

GEORGIA BRANCH, AGC

2012 WEEK 4 LEGISLATIVE REPORT

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AGC Seeks Clarification on Sales & Use Tax Withholding Requirements on Non Residents Subcontractors

Last week we reported on AGC's efforts with the Georgia Department of Revenue (DOR) to update their construction related regulations to reflect current Georgia law and industry best practices. AGC will also be seeking a legislative clarification regarding withholding tax liability for Georgia General Contractors concerning contracts with nonresident subcontractors. Current Georgia law states general contractors are liable for up to 4% of payments due the nonresident subcontractors, but the current DOR Regulation only requires 2% withholding on nonresident subcontractors. AGC firmly believes the law and regulation need to be consistent. AGC does not believe Georgia general contractors should assume any liability greater than the stipulated requirements in the DOR regulation.

Geographic Preference Legislation ([HB 558](http://www.legis.state.ga.us/legis/2011_12/fulltext/hb558.htm) Representative Jason Spencer - Oppose)

http://www.legis.state.ga.us/legis/2011_12/fulltext/hb558.htm

Last week, AGC was scheduled to testify in the House Civil Judiciary Subcommittee meeting against HB 558. This bill would allow local governments to grant an upfront price advantage (up to 5%) over bidders deemed not to be local. AGC believes this type of measure can in fact be more detrimental than beneficial, by encouraging retaliatory measures from other local surrounding jurisdictions. AGC expressed our concerns to the bill sponsor, committee members and Committee Chair Bob Lane. Chairman Lane pulled HB 558 from the agenda because of strong concerns expressed by AGC and other members of the construction community.

Reciprocal Preference Legislation ([SB 358](http://www.legis.state.ga.us/legis/2011_12/fulltext/sb358.htm) by Senator John Bulloch - Support)

http://www.legis.state.ga.us/legis/2011_12/fulltext/sb358.htm

AGC has been working with a number of groups on the topic of preferential treatment in securing public contracts this session. Our down economy has further heightened consideration of these types of measures. For the record, AGC opposes preference programs and government interference in the Free Market System. While AGC is on the record opposing Georgia jurisdictions imposing discriminatory measures against other Georgia businesses, we do support Georgia government's ability to adopt reciprocal measures to protect Georgia businesses. In 2010, our Chapter supported Senator Bulloch's efforts in SB 447 to define a resident business, and allow Georgia agencies to formally adopt a State Reciprocal Preference. If a nonresident contractor comes from a state that grants an instate preference, they will be penalized by the same manner when they attempt to secure public works contracts in Georgia. This year, Senator Bulloch has introduced SB 358 on behalf of the Georgia Department of Administrative Services. This legislation will extend Georgia's Reciprocal Preference to include both states that provide local preference and local governments in other states that provide local preference. While the Georgia General Assembly can not control the actions of other states, or local governments in other states, they can send a message that we will protect Georgia businesses.

Clarification on Georgia Public Works Contracting Bonding Requirements

AGC is working with state and local government organizations on clarification regarding bid bond requirements on our Georgia Public Works Projects, specifically projects awarded by Competitive Sealed Proposals. Many public owners are handling this issue differently, particularly when the Request for Proposal and contract award does not include cost of the work, as selection criteria or evaluation factor. AGC hopes to build consensus among all parties to address legislatively this session.

Metals Theft ([SB 321](http://www.legis.state.ga.us/legis/2011_12/fulltext/sb321.htm) by Senator Renee Unterman – Support)

http://www.legis.state.ga.us/legis/2011_12/fulltext/sb321.htm

AGC has joined a large business, local government and law enforcement coalition that supports tightening a number of loop holes in our current Georgia Metals Theft law. Metals theft continues to be a huge problem in Georgia. A number of bills have been filed on this topic in both the Senate and House. On Thursday, February 2, SB 321 will be heard in the Senate Regulated Industries Committee. It has numerous new provisions including a permitting requirement for both sellers and buyers of secondary metals. It will be unlawful to sell regulated metals to a recycler

without a valid permit. Permit information will be entered into a statewide accessible electronic database allowing law enforcement to better enforce statewide. This issue is sure to be a hot topic throughout the session.

**Secretary of State, Brian Kemp will introduce Legislation to streamline how the state regulates professions
– AGC Has No Position at this Time**

Georgia Branch, AGC has enjoyed an excellent relationship with our Secretary of State, Brian Kemp, and our General Contractors License Board since its inception. Last week, AGC representatives were called to a meeting with Secretary Kemp to hear about his proposal to streamline how our regulatory boards operate. The proposal is evidently based upon a process used in Texas. At this stage of the process, we do not have a position because the formal legislation has yet to be introduced.

As we understand it, Kemp's plan is to have the governor appoint a seven-member super board of consumers that will enact regulations recommended by the 43 existing boards of various professions, from used-car dealers to general contractors. The board of consumers will also take over issuing sanctions to any licensed professional for serious violations of those rules. Penalties for minor violations would be issued by Kemp's staff. The staff could issue fines on the spot rather than having to wait months for a licensing board to meet again and requiring the license holder to drive to Macon for the meeting.

AGC is participating in a meeting today with the Secretary of State's office and representatives of the various Licensing Boards to address a number of concerns. AGC advised Secretary Kemp we wanted his office and the general contractors license Board to be successful, and we would support measures that would help assure this. However, *the devil is always in the details.*

Please contact Mark at woodall@agcga.org or by phone at 678.298.4116 should you have questions about this report or a legislative topic introduced during the 2012 session impacting the construction industry.