

FINAL POST SESSION LEGISLATIVE REPORT

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By Mark S. Woodall, Director of Governmental Affairs



Scoring Major Wins for Construction Industry

AGC Georgia enjoyed an excellent 2013 legislative session, scoring a number of legislative victories for the construction industry. Both of AGC Georgia's important pro-active pieces of legislation, HB 434 regarding our state's Lien Law and SB 179 impacting Georgia's Public Works Law, were signed into law by Governor Deal.

AGC Georgia Legislation on Georgia's Lien Law --- HB 434/Act #340 - Effective Date July 1, 2013

By Representative Tom Weldon and Senator Jack Murphy

<http://www.legis.ga.gov/Legislation/20132014/136963.pdf>

Background: AGC Georgia asked Rep. Tom Weldon (Ringgold) to introduce HB 434 to address a court decision that dealt a very negative blow to the construction industry. The Georgia Court of Appeals ruled a contractor/subcontractor's general condition costs were not lienable items. The court stated the only lienable items are those actually attached or affixed to the improved piece of real estate.

With the Governor's signature, HB 434 now levels the playing field for construction providers by specifically amending Georgia's lien statute to permit a claim of lien to include the amount due and owing the lien claimant under the terms of an express or implied contract, subcontract, or purchase order as well as interest on the past due balance.

AGC Georgia crafted and testified in favor of HB 434 throughout the legislative process in the House and Senate. Our Lien Law Task Force, which was dubbed the *Gang of Six*, spent a tremendous amount of time perfecting this legislation. Also engaged in this discussion were members of our Legislative Committee, Board of Directors and last, but certainly not least, our legislative sponsors. Representatives Tom Weldon, Wendell Willard, Mike Jacobs, and Senators Jack Murphy and Jesse Stone guided this bill through the legislative process during the 2013 Legislative Session.

For a more detailed summary of the process leading to the passage of HB 434, [read an article published June 14 in Atlanta Business Chronicle](#). It spotlights this great example of how the state legislative process works when all stakeholders join together for a common goal.

Below is a photo of Governor Deal's signing ceremony for HB 434 in his Capitol offices on May 7, 2013. Members of AGC Georgia's Legislative Committee, joined Governor Nathan Deal and our bill sponsor Representative Tom Weldon, along with Senator Jesse Stone and Lee Lemke, lobbyist for the Specialty Contractors Coalition.



Pictured from left to right are Brad Williams, Scott Thompson, Robert Yarbrough, Brian Daniel, Fielder Martin, David Hendrick, Representative Tom Weldon, Lee Lemke, Senator Jesse Stone, Governor Nathan Deal, Mark Woodall, Gregg Joy, Phil Beck, Randy Hall, Ken Swofford, Doug Tabelaing, Jason McLarry and Rilo Stephens.

AGC Georgia Legislation on Public Works --- SB 179/Act 194 - Effective Date May 6, 2013

By Senators Hunter Hill and Mike Dugan and House Majority Whip Ed Lindsey

<http://www.legis.ga.gov/Legislation/20132014/137202.pdf>

Background: Georgia's public works law was jointly developed by AGC Georgia and our public owner partners several years ago to more closely reflect private sector best practices. Recently, a number of glitches in our bonding section of the code were discovered that could jeopardize the award of certain public works contracts. AGC Georgia drafted SB 179 and asked Georgia Senate members Hunter Hill (Atlanta) and Mike Dugan (Carrollton) for their support in introducing SB 179 to address these issues. AGC Georgia appreciates the hard work of our sponsors in getting SB 179 to Governor Deal's desk for passage into law.

SB 179 makes a distinction between bid/proposal solicitations with regard to bid bond requirements. Competitive Sealed Proposal projects that are awarded based upon qualifications versus project cost **will not require** a bid bond. Payment and performance bonds will still be required. SB 179 also addresses a cross-reference glitch in the payment bond section of the code that was recently discovered during a court proceeding. Lastly, SB 179 allows our local and state governments to consider providing contract incentives for early project completion when the project schedule has a demonstrated value. AGC Georgia crafted SB 179 and testified in favor of its passage throughout the legislative process.

SB 179 passed the Senate and House in different forms. Representative Ed Lindsey amended SB 179 in the House to include the text of HB 362, which addresses project labor and collective bargaining agreement requirements. This amended version of SB 179 states, that unless required by law, no governmental entity can require or prohibit contractors from entering into, or adhering to, Project Labor or Collective Bargaining Agreements. AGC Georgia supported this amendment that allows contractors the ability to choose which way to operate their respective businesses versus government mandating this decision for them.

Public Works Law Legislation --- SB 168/Act 30 - Effective Date April 24, 2013

By Senators Lindsey Tippins and Tommie Williams

<http://www.legis.ga.gov/Legislation/20132014/129395.pdf>

Background: Many legislators feel that current industry practices by some public owners unfairly disqualify contractors from consideration simply because the contractor has never completed a similar project of equal or greater size. Under this scenario, if you've never done a project of this type and size, you never will.

SB 168 prohibits a state or local government from disqualifying a bidder or proposer simply based upon the bidder not previously completing a project of the same or greater size:

- If the bid is not more than 30% greater in scope or cost from a bidder's previous experience;
- The bidder has reasonable experience in performing work for which the bid is sought; and
- The bidder is capable of being bonded by a surety meeting the qualifications in the bid documents.

AGC Georgia supported SB 168 throughout the legislative process, testifying in favor of the measure in the Senate and the House.

Worker's Compensation HB 154 /Act 203 --- Effective date July 1, 2013

By Representative Mark Hamilton- AGC Supports

<http://www.legis.ga.gov/Legislation/20132014/129226.pdf>

HB 154 is the product of a joint effort between the state worker's compensation board and an advisory council comprised of representatives from the business, medical, and legal communities. AGC Georgia supports this legislation since it seeks to enact worker's compensation system reforms that promote a balanced and equitable system to both the employee and employer. It is also designed to return employees to work as soon as possible.

Specifically, HB 154 provides for a 400-week cap on medical benefits for non-catastrophic injuries where previously there was no cap. The bill also requires a minimum amount of time that a claimant must attempt a suitable job during a 15-day trial return-to-work period. It also seeks to increase a claimant's maximum weekly benefit from \$500 to \$525 per week in 2013.

Licensing for Returning Veterans --- HB 188/Act 12 - Effective Date July 1, 2013

By Representative Christian Coomer

<http://www.legis.ga.gov/Legislation/20132014/129583.pdf>

AGC Georgia spent a tremendous amount of time working with stakeholders of HB 188, primarily Rep. Coomer (Governor's Floor Leader), Representative John Yates, Chair of the Defense and Veterans Affairs Committee, and Tricia Pridemore, former Director of the Governor's Office of Workforce Development. This legislation is one of the Governor's bills designed to help qualified military veterans and their spouses seeking employment that have been certified or trained in certain skilled trades be allowed to obtain an expedited Georgia license.

The Governor's office worked with the construction industry to address original industry concerns, allowing contractor members of the various boards to serve on the working groups to determine if the veteran's experience and testing are comparable with our states requirements for issuance of a license.

Illegal Immigration Reform Enhancements --- Senate Bill 160/Act 27 - Effective July 1, 2013

By Senator Frank Ginn – AGC Georgia is Neutral on this legislation

SB 160 passed the Senate and House in different forms and the final version of the legislation was crafted through a joint House and Senate Conference Committee that combined provisions of SB 160 with HB 125.

Components of SB 160:

- Changes the definition of "physical performance of services" so it applies to all labor or service contracts exceeding \$2,499.99 (not just public works construction contracts), except for services performed by an individual who is licensed pursuant to Title 26, Title 43, or the State Bar of Georgia;
- Provides that once the E-Verify private employer affidavit has been submitted to a governmental entity, only the E-Verify number has to be provided for subsequent renewals for business licenses and government services **(NOT CONTRACTS)** so long as the E-Verify number has not been changed;
- Allows applicants for county "public benefits" (e.g., health benefits, retirement benefits, occupation tax registration, licenses, etc.) to submit their SAVE (Systematic Alien Verification for Entitlements) affidavit and copies of their secure and identifiable documents by mail or such other standards as are acceptable to the county;
- Allows secure and verifiable documents to be submitted during the nine months prior to the filing of the affidavit so long as the documents have not expired by the time that the affidavit is filed and allows applicants under 18 at the time of application to submit the SAVE affidavit within 30 days after their 18th birthday;
- Provides that SAVE affidavits and the secure and verifiable documents for U.S. citizens do not have to be submitted for the renewal of the public benefit if the applicant has already submitted these documents to the county;
- Adds original birth certificates, certificates of birth issued by the U.S. Department of State as acceptable secure and verifiable documents;

Ethics Legislation --- HB 142/Act 134 – Effective date 1/1/14

By Speaker David Ralston – AGC Georgia is Neutral on this legislation

<http://www.legis.ga.gov/Legislation/20132014/137058.pdf>

HB 142 passed the House and Senate in different forms and the final version of the legislation was crafted through a joint House and Senate Conference Committee. While some areas of the law were clarified, like establishing an expenditure limitation on members of the General Assembly and restoring rule making authority to the Ethics

commission, other areas of the law became less clear, particularly the Vendor Lobbyist requirements. The good news is that our new Director of the Georgia Government Transparency and Campaign Finance Commission is very willing to work with industry in answering questions and providing guidance. The law goes into effect January 1, 2014. This could offer time during the rule making process to clarify some grey areas.

HB 142 provisions include;

- Restoring the Georgia Government Transparency and Campaign Finance Commission Rule making authority.
- Prohibits lobbyists from making expenditures for tickets to admission to athletic, sporting, recreational, or other entertainment events, unless consideration of equal or greater than face value is received. It also prohibits lobbyists from a reimbursement or payment of expenses for recreational or leisure activities.
- Establishes a lobbyist expenditure threshold for food and beverages to the House or Senate, standing committees and subcommittees, caucuses of members of the majority or minority political parties of the House or Senate and other approved caucuses. Limits expenses for meals and gifts to \$75 per occurrence.
- Permits lobbyists to reimburse or pay for actual and reasonable expenses for the member or support staff related to transportation except airfare, lodging, travel, registration, food, and beverages for attending meetings that directly relate to the office duties of a public officer.
- HB 142 defines “lobbyist” as someone for compensation or pro bono advocates a position or agenda on behalf of someone else at a state building, for the purpose of influencing the decision maker who receives compensation or reimbursement in excess of \$250. **The registration fee for a lobbyist is eliminated and now includes an identification card.**
- An individual does not have to register as a lobbyist if he or she communicates personal views, interests or personal opinions to any public officer. An individual does not have to register if they are not paid to lobby and do it no more than 5 days in a year. If an individual is invited to appear before a committee and clearly identifies the interested party on whose behalf her or she is testifying. If someone is required to register they cannot meet at a state building unless they are wearing their lobbyist badge.

State Labor Reforms --- HB 361/Act 192 - Effective July 1, 2013

By Representative Ed Lindsay- AGC Supports

<http://www.legis.ga.gov/Legislation/20132014/137164.pdf>

HB 361 allows employees to choose whether or not to be part of a union by requiring that authorization for union dues must be renewed, and allowing the revocation of that authorization at any time. The bill exempts any contract or collective bargaining agreement currently in place as well as any professional association composed exclusively of educators, firefighters or law enforcement officers.

AGC Georgia bills of interest that have been held over for consideration during the 2014 session of the Georgia General Assembly.

Call Before You Dig Law Legislation --- SB 117

by Senator Rick Jeffares - AGC Georgia supports this legislative proposal as passed by the Senate

<http://www.legis.ga.gov/Legislation/20132014/129938.pdf>

This bill passed the full Senate, then all stakeholder groups agreed to suspend efforts to pass this legislation in 2013 because of new federal regulations that will be issued during the fall of 2013. It's important to be sure SB 117 would not be in conflict with new federal regulations.

This bill passed out of the Senate Regulated Industries Committee and the full Senate unanimously without amendment. The Public Service Commission (PSC) attempted to amend the bill with a provision opposed by AGC Georgia and the other stakeholders who have been working on this legislation for more than a year in the Senate Regulated Industries Committee. AGC Georgia strongly supports this legislation as drafted because it offers a

number of clarifications for utilities, excavators, and a number of other parties/industries that are governed by this law. We are awaiting details from the federal level and anticipate more discussion on the legislation during the upcoming session.

Licensing Roofers --- HB 301

By Rep. Tom Weldon

<http://www.legis.ga.gov/Legislation/20132014/130511.pdf>

AGC Georgia testified in favor of HB 301 in House Regulated Industries Committee, and members of this committee passed the bill on for consideration by the House Rules Committee. It did not pass out of that committee before the cross-over deadline. It received a lot of support this year, and may have a much more favorable opportunity for passage in 2014.

AGC Georgia supports the concept of licensing roofers working in Georgia, but this legislation faced a steep uphill battle because of deep budget cuts the Secretary of State's office has suffered in recent years. During our testimony on this bill, legislators asked numerous questions related to our experience with the licensure impacting general contractors.

Public Private Partnerships --- SB 255 <http://www.legis.ga.gov/Legislation/20132014/134706.pdf>

Senate Public-Private Partnership (P3) Study Committee --- SR 598 <http://www.legis.ga.gov/Legislation/20132014/135000.pdf>

By Senator Hunter Hill

SB 255 creates the Partnership for Public Facilities and Infrastructure Act. It was introduced late in the 2013 legislative session, and will lay over for consideration in 2014. It grants board authority to state and local governments to build all types of infrastructure projects through Public-Private Partnerships.

SR 598 creates the Senate Public-Private Partnership Study Committee that is charged with developing model guidelines for implementing Public Private Partnership projects.

AGC Georgia supports the concept of P3 projects, and has expressed our interest in helping craft appropriate guidelines and assisting in moving this legislation through the legislative process. This legislation is sure to become one of AGC Georgia's primary bills of interest next legislative session.

Please contact Mark at woodall@agcga.org or by phone at 678.298.4116 should you have questions about this report.