

# **AGC Georgia Legislative Report**

**2016 Session Summary Report of the Georgia General Assembly**

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## ***Georgia General Assembly Sine Dies after midnight on 40<sup>th</sup> day; AGC Georgia fares well during 2016 Session***

By providing meaningful input on behalf of the construction industry on many industry-related bills, AGC Georgia successfully helped push pro-construction legislative proposals through the legislative process. The 2016 session was the second of a two-year legislative cycle, meaning all bills failing to pass this year are no longer eligible for consideration when a new legislature convenes in January 2017. AGC Georgia owes a debt of gratitude to our members, including those serving on our Legislative Committee and our industry friends at the Capitol who supported our efforts in guiding pro-construction bills through the legislative process.

Our pre-session report was titled *Get In, Get Out & Get Re-elected* which highlighted our prediction that the 2016 session would be quick. Turns out it was very quick compared to recent years. Sessions like this one ending in March are rare. However, we did not anticipate the amount of controversial measures that would actually make it through both legislative chambers for the Governor's consideration, specifically House Bill 757 Religious Freedom and House Bill 859 Campus Carry. Earlier today, media sources reported that Governor Deal vetoed HB 757. Time will tell if Governor Deal also vetoes Campus Carry or allows it to become law. The Governor can sign bills into law, veto them, or allow them to become law without his signature after the 40 days. In addition to the updated on industry-related bills shown below, we plan to provide a comprehensive report once the Governor's 40-day time period expires.

With primary elections in Georgia planned for Tuesday, May 24, AGC Georgia is transitioning from the legislative process to the election process. This year's election season promises to be busy, with approximately 10% of the General Assembly announcing their retirement from service.

## ***AGC Georgia Bills of Interest on their Way to the Governor***

### **HB 402 Employers encouraged to provide work-based learning for students age 16 and older**

By Representative Lumsden (Awaits Governor's Consideration) [www.legis.ga.gov/Legislation/20152016/155878.pdf](http://www.legis.ga.gov/Legislation/20152016/155878.pdf)

HB 402 passed out of the Senate on the 39<sup>th</sup> day of session, Tuesday, March 22. It now awaits the Governor's consideration. This bill is great bill for the construction industry's workforce development efforts. AGC Georgia testified in its favor as it moved through the committee process. HB 402 encourages employers to provide work-based learning opportunities for 16 and 17 year old students in sanctioned workforce development programs. In return, the bill provides employers an optional 5% reduction in workers' compensation premiums. AGC Georgia proudly served as a

resource to legislators during the development of this bill because it is a pro-active measure that helps introduce more young people to careers in construction.

### **SB 329 Move on When Ready Revision**

*By Senator Tippins (Awaits Governor's Consideration)* [www.legis.ga.gov/Legislation/20152016/156468.pdf](http://www.legis.ga.gov/Legislation/20152016/156468.pdf)

This bill amends and continues to improve Georgia's Move on When Ready law that was passed in 2015 with AGC Georgia's strong support. SB 329 allows students meeting certain academic requirements to dual enroll in high school and a higher education institution. SB 329 further amends the law to allow the Technical College System of Georgia (TCSG) to expand curriculums meeting industry workforce needs but may not be curriculum providing for an actual occupational license or national certification.

The legislation also requires TCSG to consult with Georgia industry associations (i.e. AGC Georgia) and the Department of Labor prior to the adoption of the new TCSG certificate programs. This measure should ensure programs are rigorous and in accordance with industry standards!

The legislation also allows a dual enrollment student who receives a high school diploma pursuant to Move on When Ready to be deemed as having met all rigor requirements, and eligible for the HOPE Scholarship, if they decide to pursue a four-year degree. AGC Georgia strongly supports this legislation as an additional means to help address our industry's workforce development needs.

### **SB 191 Blasting and Excavating Near Utility Facilities**

*By Senator Tippins (Awaits Governor's Consideration)* [www.legis.ga.gov/Legislation/20152016/159815.pdf](http://www.legis.ga.gov/Legislation/20152016/159815.pdf)

An amended version of SB 191 was agreed to by the Senate in the late night hours of the 40<sup>th</sup> day of the session. A compromise measure was developed by the Georgia Utilities Coordinating Council (GUCC). This group includes contractor organizations AGC Georgia, GUCA, GHCA & HBAG and the Georgia Municipal Association (GMA) and Association County Commissioners of Georgia (ACCG). AGC Georgia testified in favor of SB 191 as it moved through the committee process.

The amended version prohibits local government from adopting and enforcing different standards regarding *White Lining* requirements, other than those required under the statewide Call Before You Dig law. It also extends the Call Before You Dig Ticket life from 21 to 30 days. AGC Georgia supports the amended version of SB 191 because it recognizes a single statewide standard versus having to operate under 159 county and 500 municipal standards that could vary in each jurisdiction.

### **HB 779 Drone Use**

*By Representative Tanner (Awaits Governor's Consideration)* [www.legis.ga.gov/Legislation/20152016/160464.pdf](http://www.legis.ga.gov/Legislation/20152016/160464.pdf)

An amended version of HB 779 passed both legislative chambers and now moves to the Governor for consideration. Multiple groups and industries, including AGC Georgia, testified on this legislation. The amended version of HB 779 creates a Drone Commission, allows for private use of drones for commercial and recreational purposes, and limits the ability of local governments to enforce local ordinances on drone use except for local law enforcement and Federal FAA regulations enforced at local levels.

This legislation is the product of the House Study Committee hearings on drones. Committee leadership invited AGC Georgia to provide testimony during their meetings this past fall on drone use and application in the Construction Industry.

### **HB 943 Architect/Engineer Indemnification**

*By Representative Carl Rogers (Awaits Governor's Consideration)* [www.legis.ga.gov/Legislation/20152016/160092.pdf](http://www.legis.ga.gov/Legislation/20152016/160092.pdf)

The original version of HB 943 was agreed to and passed by the House last evening. HB 943 now moves to the Governor for consideration. AGC Georgia has shared our interest in furthering the policy debate on indemnification clauses to include contractors next year.

As originally introduced and ultimately passed by the House and Senate, HB 943 sought to void architect and engineering services contracts which include broad form indemnification clauses which are not covered by their A/E

Professional Liability Insurance policies. AGC Georgia was consulted on the bill by the Georgia chapters of ACEC and AIA; however, we did not lobby for or against the legislation.

HB 943 passed out of the House Insurance Committee without amendment but was amended in the House Rules Committee and passed the House with amended language favorable to contractors. This new language drew opposition from our public owner groups.

The bill's sponsor and proponents of HB 943 (ACEC & AIA) asked the Senate Insurance Committee to strip the House Rules amendment from HB 943 and support the bill as originally introduced and passed by the House Insurance Committee. The Senate Insurance Committee accommodated the request and passed the Senate version of HB 943 out of its committee, leading to its passage during this session.

### **HB 952 License Boards**

*By Rep. Nimmer, Gov. House Floor Leader (Awaits Governor's Consideration) [www.legis.ga.gov/Legislation/20152016/159600.pdf](http://www.legis.ga.gov/Legislation/20152016/159600.pdf)*

The Senate version of HB 952 was agreed to by the House in the final hours of the 40<sup>th</sup> day and now awaits consideration by Governor Deal. This measure was introduced by the Governor's office to address issues created by a US Supreme Court opinion that could have far reaching implications for professional licensing boards across the country. The decision holds that a professional licensing board (and its individual members) are not immune to federal antitrust law claims if the board is controlled by "market participants" (i.e. a board of contractors regulating their own profession) and the state does not offer active supervision of that board's actions, which offers the subjects of the board's regulation an option to appeal to a higher authority not controlled by "market participants." Representatives of the Secretary of State's office shared with AGC Georgia they did not oppose the Governor's office assuming this responsibility.

### **Bills of interest to construction industry not receiving passage from both chambers**

#### **HB 722/SB 145 Medical Marijuana**

*By Rep. Peake (House passed SB 145 but Senate failed to consider) [www.legis.ga.gov/Legislation/20152016/160930.pdf](http://www.legis.ga.gov/Legislation/20152016/160930.pdf)*

HB 722 passed the House but was not taken up by the Senate. As a result, Representative Allen Peake amended HB 722 onto SB 145, which had already passed the Senate and was in the House. Representative Peake passed SB 145 out of the House, but the Senate failed to take up the amended bill for consideration. AGC Georgia feels certain this discussion will resurface next year.

Last year, the General Assembly passed legislation allowing for limited use of medical marijuana for persons suffering from certain medical conditions. However, in order to obtain the medical marijuana, individuals must travel to states that allow for legal production of the product and then unlawfully transport the product back to Georgia for legal use. As originally drafted, HB 722 attempted to address this issue by allowing for limited state sanctioned cultivation and distribution of the medical marijuana for certain predetermined illnesses. This provision has been stripped from the bill and a substitute measure was introduced that would allow for the shipping and receipt of the medical marijuana product in Georgia.

AGC Georgia and other members of the business community also raised concerns about the initial bill's language because we felt it jeopardized "employment at will" laws and a business' ability to maintain a safe, drug-free work place. The substitute language addressed each of these concerns to our satisfaction. We sincerely appreciate Representative Peake's willingness to work together with the business community on this measure.

#### **HB 381 Notary Uniform Practice Act**

*By Rep. Welch (Amended version failed to pass Senate Rules Committee) [www.legis.ga.gov/Legislation/20152016/160120.pdf](http://www.legis.ga.gov/Legislation/20152016/160120.pdf)*

HB 381 passed out of the House and the Senate Special Judiciary Committee but failed to make it to the Senate floor for consideration. A number of business groups expressed concerns with the broad new requirements of bill.

Few if any business groups originally identified concerns with HB 381 as it moved through the House Committee process. A special call out and thank you goes to Representative Brad Raffensperger, president of AGC Georgia member firm Tendon Systems, LLC. He identified concerns with HB 381 and reached out to AGC Georgia asking for confirmation of his concerns.

An amended version of HB 381 was passed by the House on February 29 addressing our association's concerns with the bill. The amended version of HB 381 removed a provision that may have prevented businesses from using in-house notaries because language included the notary could not receive anything of value (i.e. salary) for notarial acts. It also removed a provision requiring all notary acts to be chronicled in a journal and maintained for a period of 10 years. The amended bill would have only applied to electronic records beginning in 2017.

### **HB 966 Buffers Zones on all State Waters/Ordinary High Water Mark**

By Rep. Caldwell (Failed to pass House Natural Resources Subcommittee) [www.legis.ga.gov/Legislation/20152016/157004.pdf](http://www.legis.ga.gov/Legislation/20152016/157004.pdf)

HB 966 was introduced as a result of a recent Georgia Supreme Court Decision concerning Georgia buffer requirements on Georgia's state waters. The court concluded buffers were not required on State Waters unless there was wrested vegetation. While this measure did not pass the Session, this issue is sure to be a part of the 2017 session because of concerns expressed by the environmental community.

HB 966 would have changed the current law requiring a 25 foot buffer on all state waters from the traditional measurement of "**wrested vegetation**" to a new measurement defined as "**ordinary high water mark.**" HB 966 defines "**ordinary high water mark**" as: the line of demarcation along state waters established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction or wresting of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

AGC Georgia supports the current wrested vegetation standard which has served as an objective measure in Georgia for years. This bill's laundry list of buffer zone options could create a regulatory nightmare for the building community because of the lack of clarity concerning criteria or standard to which you will be held. HB 966 sponsor Rep. Johnny Caldwell, offered a Committee Substitute to HB 966 that takes our concerns into consideration regarding the subjective nature of the original legislation. The substitute version offered by Representative Caldwell was a vast improvement over the original proposal, but the committee was not prepared to act on the legislation at this time. AGC Georgia testified in the committee hearing advocating for regulatory clarity to help the industry understand and comply with new proposed standards. AGC Georgia appreciates Representative Caldwell's willingness to work with the industry to address this important issue.

### **SB 326 Soil Erosion and Sedimentation; Shorten the Time Period for Permit Issuance**

By Senator Jeffares (Failed to pass Senate Regulated Industry Committee) [www.legis.ga.gov/Legislation/20152016/156405.pdf](http://www.legis.ga.gov/Legislation/20152016/156405.pdf)

This legislation amends the Soil and Erosion Control law by reducing the period of time local plan reviewers have to review Soil and Erosion Control Plans from 45 to 14 days. SB 326 also requires plan reviewers to hold the same credentials as required by those who develop the Soil and Erosion Control plans. AGC Georgia supports the concept to expedite the plan review process and require some level of competency regarding parties reviewing the plans.

SB 326 was tabled by Senator Jeffares who is sponsor of the legislation and chairman of the Senate Regulated Industry Committee. He wants to work on this measure with impacted parties later in 2016 in preparation of a new measure for the 2017 legislative session. AGC Georgia has expressed our support of this topic and willingness to work with all of the impacted parties to improve the current law.

### **SB 437 Private Construction Plan Review**

By Senator B. Jones (Introduced late to generate conversation in "off season") [www.legis.ga.gov/Legislation/20152016/159965.pdf](http://www.legis.ga.gov/Legislation/20152016/159965.pdf)

This bill was introduced to address concerns with current law governing private plan review and inspection services. Senator Jones believes many jurisdictions are taking entirely too long to provide plan review services. While Georgia law does allow for private plan review and inspection services, the law is not being utilized because of the cost and time frames in the code. AGC Georgia advised the Senate Sponsor of our interest in working on this measure after the 2016 session concludes with our partners in state and local government.

AGC Georgia's positions on legislative proposals are developed under the direction of the legislative committee and the AGC Georgia Board of Directors. Please contact me at [woodall@agcga.org](mailto:woodall@agcga.org) or by phone at 678.298.4116 for questions.