



BUILD UP!

NORTH AND SOUTH CAROLINA BUILDING DIVISIONS NEWSLETTER

CAROLINAS AGC – SUMMER (June 29, 2011)

WE NEED YOUR PAC HELP NOW

With excellent news for the construction industry from the recently ended sessions of the NC and SC state legislatures, Carolinas AGC is getting flooded with PAC requests from pro-construction, pro-business candidates in both Carolinas. If you have not already done so, please contribute to the PACs in either North Carolina or South Carolina – or both if you do business in both states. You can use your credit card by simply clicking below on the appropriate state:



WHAT CAGC DID FOR YOU IN NC

North Carolina: The regular long session of the NC General Assembly ended early on Saturday, June 18, with Carolinas AGC having an excellent session that included legislative approval of more than \$1 billion toward construction projects and failure to cap the gas tax, a move that will result in about \$250 million more going more toward transportation in the next two years. Other accomplishments included:

- Approval of record-setting [\\$559 million for UNC System construction projects.](#)
- Defeat by CAGC of a bill that would have caused a nightmare on public work by requiring, along with the submission of bids, extensive documentation about military veteran participation. NC Building Director Dave Simpson thanks many CAGC members who were involved in this successful effort.
- The state House did not approve a Senate-passed bill which would require the construction industry to first get a Certificate of Merit before civil action could be taken against designers, a costly and cumbersome process that would have a chilling effect on the construction industry.
- Rejection of proposed legislation, strongly opposed by CAGC, which would have increased the force-account ceiling substantially for universities and community colleges – up to \$500,000 at a time when the construction industry's unemployment rate is running about 20 percent.
- Keeping in place the state's 6-year statute of repose for construction at a time when it is 12 years for other business and industry.

- Working with a coalition, led by the NC Chamber, which resulted in passage of legislation for workers' comp reform, tort reform and environmental reform that will result in state rules generally not being more stringent than federal rules.
- Preservation of open, competitive bidding on public work by defeating or watering down about a dozen local bills which easily could have become statewide. For example, the City of Charlotte wanted unlimited design-build capability, a move that would have not resulted in a level playing field for the construction industry. After lengthy negotiations, CAGC was able to limit the legislation so that it only applies to up to 3 projects per year, including only 1 building project.
- Securing an agreement for stakeholders to make recommendations on how to improve North Carolina's underground utility safety law, with a report to made in next year's short session.
- Helped defeat legislative efforts that would have prevented NCDOT from accepting and spending Federal Railroad Administration Grant funding of \$545 million, which will provide an increased construction market for our members. Much of this grant money will be utilized to improve roadway and bridge infrastructure associated with corridor improvements between Raleigh and Charlotte.

Sales Tax Reduction: For the construction industry, a major change in the sales tax rate takes effect July 1, 2011, when the state sales tax rate will drop:

The general state tax rate applicable to sales and purchases of tangible personal property, certain digital property and certain services will be 4.75%. As a result, the general state and local tax rate will be 6.75% in eighty-two counties, 7% in Alexander, Catawba, Cumberland, Duplin, Haywood, Hertford, Lee, Martin, New Hanover, Onslow, Pitt, Randolph, Robeson, Rowan, Sampson, Surry and Wilkes Counties, and 7.25% in Mecklenburg County. [NC Department of Revenue info here.](#)

Other Issues:

Double Payment, Liens & Study Bill: [H773](#), the studies act, did not pass, though it is eligible to be approved next month, when the legislature reconvenes, and it authorizes a study of improving lien/payment bond laws. [H489](#) is still alive for next year's short session and had language involving the issue of double payment and liens. H489 was the result of intense work by the construction section of the NC Bar Association involving improving lien and payment bond laws. An [earlier version of the bond section of the H489](#) would help solve problems with building contractors having to pay twice for the same work or materials when the contractor pays the first-tier sub or supplier, who in turn, does not pay lower-tiered subs/suppliers, who then file claims against the contractor's payment bonds.

Vocational Education: CAGC staff and Bill Downey of L.A. Downey & Sons, Inc., and former chair of CAGC's Board of Directors, met with [Sen. Harry Brown](#), R-Onslow, the Senate majority leader and a strong supporter of Career Technical Education, as well as other legislative leaders to successfully preserve vocational education funding at a time when most other education programs were significantly

reduced in the budget bill, saving what otherwise could have been a loss of millions of dollars for construction and other training in the high schools.

Appointments: [S686](#) includes the appointment of Marshall Gurley of Raleigh, CEO of Centurion Construction Co., to the State Building Commission, as recommended by CAGC, which has one appointment on the panel. The three-year appointment, by [House Speaker Thom Tillis](#), takes effect July 1, 2011.

Prison and other Construction Funding: Legislators approved \$125 million for renovations and repairs of UNC and state buildings; \$100 million for school construction via lottery proceeds; \$58 million for the NC Mobility Fund to provide resources to relieve traffic congestion; and [H646](#) provides \$20 million for completing medically related construction work as well as calls for maximizing the Inmate Construction Program.

Unions: CAGC worked with local governments and business allies to prevent union-pushed bills from passing that would have repealed NC's longstanding prohibition on collective bargaining for state and local government employees.

Immigration Legislation Signed into Law: Lawmakers approved a gradual, phased-in, new e-verify program for new employees for all employers in North Carolina with 25 or more employees, a main priority for Republican lawmakers. The watered-down bill, [H36](#), deleted previous versions of the proposal that would have only applied to public construction work and would have involved a felony for noncompliance. Language in previous versions of the bill, which was deleted, also called for a reporting process that would help solve problems with the [double-payment problem](#).

[Click here for details about construction funding and full NC legislative report.](#)

South Carolina: Carolinas AGC had tremendous success in the first year of the current two-year legislative session. Staff in Columbia has been busy on a number of fronts with issues vital to the construction industry, the highlights of which are below:

Haley Signs Legislation To Restore CGL Coverage: Gov. Nikki Haley signed into law [S. 431](#), legislation which was filed by Carolinas AGC to address the S.C. Supreme Court ruling on [Crossmann Communities vs. Harleysville Mutual](#). CAGC worked tirelessly to see that this legislation passed. Leslie Hope, SC Director of Government Relations and Divisions, thanks all members who answered the call to action to help restore Commercial General Liability (CGL) coverage. [Full Story...](#)

Underground Damage Legislation Signed by Governor: On June 7, Gov. Haley signed the Underground Damage Prevention legislation into law, less than three months after it was filed in the Senate. CAGC and its members have been pushing for changes to the Underground Utility Damage Prevention Act in South Carolina for over 15 years, working with numerous stakeholders on the national, state and local level. [Full story...](#)

Haley Signs Tort Reform Legislation into Law: CAGC, in conjunction with the SC Civil Justice Coalition, helped pass [H. 3375](#), the tort reform legislation, after three years of working with several other members of the business community. Within five days of passage, Gov. Haley signed the legislation into law. The enacted legislation clarifies a loophole in the 2008 law that changed the statute of repose from 13 to 8

years. The law now states that a building code violation cannot kick the statute of repose back to 13 years from the 8 years that was adopted three years ago. [Full story...](#)

Haley Signs Unemployment Tax Relief Bill: Gov. Haley signed into law enabling legislation to give our members and other state employers some relief on the new and much higher unemployment taxes levied on employers since Jan. 30. The legislation, [H. 3762](#), directs that the appropriations go toward state unemployment tax relief for businesses in tiers 2 through 20, which results in reductions up to 25% for 2011, makes state unemployment tax reductions retroactive to January 2011, states that seasonal employees may be ineligible for unemployment benefits which would result in a 3% reduction in state unemployment tax costs to businesses, companies that have a positive state unemployment tax balance will be in no class higher than class 12 for 2011 only, and reduction of benefits will be applied for the newly unemployed to 20 weeks from 26 weeks, resulting in an 8% reduction in overall state unemployment tax costs to businesses.

Immigration Legislation Signed Into Law: Gov. Haley signed [S. 20](#), the immigration legislation into law at a signing ceremony at the State Capital this week. The main part of the bill will grant more power to police officers to check whether people are illegal immigrants. And, this is the section of the law that is expected to cause the legislation to face legal challenges. The legislation also made specific changes to how businesses must comply with the law.

The only option states now have to verify someone's status is through e-verify; businesses will no longer be allowed to use a driver's license for verification. This change came about because of a recent federal lawsuit filed mandating all states use e-verify.

The legislature also approved the length of time an employer violating the provisions of law would be posted on the agency website, changing it from one year to six months, adopted an amendment that specifies a license revocation is not a tax revocation, provided for felony violations, the transportation of prisoners, and the promulgation of regulations. CAGC worked closely with the governor's office and members of the Senate and the business community on this issue.

QUOTE OF THE QUARTER

“Our Carolinas AGC lobbyists in both Carolinas delivered – now it is up to our Carolinas AGC members to step up to the plate and take our PACs to the next level.”

- Bill Marshburn, D.J. Rose & Sons, Chair, NC Legislative Committee
- Scott Fant, Sloan Construction Co., Inc., Chair, SC CAGC PAC

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