CAROLINA BUILDING DIVISION NEWSLETTER

CAROLINAS AGC – JULY 23, 2010 (Special Edition)

CAGC Has Excellent Legislative Session: Before adjourning the short session at 5:32 a.m. on July 10, 2010, the NC General Assembly approved nearly \$1 billion toward construction projects as well as provided relief concerning franchise taxes that could result in significant tax refunds for the construction industry.

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, which next year is expected to swell to a \$3 billion deficit partly because of the expected loss of federal stimulus funds. During the three-month short session, which is designed to fine-tune the budget, [CAGC tracked hundreds of bills](#) and accomplished our top goals.

“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.

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 then for overbillings. This retroactive legislation follows CAGC's successful efforts last year which, effective from January 1, 2010 forward, prevent the NC Department of Revenue from applying the franchise 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. [Click here for info on how to apply for those tax refunds.](#)
- Educating lawmakers -- partly with a Legislative Day on June 2 with 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 was not successful that would have resulted in two new engineering facilities at NC State and NC A&T universities, [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 on the House floor on June 3, that would have significantly undermined, and in some cases gutted, the competitive bid system on public school construction in North Carolina. If the legislation were successful, private developers would have been allowed to skirt public bidding laws that have been in place since the 1920s.
- Creating the NC Mobility Fund. CAGC -- along with the NC Department of Transportation, the Office of the Governor and other industry associations -- helped obtain NC DOT funding in the 2010-11 budget for the fund. This was extremely significant in that it accomplished several CAGC objectives:
 - Providing a progressive funding increase of \$31 million in 2011-12, \$45 million in 2012-13 and \$58 million in 2013-14, which would then continue for all future years. This additional funding would be used for mobility and congestion-relief projects of regional or statewide significance. The initial project utilization will be for the northern roadway work involving the replacement of the Yadkin River Bridge.

- Progressively eliminating 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.
- Providing the framework for lobbying for additional revenues to be placed in this fund once NC DOT develops criteria by which projects could utilize this funding source.
- Defeating proposed lien legislation, along with a coalition CAGC put together with the entire construction industry, including the NC Homebuilders Association, that would have forced contractors, subs and suppliers to go to local courthouses to file liens to ensure payment on private construction work.
- Restoring in the Senate budget bill about \$55 million for construction training and other vocational education in the state's 115 public school systems; continued working with the NC Department of Labor to ensure that costs for apprenticeship programs remain reasonable. CAGC helped put together on May 18 a legislative effort involving about 100 vocational education supporters around the state who told lawmakers that the 2009 overall graduation rate for public high schools was 71.8 percent, compared with an 86.5 percent graduation rate for students completing career and technical education pathways.
- Assisting in sending to a study commission proposed legislation by the Office of the State Treasurer to restrict DOT's ability to utilize alternative financing methods. The treasurer was concerned about DOT's Design-Build-Finance model that is being used to fund the remaining section of the Charlotte Outer Loop. That model was supported in an opinion from the NC Attorney General's staff that DOT had such authority as granted by the NC General Assembly.
- 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 of 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 put together 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. That could have sparked bidding wars with other states on public construction work. The result of our work complies with the [CAGC Board of Director's 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 otherwise have allowed the Town of Matthews to do unlimited public-private partnerships without new revenue 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 requiring the Joint Legislative Transportation Oversight Committee to retain the Kenan-Flagler Business School at UNC-CH to perform a study on debt affordability for transportation funding. This study is to make recommendations 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.
- 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, will increase from 6 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.
- Organizing a diverse industry coalition that was able to prevent from moving, as written, proposed legislation that otherwise would have upended the lien system on private construction work. Without CAGC's intervention here, the bill, as originally written, would have forced general contractors, subcontractors and suppliers to have to cover themselves by making a mad dash to the courthouse to file liens every time property was sold, or they thought the property might be sold, prior to receiving their final payment.
- 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 to allow 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 one 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 successfully 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 that 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, environmental and lien laws.

"We owe Berry Jenkins and Dave Simpson a world of thanks for their outstanding lobbying and hard work," said Mr. Marshburn, chair of the Legislative Committee.

2010 PAC Attack Being Cranked Up: Here's how you can help support pro-business, pro-construction candidates of the NC General Assembly: [NC/SC PAC Contributions](#)

Are you taking advantage of your Free GC Plan Room? [Go to your company's GC Plan Room in IBuild now!](#) For personal demo: [Roddy Craft](#) or [Mike Austell](#) 704/372-1450.



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