



BUILD UP!

NORTH AND SOUTH CAROLINA BUILDING DIVISIONS NEWSLETTER

CAROLINAS AGC – MARCH 2007

NORTH CAROLINA LEGISLATION

N.C. Legislative Session Outlook: The N.C. General Assembly convened its long session on Jan. 24, 2007, with the biggest issue for the construction industry involving the need for more than \$10 billion for highway, public schools, water and sewer, higher education and infrastructure funding.

Politically, particularly with the new House leadership, the legislature is becoming less business friendly, an environment which is forcing CAGC lobbyists Dave Simpson and Berry Jenkins to become more defensive on a number of issues, ranging from challenges involving environmental, immigration, pro-union and pro-trial lawyer issues. The House, led by Speaker Joe Hackney, D-Orange, has a 68-52 Democratic edge. The Senate, led by President Pro-Tem Marc Basnight, D-Dare, has a 29-21 Democratic edge.

Conspicuously absent from Gov. Mike Easley's budget proposal is the lack of funding for badly needed public schools construction. Leadership also has been lacking from the governor's office to offset a projected \$65 billion highway deficit over the next 25 years, a figure forecast by the N.C. Department of Transportation and referred to as "absurd" by the governor.

In addition to helping lead *NC Go!* efforts to help with transportation funding, CAGC also is a member of a coalition, which includes the N.C. League of Municipalities and the N.C. Association of County Commissioners, to push for wide-ranging infrastructure needs. CAGC also is working with other business coalitions on a number of fronts -- supporting workers' comp reform, opposing pro-union legislation concerning emergency services workers that could expand into other areas, opposing bans on car phones that could affect construction business practices and opposing steep increases in landfill fees. CAGC also is part of a business-education coalition promoting passage of a \$2 billion referendum for public school construction across the state.

Proposed Legislation: Legislation is expected to be introduced on the issue of retainage. CAGC will work to ensure that the state policy of withholding no more than 5 percent retainage for the first half of the job, then none if the project is going well after the half-way point, applies to local governments. Bills also have been introduced to eliminate the Environmental Management Commission, adopt the International Building Code and change the makeup of the State Building Code Council.

A number of local bills have been introduced throughout the state to water down the competitive bid system on public projects. CAGC was successful in at least temporarily displacing a bill that would seriously hamper competitive bidding for utility projects in Charlotte. Other bills that would water down competitive bidding have been introduced for areas such as Raleigh, Cherokee County and Harnett County.

To expedite the state construction process, legislation has been introduced, at the request of CAGC, to appropriate funds for eight new state positions for engineers and code officials. Those same bills -- Senate Bill 93 and House Bill 73 -- also would raise the threshold requirements for performance and payment bonds, from \$300,000 to \$500,000, on state construction projects, a proposal CAGC has concerns about, as well as raise the informal bid threshold from \$300,000 to \$500,000.

CAGC also has been approached by some legislators about possible legislation that would create a pilot program for vocational education training centers across the state. CAGC also supports

statewide legislation to bring more statewide uniformity to the certification process for Historically Underutilized Businesses (HUBs). On the down side, legislation also has been introduced to raise the force account ceilings for individual projects in some areas. CAGC was successful several years ago in keeping the force account limit at no more than \$50,000 for labor and \$125,000 for labor and materials on public work.

Look for the UNC system to continue trying to get out from under the state inspections process at a time when projects over \$2 million must have such inspections. CAGC also will be closely involved in efforts to improve underground safety in North Carolina, where current laws fall far short of what is needed. With big help from the Associated General Contractors of America (AGC) and CAGC, Congress recently reauthorized the provisions that will help establish equitable enforcement of damage prevention laws for all stakeholders in the one-call process as well as funding for critical technology and awareness programs.

CAGC is working closely with the N.C. Home Builders Association to stiffen penalties for vandalism on construction sites, an issue which seems more pervasive with residential construction. The issue of double payment -- where prime contractors unfairly are having to pay twice for the same work or materials because first-tier subs and suppliers aren't paying lower tiers -- continues to be explored by CAGC. The N.C. Building Division has been meeting with CAGC's Subcontractor/Specialty Contractor Advisory Board as well as subcontractor and masonry contractor groups about this issue.

PAC THANKS

Special thanks to Nathan McLamb of Carmel Contractors and Bill Marshburn of D. J. Rose & Son, also chair of CAGC's N.C. Legislative Committee, for coming up with a great idea to help our N.C. Construction Industry Political Action Committee (PAC). Letters recently were sent to all Building Division members seeking \$1 a day -- \$365 for the year -- to help our PAC. We've had a positive response so far and, if you have not yet contributed, please do so by mailing a personal -- not corporate check -- made out to N.C. Construction Industry PAC and send it to: Carolinas AGC, P. O. Box 30998, Raleigh 27622 (Attn.: Dave Simpson).

CAGC members who have contributed at least \$100 this calendar year to our PAC are listed below, and all contributors' names for 2007 will be publicized throughout the year for their support:

John Richard Adkins, Cathy Atkinson, Jesse Allen Barnhill, Jr., Robert E. Barnhill, Jr., Brad Barringer, B. E. Benson, Tom Bordeaux, Kevin Burns, William Capehart, Sandra Carlisle-Carroll, A. G. Carter, III, Edison Cassels, Penn Cassels, Jr., Andrew Clark, W. Lee Cooper, Tim Cothran, Otis Crowder, Garry Dale, Michael Dane, William F. Davis, Jim Farley, Joseph Ferebee, Elise Garrison, Chester Harrison, David Michael Hill, Richard Hodgkin, Anthony Howerton, Sam Hunter, John Pike Judson, Larry Kendrick, M. A. Kolb, Lucien Laborde, Susan Lewis, Frederick Locke, Michael Long, Darryl Mansel, Bill Marshburn, Joseph Mattlin, Nathan McLamb, Harold Medcalf, Eva Merideth, Ben Mixon, Graham Moore, Mike Murphy, Harry Myrick, Benjamin Neal, Donald Oldham, Don Phillips, Richard L. Player, III, Richard L. Player, Jr., David Pofahl, Carey Swann, Olin Daniel Thomson, Jr., David Walters, Keith Wayne, Samuel K. Young.

JULY 19-22 BUSS MEETING

This year's Building-Utility-Subcontractor/Specialty Contractor Meeting will be at the scenic Wild Dunes Resort in the Isle of Palms outside Charleston. Ken Simonson, chief economist for AGC of America, will give a construction outlook. The keynote speaker will be Brigadier General Nick Halley of Chicago. Plans are under way for what promises to be an excellent meeting.

AGC PRESENTATIONS AT STATE CONSTRUCTION CONFERENCE

About 1,200 people attended the annual N.C. State Construction Conference in Raleigh on Feb. 26-27. A CAGC/AIA NC presentation on the Joint Committee Recommendations (JCRs) was made by Charlotte architect Bill Monroe, Charlotte general contractor Edison Cassels and N.C. Building Division Director Dave Simpson. Ken Simonson, chief economists for AGC of America, made a presentation on the construction industry forecast.

SOUTH CAROLINA LEGISLATION

The S.C. legislature is in full swing and there are many bills that are currently being considered by the S.C. General Assembly that are of interest to the industry. Below are the highlights and the status of each at the present time:

Workers' Compensation Reform: The Senate has been working on a bill for several months now, even before the legislature reconvened in January. To date, S. 332 http://www.scstatehouse.net/cgi-bin/web_bh10.exe?bill1=332&session=117&summary=T, which is the Workers' Compensation Reform bill, has received approval from the Senate Judiciary Subcommittee and most recently the full Senate Judiciary Committee. Unfortunately, the full committee made several changes that weaken the current bill. Specifically, they "gutted" provisions dealing with the Ellison case, repetitive trauma, and expanded employer liability on the 50% Back Rule. However, they did maintain the phased out dissolution of the Second Injury Fund. The bill is headed to the Senate floor where it will be debated by the full Senate. We will need a lot of amendments added on the floor, such as AMA guidelines and commissioner discretion, to beef the legislation up and give us **true** reform, which we will continue to work for.

LEED Legislation: This year, Sen. Jim Ritchie has filed four energy efficiency bills and two have a direct impact on construction. The bill that would affect private construction, S. 377, http://www.scstatehouse.net/cgi-in/web_bh10.exe?bill1=377&session=117&summary=T, is voluntary and would allow businesses to receive a tax credit if they build a building using LEED standards. The other bill, S. 376 http://www.scstatehouse.net/cgi-bin/web_bh10.exe?bill1=376&session=117&summary=T, affects public work and would require all state work to be built to the LEED Silver standard to achieve what Ritchie calls long term maximum energy efficiency. CAGC has worked closely with Sen. Ritchie to make sure that the requirements in his bill are practical and can actually be attained by the contractors and other professionals who are required to comply with the legislation. S. 376 has received subcommittee approval, but has yet to be considered by a full Senate committee.

Alternative Delivery Methods: Recently, a Senate Finance Subcommittee took up S. 282, http://www.scstatehouse.net/sess117_2007-2008/bills/282.htm, a procurement code 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 use of Design Bid Build procedures; it 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. CAGC worked closely with the architect, engineer and subcontractor associations on the creation of this legislation.

Immigration: Over the legislative interim, CAGC participated in and testified before a legislative study committee on immigration reform and encouraged, on more than one occasion, the committee to wait for federal legislation to pass instead of writing an immigration bill for the state. However, the committee has moved forward with their own bill, S. 392, http://www.scstatehouse.net/cgi-bin/web_bh10.exe?bill1=392&session=117&summary=T, and it is rapidly making its way through the committee process in the Senate. The bill, as currently amended, would require contractors and subcontractors doing business with the state to either participate in the federal Basic Pilot Program for verifying all new hires or it would require that all employers require a driver's license or proof that an employee can obtain a driver's license for all new hires. We feel the bill goes beyond what is currently required under the federal I-9 verification process, and we are working with members of the Senate to try and further amend the legislation so that current I-9 verification methods would be acceptable.

We would encourage you to monitor the weekly happenings of the SC legislature by reading the governmental updates provided each week in the *NewsBreak!*

Quote of the Quarter: "Work like you don't need the money, love like you've never been hurt and dance like nobody's watching."

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