

GEORGIA BRANCH, AGC

2011 WEEK 10 LEGISLATIVE REPORT



By Mark S. Woodall; Georgia Branch, AGC's Governmental Affairs Director
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Wednesday, March 16 was the 30th legislative day, also known as Crossover Day. Both Legislative Chambers (House & Senate) began early in the morning and went well into the evening. While the 30th day saw a flurry of activity on the Chamber floors, the number of remaining bills up for consideration this year is relatively small compared to prior years. *When it comes to new laws, less is generally better!!*

Business Community Receives Great News of Governor Signing [HB 232](#) (Ethics Reform)

On March 14, the House agreed to Senate changes, and subsequently HB 232 was signed into law by Governor Deal on March 15, 2011. The law was effective at the time of his signature and has a rare retro-active application date of January 10, 2011.

This new law is generating a lot of attention. Guide lines will have to be developed to help affected stakeholders understand how to comply. **In the meantime, if your firm solicits public contracts (state or local government) and incurs marketing expenses beyond routine business costs to respond to public bids or proposals, I believe it would be wise to have at least one representative registered as a vendor lobbyist on behalf of your firm.** AGC will provide more information on this subject as it becomes available.

Immigration Reform Dominates Final Days of Session

[SB 40](#) by Senator Murphy, Cumming

SB 40 was amended and passed by the Senate on Monday, March 13 by a vote of 34-21

After hours of debate, the Senate passed an amended version of SB 40. AGC lobbied against a number of unfavorable amendments by Senator Judson Hill (Marietta) that were the subject matter of SB 27 which AGC testified against earlier in the Session. These negative amendments were eventually withdrawn by Senator Hill because of our efforts. A pro-business amendment offered by Senator John Bulloch (Ochlocknee) was also defeated. This amendment would have raised the E-Verify employer participation threshold from 5 to 25 employees. The first vote on this amendment resulted in a **27 to 27** tie. The Senate sponsor asked for a reconsideration vote and received a majority vote to reconsider. When the second vote on the amendment was taken the amendment was defeated by a vote of **29 to 26**. The only amendment that was passed onto SB 40 was amendment#5 by Senator Chip Rogers (Woodstock). This amendment eliminated the H2 VISA exemption from the bill, which means ALL businesses with 5 or more employees would be required to participate in the Federal E-Verify program. The amended bill passed the Senate by a vote of **34 to 21** and now moves to the House for consideration.

AGC has been working closely with Senator Murphy, Senate Judiciary Committee Chairman Bill Hamrick and many other members of the Senate to address our concerns with the legislation. Many changes have been made to the legislation as a result of AGC's input.

Key Elements of SB 40 Currently Include:

- Requires businesses with five or more employees to participate in the federal DHS E-Verify Program
- Clarifies that parties committing violations are accountable for their actions and upstream parties or general contractors shall not be liable for violations of downstream parties or subcontractors
- Clearly establishes definitions and obligations of each tier of contractor/subcontractor under our public works law
- Establishes penalties for governmental agency non-compliance, but provides an opportunity to cure before enforcing penalties

- Does not have penalty provisions for private employers, but prohibits employers from claiming business expense deductions for wages paid to employees if they are not participating in DHS E-Verify
- Requires public works contractors to participate in E-Verify, or provide proof of a driver's license issued by a state that determines lawful immigration status for those ineligible for E-Verify, such as independent contractors/1099

HB 87 by Representative Ramsey, Peachtree City

Passed Full House on March 3 as a Judiciary Committee Substitute by a vote of 113 to 56

The House passed HB 87 largely along party lines with two Republicans joining 54 Democrats in opposition to the bill and five Democrats voting for the measure. AGC continues to work with Representative Ramsey on his bill to address our concerns as the bill moves to the senate for consideration.

Key elements of Committee Substitute of HB 87 Include:

- Requires all businesses with five or more employees to participate in the Federal E-Verify program
- Creates a private right of action against government if the government is not complying with immigration requirements
- Allows a 30-day cure period for government before private right of action can be commenced
- Establishes criminal penalties for transporting or harboring illegal immigrants
- Requires vehicles used for transporting illegal aliens to be confiscated and subject to forfeiture
- Allows law enforcement officers to determine immigration status during a stop for criminal activity

SB 122 Water Infrastructure Expansion by Senator Ross Tolleson, Perry

SB 122 has passed the Senate and in the House Governmental Affairs Committee

AGC testified in favor of CS/SB 122 in Senate Natural Resources Committee and the House Governmental Affairs Committee hearings. SB 122 is Georgia's Water Infrastructure Expansion Legislation which gives local government the authority to partner with the private sector to finance, design, build and operate water infrastructure projects to address Georgia's future water needs. The legislation provides for a competitive process to select the provider of services and requires all impacted local governments to approve the process.

HB 66 by Representative Maxwell, Dallas

HB 66 passed the House and awaits consideration by the Senate Insurance Committee

AGC has worked with representatives of the Independent Insurance Agents Association (IIAA) for several months to address concerns raised with the new insurance industry Certificate of Insurance Accord Forms. IIAA introduced this national model legislation seeking to require all insurance forms be submitted for approval by the Insurance Commissioner's office and requiring insurance certificates reflect actual language of the policy of insurance. Persons who amend the certificate to reflect something different than the policy provides for are subject to penalty. State Insurance Commissioner, Ralph Hudgens issued an Agency Directive accomplishing much of this by Agency Rule.

AGC firmly believes Insurance Certificates should serve as proof of insurance, subject to the terms and conditions of the policy. AGC testified in the House Insurance subcommittee on February 17 in favor of an amendment offered by IIAA allowing the Insurance Commissioner to approve Insurance Certificates without the language "For Informational Purposes Only." The amended version of HB 66 has passed out of the House and awaits consideration by the Senate. AGC continues to work with IIAA to find a reasonable solution for upstream contractual parties to determine if downstream parties have secured coverage meeting the contract requirements.

SR 393 Residential& General Contractor Study Committee by Senator Ligon

SR 393 was introduced as result of AGC's and HBAG's expressed opposition to SB 106, which sought to gut the contractor's license law by exempting all projects costing less than \$1 million dollars from the licensing requirements of the act. AGC does support a comprehensive study of our current contractor license law through the creation of a formal Senate Study Committee with opportunity for representatives of each stakeholder group to have a seat at the table.

There are a number of issues AGC would like the opportunity to comprehensively address in the current law rather than attempt to address each issue individually.

SB 186 Creates the Department of Fire Safety by Senator Mullis

Passed Senate by Unanimous Vote before the House Public Safety Committee for Consideration

SB 186 consolidates a number of functions currently operated under the Insurance Commissioner's office by creating a new Department of Fire Safety as a separate cabinet level office with the Fire Commissioner being appointed by the Governor. Our current Insurance Commissioner supports the consolidation of Fire Safety services, but does not support moving these offices out of the Insurance Commissioner's office. Under our current law, the Insurance Commissioner basically acts as the State Fire Marshall. This measure passed out of the Senate by unanimous vote and has moved to the House Public Safety Committee for consideration.

AGC and other members of the development committee have been lobbied by both sides of the measure to either oppose or support the bill. At this stage AGC has not formally taken a position. AGC's interest in the legislation deals with the Life Safety Fire Code and the services related to plan review, fire inspections and potential appeal of a fire code interpretation. AGC plans to testify before the House Public Safety Committee on this measure later today detailing our experience under the current system.

HB 502 by Representative Lynn Smith and Senator Ross Tolleson (SB 211)

HB 502 and SB 211 have each passed their Legislative Chamber of origin. These identical bills deal with the Lead Paint

Renovation law passed last year. Last year's legislation unintentionally deleted a section of Georgia Code dealing with the authority of EPD to enforce the law and issue penalties for violations under the act. AGC is working with both the Senate and House Natural Resources Committee Chairmen on the legislation which restores the deleted language from last year's legislation.

SB 113 Performance Contracting by Senator Carter, Pooler

Passed the Senate and is currently awaits consideration by the House Governmental Affairs Committee

SB 113 deals with performance contracting which was passed by the General Assembly last year and also passed as a constitutional amendment allowing state and local governments to incur debt longer than 1 year to recoup savings through long term energy services contracts. AGC had concerns with SB 113 as originally introduced because of suggested changes to our local government public works law. This legislation is being promoted by the Georgia Municipal Association (GMA). They agreed to amend the legislation to accommodate our concerns while it was being heard in the Senate State and Local Government Operations Committee. The committee substitute of SB 113 passed the Senate and has moved to the House for consideration.

Georgia Branch, AGC's positions on legislative proposals are developed under the direction of the Legislative Committee and Georgia Branch AGC's Board of Directors. Please contact me at woodall@agcga.org or by phone at 678.298.4116 on any items included this report or on legislation currently being considered during the final days of the 2011 Session.