



BUILD UP!

NORTH AND SOUTH CAROLINA BUILDING DIVISIONS NEWSLETTER

CAROLINAS AGC - JUNE 14, 2005

REGISTER BY TODAY FOR DIVISION MEETING AT HILTON HEAD

Registration packets have been mailed, we have ordered excellent weather for the weekend, now, the only thing we need is **YOU!** If you are interested in attending CAGC's BUSS Meeting (Building/Utility/Subcontractor-Specialty Contractors) on July 14-17 at the Crowne Plaza Resort, Hilton Head Island, you must make your room reservations at the hotel by the end of today (June 14). Due to the overwhelming response, the hotel extended our deadline through the end of the day, so please take advantage of this extension and plan to join us by the beach in July.

This year's theme is "The Rapidly Changing Face of Your Construction Business." The meeting will feature a preview of the new and improved Supervisor's Institute offered by CAGC; a panel discussion on the pros and cons of Wrap-Up Insurance; a presentation by Field 2 Base, a new industry tool that will help improve communication in the field; and a keynote address by nationally known speaker and author Dr. Jerry V. Teplitz, who'll show you how to make every day positive, energized and stress-free through tools and techniques that will increase your energy levels, resulting in more productivity and creativity.

At the Building Division Breakout Meeting, we'll discuss how far we have come in addressing the Division goals for the year. You also will hear about legislative developments in both Carolinas that affect how you do business. There will be a spouse/guest brunch on Friday as well as a Captain's Choice golf tourney (guests/spouses welcome). After golf, the evening will feature a cocktail reception and dinner/dance. On Saturday evening, there will be a reception where we will network and recognize the winning golf teams.

Remember: Please register for the meeting with the Columbia CAGC office or you can register online at http://www.cagc.org/news_events/news/bussmtg05_general.cfm. But please keep in mind that after today there will no longer be a meeting room block/rate at the hotel http://www.cagc.org/news_events/news/bussmtg05_accommodations.cfm. For questions, contact Leslie B. Hope at 803/799-5380, ext. 5515, or lhope@carolinasagc.org.

N.C. LEGISLATIVE AND GOVERNMENT RELATIONS

Cross-Over Over: As state House budget leaders today struggled over the issue of how much of a cigarette tax hike could win favor and generate badly needed revenue, CAGC is in good legislative shape following the cross-over deadline passing earlier this month. That deadline, which was midnight on June 2, was when non-budget bills must have cleared either chamber to be eligible for consideration. Some CAGC "half-time" highlights of the legislature so far for the construction industry include:

Bad Public Building Bills: The NC House Judiciary IV Committee did not consider a very bad bill for public construction work in North Carolina following much work by CAGC staff, its members, and public-owner and school-related organizations. The bill, House Bill 1547, as written, is dead: http://www.bipac.net/issue_alert.asp?g=AGC_CAROLINA&issue=Amend_Public_Building_Contract_Laws&parent=agc_carolina.

CAGC was successful in killing House Bill 1260, which would have said that if a public owner in North Carolina "advertises for bids using the bid documents from the first advertisement, the board or governing body shall retain all bids submitted as a result of the first advertisement, and they shall be opened after the receipt of bids from the second advertisement only if the bidder has notified the

board or governing body in writing that the bidder continues to want to bid on the contract." Special thanks to the bill sponsor, Rep. Susan Fisher, D-Buncombe, for agreeing to a proposal by CAGC not to pursue the bill, which would have caused trouble, confusion and additional unnecessary paperwork.

Construction Site Theft: The Senate passed an excellent bill, supported by CAGC and the NC Home Builders Association, to crack down on construction site theft. The bill now is in the House Judiciary I Committee with more info available here:

http://www.cagc.org/advocacy/files/jobsite_theft_legislation.cfm.

Workers Comp: The bill, which was not subject to cross-over, remains alive and before the Senate Commerce Committee. While CAGC members have done an excellent job in contacting their legislators to support this, more help is needed and you can quickly send a CAGC-written email to your legislators if you have not done so at:

http://www.bipac.net/issue_alert.asp?g=AGC_CAROLINA&issue=Workers_Comp_Bill&parent=agc_carolina.

Other Bills Involving Liens, State Building Commission and Environment: Successful proposed legislation so far that CAGC supported includes a Senate-passed bill concerning liens that has been discussed extensively by the North Carolina Bar Association – Construction Section/CAGC Joint Committee. Some of the objections to the bill that CAGC initially had have been removed from the bill, which is being pushed by the N.C. Bar Association's construction section.

The bill would make technical amendments to the lien law that would help clarify the statutes and also would add an important provision to the law. North Carolina is one of the few states allowing a claim of lien on funds. Under current law, when a subcontractor serves notice of claim of lien on funds, there often is confusion at the courthouse and in the construction industry about what to do. Senate Bill 887 – which only involves private construction work – would allow a contractor to bond off a lien on funds and be able to proceed with the work.

Another Senate-passed bill CAGC is involved with includes expanding the State Building Commission and having fair representation from different segments of the construction industry. That bill is scheduled to be heard tomorrow in House Commerce. In addition, several pieces of environmental legislation that would affect construction are being closely worked on by CAGC staff. Of about 3,000 bills, CAGC is actively monitoring several hundred bills.

Highway Legislation: CAGC efforts continue in support of several bills that are still alive and would be positive for our industry. They include:

* GARVEE bond approval which allows the NC Department of Transportation to borrow in advance up to 15 percent of their federal funding for a 7-year period. This is important because it will allow DOT to increase the size of their proposed lettings in the immediate future at a time when cash balances are a major DOT concern.

* Several fee increases in budget proposals that could mean about \$100 million in new money for DOT projects.

* MBE/WBE legislation that will eliminate identified percentage goals in the statutes and replace them with aspirational goals and should encourage the settlement of the H. B. Rowe lawsuit when this legislation is enacted. The lawsuit is a challenge by the H. B. Rowe Construction Co. against NC DOT's implementation of their MBE/WBE project requirements.

Public Utilities Work: The Utility Division has had a good year in the NC Legislature thus far, including:

* CAGC worked with the Well Contractors Commission to amend legislation that required a certified well contractor to be onsite when installing and abandoning wells used for routine dewatering activities. The commission and CAGC developed language that allows the Commission to exempt all dewatering activities that take place within 25 feet from an area being dewatered and 25 feet below the floor of an excavation being dewatered.

* A sludge maintenance contractors group introduced language that would have allowed municipalities to circumvent the open bid process on all water works projects. CAGC worked with the group to amend their proposed language so that it would only pertain to, *“a facility to process sludge that has been generated by a municipal wastewater treatment plant for final end use or disposal. It does not include facilities which are part of the wastewater treatment process that generate the sludge.”*

* CAGC is currently working with the NC Septic Tank Association (NCSTA) to amend legislation they have introduced that requires anyone who is performing construction activities on a waste water treatment plant to be a certified septic tank contractor. CAGC is working with the NCSTA to exempt licensed utility contractors from the requirements of the proposed legislation.

Subcontractor/Supplier and Other CAGC Action: CAGC also helped lead efforts to successfully kill legislation that would have:

* Limited brands of products and materials that suppliers could bid on concerning UNC System construction work. UNC officials agreed to a proposal by CAGC not to pursue a bill they had pushed that would set up a new specification authority on a campus-by-campus basis that would have restricted types of products and materials that could be used.

* Allowed the Beaufort County school system to negotiate with one contractor to build schools there for a number of years.

* Circumvented the public bidding system on some joint ventures with public owners and developers.

S.C. LEGISLATIVE AND GOVERNMENT RELATIONS

The legislature in South Carolina adjourned June 2, 2005, but will be returning today to address the vetoes Gov. Mark Sanford issued on bills that passed during the last week of the session. Two bills which CAGC has been monitoring may possibly fall prey to the governor’s veto pen-- S. 1, the Primary Seatbelt Enforcement bill, and H. 3296, the Highway Funding bill. Thus, CAGC will continue to closely monitor the actions of the General Assembly when they return.

An end-of-the-session legislative report will soon be published for South Carolina; in the meantime, however, a few highlights from the most recent session follow:

Tort Reform: The biggest victory this year was the passage of a comprehensive tort reform bill which included a change in the statute of repose from 13 to 6 years. This legislation also sets standards for who pays what share of damages in lawsuit awards, limits where lawsuits can be filed, targets frivolous lawsuits, and makes using a nickname in lawyer advertising a violation of the Unfair Trade Practices Act.

OOPS!! The North and South Carolina Building Divisions Newsletter that was e-mailed out on June 14, 2005 had a mistake in the SC legislative section. In the paragraph titled Tort Reform, it should have said that the statute of repose had been changed from 13 years to 8 years, not 13 years to 6 years. Apparently that was wishful thinking on the staff’s part.

Pathways to Prosperity: Another bill that passed that will have a positive impact on the industry is the Pathways to Prosperity legislation, or as the bill was titled, the Education and Economic Development Act of 2005. The bill lays the groundwork to allow students to chose a career path sooner rather than later.

As enacted and signed by the governor, elementary schools will be required to start laying a foundation for careers by providing career awareness programs. Middle schools must develop plans of study for students, and by the 10th grade, students will be able to choose a career cluster and their studies will focus on this career path in high school. The bill is flexible enough to allow students to explore their interests, but it also ensures that students will be better prepared once they leave high school, whether they choose to go to college or straight into the workforce.

Small Business Income Tax Legislation: The South Carolina General Assembly this year also passed H. 3007, the income tax reduction bill, and the governor signed it into law mid-April. The bill will help small businesses throughout the state by eventually cutting the income tax rate from 7

percent to 5 percent. Beginning in 2006, with annual increments of ½ percent, the bill will allow a four-year phase-in. The bill also will allow small businesses to compete with large corporations because the proportion of the tax burden will now be more appropriately aligned between the two. A small business, or as the bill refers to it, “a pass-through business,” is defined as sole proprietorships, partnerships and 'S' corporations, including limited liability companies taxed as sole proprietorships, partnerships or 'S' corporations. There is no limit on the number of employees.

Jobs Creation Act: The session ended with the passage of H. 3006, the Jobs Creation Act. The bill was ratified and sent to the governor for his approval the last day of the session. As crafted, the legislation will allow businesses that create two or more full-time jobs to qualify for a lump-sum tax credit. The amount of the tax credit will vary by county and by the job’s level of compensation. The bill also will allow each job compensated at the 120 percent threshold to receive a full credit.

Speaker of the House: Not only was June 2 the last day of the legislative session, it was also a historic day in South Carolina. The House elected a new Speaker, Rep. Bobby Harrell of Charleston. Harrell will succeed Rep. David Wilkins, who has served as the Speaker for 11 years. Wilkins has been appointed Ambassador of Canada by President George Bush, effective June 21. Harrell was elected by a 119-1 vote.

CONVENTION, COMMITTEE & OTHER ACTION

CAGC's 2006 Convention will be January 26-29 at the Ritz-Carlton Orlando. This vibrant new resort, balanced by recreation and sophisticated style, features an elegant oasis in a city that offers some of the best entertainment and themed attractions in the world. Inspired architecturally by the grand palazzos in Italy, this new hotel offers an unsurpassed spa and a unique Floridian golf experience on a course designed by two-time British Open champion Greg Norman.

The **SC AIA/CAGC Joint Committee** met May 6, 2005 in Columbia and the committee approved a Joint Committee Recommendation (JCR) dealing with the interpretation of contract documents. Several recommendations were made for architects, engineers and contractors in how each should handle the documents. The committee reviewed a proposed JCR that addresses Client Education and a subcommittee was created to review and resubmit the JCR for committee approval. A subcommittee was also formed about the design and coordination of structural metal stud framing.

The **STC/CAGC Joint Committee** met May 6, 2005 in Columbia and the committee approved changes to the Indefinite Delivery Contracts (IDCs) involving bidding on smaller maintenance projects. A bill that makes comprehensive changes to the procurement code, which was filed earlier in the session, was discussed. State Engineer Mike Thomas showed the committee a video and discussed with the members a new initiative which is the creation of a Code Footprint for designers, building officials, contractors and owners.

The **AIA NC/CAGC Joint Committee** at its April 14-17 meetings at Kiawah Island continued work on updating a JCR on design-build. The panel discussed regulatory and legislative issues...The **UNC System/CAGC Joint Committee** at its June 2 meeting in Chapel Hill discussed capital projects, legislative action and efforts to improve MBE participation, including CAGC's Contractor Business Academy expanding across the state, and efforts to expedite change orders... The **NC Bar Association-Construction Section/CAGC Joint Committee** met in Raleigh on May 26 and discussed legal, legislative and regulatory issues as well as agreed to explore the possibility of a joint "super-conference" involving a meeting of various CAGC committees, perhaps in Greensboro, NC, in the spring of 2006.

Meantime, **Rep. Pryor Gibson, D-Anson**, gave an excellent legislative presentation about construction industry efforts at the first joint meeting of the **NC Legislative Committee and Triangle CAGC regular members** on June 6 in Raleigh... The next **Cape Fear District Meeting** will be at Porters Neck Country Club in Wilmington on August 25, with CAGC presentations involving our internet programs and legislative action, as well as presentations on local capital projects and MBE activity with CAGC's Contractor Business Academy.

CAGC also is actively involved in a retainage study which is being done by the NC Department of Administration's Retainage Study Commission. A public hearing, which will include a CAGC presentation, will be held at 7 p.m. on Thursday, June 23, in the first-floor hearing room of the Education Building, 301 N. Wilmington St., Raleigh.

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