

Georgia Branch, AGC's 2006 Pre-Session Report

National Events and 2006 Elections Will Play a Major Role in Georgia's Upcoming Legislative Session

The Georgia Branch, AGC is coming off another successful legislative session. In 2005 we passed our pro-active legislative agenda including contractor licensure and sales and use tax reform. The new licensing board is hard at work developing the rules and regulations to implement the new licensing law, and the department of revenue is working on regulations to further clarify which materials and equipment become taxable upon incorporation into a construction project or real property. Georgia Branch, AGC continues to be intimately involved in both of these efforts.

As the licensing board dissects the newly passed licensing law, they are identifying a number of areas that will need further legislative tweaking to provide for a more fair and effective process to license general contractors. Legislation may be introduced in 2006 to address, or the board may wait a full year and address in 2007 to allow enough time to more thoroughly review and identify all of the issues that need additional clarification within the new law.

As 2006 approaches, chapter staff will continue working with the Department of Revenue to establish a standard that makes it abundantly clear which government purchased tax-exempt items become taxable and which items do not, upon use or incorporation into the real property.

The upcoming session is sure to be unique since there will be an election on the horizon, which will include races for seats held by many statewide officers such as that of the Governor. In addition to the normal pre-session posturing, there are a number of major national events that will have a direct impact on issues and legislation considered during the 2006 session.

Hurricanes Katrina, Rita and Wilma and the resulting fall out concerning major fuel and material price increases and shortages is sure to impact our state budget process. Our state agencies and their individual capital programs will need revisiting and can bet they will be asked to do more with much less.

The recent U.S. Supreme Court decision in *Kelo vs. City of New London* will be played out on a number of fronts in the Georgia General Assembly. The practical effect of the court's decision allows government to use its powers of eminent domain to take a person's private property for other than a public use. In this particular case, it was for another private use (private developer), which would ultimately result in a much higher tax return for the government entity.

As for what legislation will take a front seat during the 2006 session, there were a number of bills introduced in 2005, particularly in the Senate that impact and protect private property rights. SB 86 – Eminent Domain; limitation of public purposes, along with SB 30 - Inverse Condemnation both received a shot of rocket fuel as a result of the high court's above mentioned decision. Georgia is a strong private property rights state and the majority reaction has been very strongly opposed to the Supreme Court's recent decision.

Georgia Branch, AGC's 2006 Legislative Program

As always, Georgia Branch, AGC's 2006 legislative program will focus on implementing a strong defense against the many pieces of legislation that are filed each year that are detrimental to the construction industry. There has never been a shortage of bad ideas, and many seem to get recycled from one year to the next, but Georgia Branch, AGC is well positioned to effectively represent the construction industry in what is sure to be anything but an ordinary legislative session. We consistently support pro-business, pro-construction candidates regardless of which side of the political aisle they reside on and many legislators understand the construction industry and want to see it prosper. Included are the top issues that we will work on beginning in January.

Invalid Construction Liens: The filing and removing of invalid construction liens continues to be a contentious issue for the industry. On behalf of the chapter's membership, Georgia Branch, AGC will investigate a potential legislative remedy to help deal with this issue. The current process is not working well, and we will look to the specialty contractor and supplier community to jointly address this issue. An individual or company should not have to pay out-of-pocket expenses to remove an invalid or bogus lien.

Private Provider Plan Review: Georgia Branch, AGC will introduce legislation modeled after a Florida law that allows private architects and engineers to provide plan review and inspection services. Georgia Branch, AGC helped pass legislation a number of years ago in Georgia that allows private A/E's to provide inspection services, but not plan review. We will work with owner groups, AIA, ACEC, local government, building officials and the State Fire Marshall's

office to draft this legislation. If structured appropriately, this legislation has the potential of being a win-win for both the industry and local government.

Workers' Compensation Drug Testing: CompTrustAGC of Georgia Trustees have asked the chapter's legislative committee to look into the issue of medical facilities refusing to conduct post-accident drug testing of employees. In 1993, Georgia required a drug-free discount for those who qualify. With a positive drug/alcohol test a claim can be denied based on the rebuttable presumption that the intoxication was the proximate cause of the injury. In an emergency situation, which typically is the largest type of claims, injured workers are taken to a hospital for the initial treatment. The problem arises when certain hospitals refuse to administer a drug/alcohol test. Their refusal reduces our ability to ascertain the proximate cause of the injury.

Revision to HB 1079 (Uniform Public Works Act For Local Government): HB 1079 was a massive piece of legislation that AGC helped develop and pass in cooperation with local government during the 2000 session. HB 1079 established a new chapter of Georgia Code (OCGA 36-91-1), which created a uniform public works law for local government. HB 1079 included many provisions that benefit both the construction industry and local government. In most instances this new law has been favorably recognized, however after a number of years of practical application we have identified a number of glitches that need to be clarified or revised. One of the major areas of contention between AGC and the Georgia Municipal Association (GMA) involves their ability or inability, to secure construction services through the use of Reverse Auction Bidding. AGC maintains that our law prevents them from doing so, because they are required to select contractors by either a competitive sealed bid, or a competitive sealed proposal. AGC and GMA are trying to work out our differences, but this issue may ultimately be decided by the courts. The AGC Board recently unanimously voted to initiate legal action against the City of Statesboro for attempting to secure construction services through this means. Depending on the outcome of our court action, AGC may introduce legislations to address this issue during the 2006 Georgia General Assembly.

As always, there will be a number of other issues of importance anticipated for the upcoming session, rest assured Georgia Branch, AGC will be actively involved. Some of these issues are currently identifiable others are not. We will continue to assume the leadership role on behalf of the commercial construction industry and will keep you informed through legislative reports as these proposals move through the process.

Georgia Branch, AGC's positions on legislative proposals will be developed under the direction of the legislative committee and the Georgia Branch AGC Board of Directors. Please contact [Mark Woodall](#) at 678.298.4116 on any items included this report or on any legislation that is introduced during the 2006 Session.