



# BUILD UP!

## NORTH AND SOUTH CAROLINA BUILDING DIVISIONS NEWSLETTER

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CAROLINAS AGC – JUNE 28, 2007

### *NORTH CAROLINA LEGISLATION*

**Join Other CAGC Members in Contacting State Lawmakers About Infrastructure Funding:** Carolinas AGC members in recent days have sent dozens of emails to NC Senate and House members urging them to come up with new revenue sources necessary to generate multi-billion-dollar funding needed for public schools, transportation, and water and sewer needs.

If you have not done so already, please contact legislators in North Carolina to urge them to help provide funding for the state's infrastructure crisis before the current legislative session ends:  
[http://www.bipac.net/issue\\_alert.asp?g=AGC\\_CAROLINA&issue=Infrastructure\\_Funding&parent=agc\\_carolina](http://www.bipac.net/issue_alert.asp?g=AGC_CAROLINA&issue=Infrastructure_Funding&parent=agc_carolina).

**What CAGC Has Done for You Lately in the NC Legislature:** Carolinas AGC has been involved in the outcome of dozens of issues and bills in the NC General Assembly that affect the construction industry, including a statewide campaign to raise awareness of the multi-billion-dollar needs for transportation, water and sewer, and public schools construction.

The crossover deadline -- in which non-budget bills must pass either the state House or Senate to remain alive -- was late last month. CAGC lobbyists in North Carolina -- NC Building Director Dave Simpson and Highway-Heavy Director Berry Jenkins -- have been monitoring 244 of 3,620 bills that have been introduced. Hundreds of those bills could involve your company's bottom line.

Here's a "half-time" look at highlights of bills/issues that CAGC has helped lead efforts on in the long session of the Legislature, which should be over by August:

\* CAGC and its members have made a very significant financial and resources commitment to the Partnership for North Carolina's Future, a wide-ranging coalition of public owners and business leaders. The partnership (see info at [www.ncfuturenow.org](http://www.ncfuturenow.org)) is focusing on a media campaign, largely through television in the markets of Charlotte, Greensboro and Raleigh, to encourage constituents to contact their lawmakers about the need for them to provide unspecified sources for funding for infrastructure needs. A television blitz began May 29 following a news conference on May 23 at the N.C. General Assembly to launch the effort.

\* Senate passage of long-needed retainage legislation: Under the bill, local governments would have to comply with current state and UNC system policy, which also would become law -- that is, on public building and utility construction work, retainage could be no more than 5 percent. At the half-way point of the job, no more retainage would be held if things are proceeding adequately. In addition, early release of retainage for some trade packages -- such as structural steel and caissons -- would occur if all of the work was done up to the half-way point of the entire job.

\* CAGC helped kill -- at least for now -- union-supported legislation that would increase collective bargaining rights.

\* CAGC also led efforts to defeat -- at least for now -- a bill that would allow for reverse auction bidding through restrictive new legislation concerning prototype designs on public schools construction. In addition, at the request of CAGC, the state House on June 27 amended a bill, which would allow electronic bidding for the City of Charlotte so that reverse auction bidding cannot be used for public construction work.

\* CAGC was responsible for defeating or watering down a handful of bills that would eliminate public bidding on building and utility work. One bill in Charlotte, for instance, was amended by CAGC to put back into the mix competitive bidding for water treatment and wastewater treatment construction. That bill, if approved as initially drafted, would have set a troubling precedent for utility contractors involved in public work.

\* House passage of CAGC-supported legislation that would crack down on vandalism at job sites by making it a class-one felony involving damage of more than \$5,000. Legislation also passed the House to crack down on penalties involving theft of copper at job sites.

\* Apparent defeat of legislation on the Senate floor that would ban all Nextel and cell phone use in vehicles without hands-free devices.

\* Resources for Transportation: CAGC staff has heavily concentrated this session of the N.C. General Assembly on trying to secure additional needed funding for the transportation program. This would include funding for the NC Department of Transportation as well as the NC Turnpike Authority. While it is too early to determine final results, we are hopeful that additional resources will be committed.

CAGC is working through the *NC Go!* Transportation Coalition and the Partnership for North Carolina's Future concerning several individual bills that would do such things as stop the diversion of money from the highway trust fund, provide direct funding for the Turnpike Authority, allow local communities to help finance projects and raise local fees to support transportation improvements, etc.

\* DOT Design Build legislation which CAGC supports to continue the authority for NC DOT to use this process in delivering its program.

\* Limit Environmental Issues: CAGC supported several bills to reduce costs associated with environmental impacts and to limit authority of environmental regulatory agencies to implement expensive requirements.

\* Truck Weights: CAGC supports a bill to allow contractors to make more efficient use of their low-boy hauling units when transporting equipment.

\* Helped defeat proposed legislation that would raise the threshold on public work from \$300,000 to \$500,000 concerning when payment and performance bonds are required.

\* Helped amend legislation that is more favorable to civil trials concerning jury selection.

\* Helped defeat -- at least for now -- legislation that would water down good existing laws concerning the statute of repose and related liability.

\* Helped defeat -- at least for now -- a bill that would give individual local governments more authority concerning employment discrimination, a proposal that could result in hodgepodge laws for different counties.

\* Helped lead successful efforts to convince the UNC system to back off from a section of a bill that could have severely restricted which material and equipment vendors could do business at the 16 campuses.

\* Successfully opposed, to date, legislation proposed by architects and engineers that would make it extremely difficult for the construction industry to take legal action against them for faulty design or other possible litigation.

\* Supported legislation, not subject to the crossover deadline, to lower taxes for some construction equipment.

\* Supported successful legislation, to date, that CAGC testified in favor of to give the NC Department of Insurance more funding for additional inspectors to expedite the public construction process.

## *PAC THANKS*

Special Thanks to These NC Construction Industry PAC Contributors for this calendar year:  
[http://www.cagc.org/advocacy/files/contributors\\_to\\_cagc\\_nc\\_construction\\_industryPAC.cfm](http://www.cagc.org/advocacy/files/contributors_to_cagc_nc_construction_industryPAC.cfm)

## *SOUTH CAROLINA LEGISLATION*

**SC Legislative Action Report:** The legislative session in South Carolina ended June 7, but legislators left town without approving a state budget or the DOT reform bill. Since the law requires the legislature to adjourn the first Thursday of June at 5:00 p.m., legislators returned to Columbia June 19 for a special session to finalize their work.

**Workers' Compensation Reform:** During the special legislative session, legislators unanimously approved the workers' compensation bill. The bill is a strong compromise that strengthens repetitive trauma, addresses all the Supreme Court and Court of Appeals cases, eliminates the Second Injury Fund, provides for a rebuttal presumption for the 50% Back Rule, deals with the motor carrier independent contractor issue, and requires all workers' compensation appeals to go directly to the Court of Appeals by-passing the Circuit Court. The adoption of this bill is the culmination of several years of work and could not have happened without the help of our members who contacted your legislators urging their support of this legislation.

**Immigration Legislation Fails:** H. 3032 is an immigration bill that would require any contractor or subcontractor doing work with the state to verify **ALL** new hires through the federal work authorization program (Basic Pilot Program). Or, employers could verify status by asking for a driver's license, which our attorneys say could be a violation of federal EEOC laws, since asking for a specific document for only a portion of your hiring practices could be considered a discriminatory practice. After many attempts to pass the bill, time ran out before the legislature could take action on this bill. Throughout the session, Carolinas AGC offered amendments to the bill that would be more acceptable to our members, but all were defeated by one or two votes. A copy of H. 3032 can be accessed at this link [http://www.scstatehouse.net/sess117\\_2007-2008/bills/3032.htm](http://www.scstatehouse.net/sess117_2007-2008/bills/3032.htm). Since we are at the beginning of a two-year session, this bill will still be active next session. And, if the federal government fails to pass a bill over the summer, the SC legislature is sure to continue to push for passage of a state bill.

**LEED Legislation Approved:** H. 3034, [http://www.scstatehouse.net/sess117\\_2007-2008/bills/3034.htm](http://www.scstatehouse.net/sess117_2007-2008/bills/3034.htm), the so called LEED bill, was given final approval and enrolled for ratification during the last week of the session. Gov. Mark Sanford vetoed the bill calling it an unnecessary mandate and pointing out the high cost of compliance on the front end. However, the legislature overrode the governor's veto when they returned to Columbia for the special session and the bill became law.

**Alternative Delivery Methods:** S. 282, [http://www.scstatehouse.net/sess117\\_2007-2008/bills/282.htm](http://www.scstatehouse.net/sess117_2007-2008/bills/282.htm), is a bill that would amend the current procurement code in South Carolina by expressly stating in the code that alternative delivery methods such as Design Build, Construction Management at Risk and Design Build Finance Maintain are allowed to be used to procure state construction work. The bill does not **require** the use of these methods and still maintains the Design Bid Build procedure as the default method; it just simply states that other methods are available and if the State Engineer approves the use of an alternative method, then that method can legally be used in South Carolina. Carolinas AGC worked closely with the Architect, Engineer and Subcontractor associations and staff from the Budget and Control Board on the creation of this legislation. The bill made its way through both the Senate and the House without any amendments being added, and during the last week of the session, a budget proviso was tacked onto the bill in the House.

The proviso added requires the state Transportation Infrastructure Bank to annually set aside an amount equal to five million dollars for the use of the Department of Transportation for the Interstate Highway 73 and Interstate Highway 74 projects. While this would be a nice addition of monies for the construction of those interstates, the Senate says that not only is the Infrastructure Bank tapped out, they are not interested in starting the practice of allowing provisos to direct how the Infrastructure Bank doles out money. Thus, the entire bill is being held hostage because of the inclusion of the proviso and will not be addressed until the legislature returns in January.

**Joint Bond Review Committee:** The Joint Bond Review Committee met the last week of the legislative session and approved funding for the following projects:

**USC Columbia** – Renovation of 6,500 square feet to the Top of Carolina Restaurant at Capstone dormitory at a cost of \$700,000.

**USC Upstate** – Construction of a new 105,000 square foot residence hall at the cost of \$21 million.

**Winthrop University** – Renovation of the Byrnes Auditorium at a cost of \$1 million.

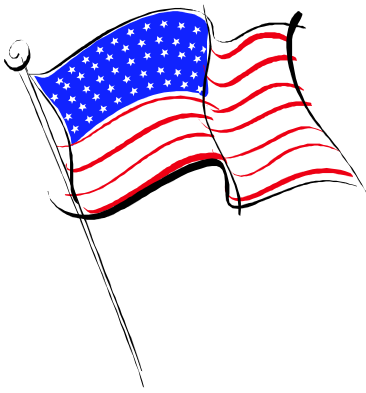
**Winthrop University** – Road and dormitory improvements on campus at a cost of \$6.5 million.

**Greenville Tech Northwest Campus** – Construction of a 40,000 square foot building to house animal studies program at a cost of \$342,000.

### *QUOTE OF THE QUARTER*

*"No man (woman) is a failure who is enjoying life."*

- William Feather, author



*Have a Happy 4<sup>th</sup>*

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

**CarolinasAGC**  
Building Your Business  
THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA  
[www.cagc.org](http://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](mailto:lhope@carolinasagc.org)