

Final Report of 2015 Legislative Session

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Published: Wednesday, May 13, 2015



AGC Georgia and the construction industry enjoy successful legislative session

AGC Georgia was instrumental in helping score major legislative wins for the construction industry during the 2015 Legislative Session with passage of HB 412, which *shores up Exclusive Remedy provisions* in our state's workers' compensation laws, and SB 59, which paves the way for Public Private Partnerships for all segments of the construction industry at the state and local levels. In addition to the above mentioned bills, AGC Georgia provided meaningful input on behalf of the construction industry on a number of other industry related legislative proposals.

Note: The 2015 legislative session is the first year of the current two-year legislative cycle. Bills failing to pass in 2015 are eligible for consideration when the General Assembly convenes in January 2016.

Workers' Compensation: House Bill 412

Sponsor: Representative Hamilton – AGC Georgia Supports This is the Workers' Compensation Board's legislative package and it addresses the decision handed down in the Estate of Pitts v. City of Atlanta case

www.legis.ga.gov/Legislation/20152016/153475.pdf

HB 412 passed both the House & Senate by unanimous votes of support. AGC Georgia is very appreciative of the tremendous amount of support received from the entire business community throughout the process on this very important piece of pro-business legislation. We are also very grateful for the leadership and support provided by our legislative sponsor, Representative Mark Hamilton and freshman Senator P.K. Martin who presented

HB 412 to the Senate. **HB 412 includes our originally developed and agreed upon language to address the Pitts court decision as well as:**

- Section 1 is designed to make it clear that the workers' compensation exclusive remedy defense applies to all claims, regardless of whether they are based in contract, tort or some other legal theory for civil liability. Specifically, it adds a words to O.C.G.A. § 34-9-11(a) to make it clear that the rights and remedies created by the Georgia workers' compensation statute shall exclude **"and be in place of"** all other rights and remedies **"and all other civil liabilities whatsoever."** The bill also includes an employer may, if it chooses, assume greater liability to employees, but only **"by expressly agreeing in writing to specific additional rights and remedies; provided, further, however, that the use of contractual provisions generally relating to workplace safety, generally relating to compliance with laws or regulations, or generally relating to liability insurance requirements shall not be construed to create rights and remedies beyond those provided in this chapter."**

Other provisions of the bill:

- Extends the Subsequent Injury Trust Fund to 2023 – this is important for system and workers' compensation rate stability
- Increases weekly and death benefits for injured employees under the law

Background on this issue: AGC Georgia believes the *Estate of Pitts v. City of Atlanta* court decision circumvents Georgia's workers' compensation exclusive remedy provisions! The *exclusive remedy* provisions within our state's workers' compensation laws are a trade off, or quid pro quo, between employer and employee. We



Governor Deal signed HB 412 (Act 185) into law on May 6, and it becomes effective July 1, 2015. AGC Georgia participated in the signing ceremony with representatives from the State Workers' Compensation Board.

believe if the *Pitts* decision had not been addressed legislatively, every employer in Georgia would be left to question whether Georgia's no fault workers' compensation coverage will in fact be the exclusive remedy for work place injuries, or will they be subject to additional actions for not providing a safe work place.

At the end of the 2014 session, AGC Georgia began meeting with representatives of the state workers' compensation legislative committee to express our desire to work through their process to address our concerns. The committee has a cross section of representatives from business, trial and defense attorneys, as well as labor. The committee agreed the *Pitts* decision merited legislative consideration and began working on an appropriate fix. AGC Georgia representatives, including Phil Beck and the late David Hendrick, spent countless hours on our members' and the business community's behalf developing an appropriate legislative fix that could be supported by all divergent parties.

Transportation Funding Act of 2015: House Bill 170 – Sponsor: Representative Roberts AGC Georgia Supports www.legis.ga.gov/Legislation/20152016/153458.pdf

Governor Deal Signed HB 170 (Act 46) into law on May 4, and it becomes effective July 1, 2015

HB 170 is projected to raise more than \$900 million through a combination of user impact fees and an excise tax on motor fuel, while eliminating the state's portion of sales tax on fuel. Key changes in the bill include:

- Elimination of the 4% state's sales tax on motor fuel
- Excise tax of 26 cents-per-gallon on gasoline and a 29 cents-per-gallon on diesel
- New provision charging an annual highway impact fee for heavy trucks
- Elimination of \$5,000 state income tax credit for the purchase of an electric vehicle
- New annual fee on electric vehicles of \$200 for private vehicles and \$300 for commercial vehicles.
- Elimination of tax breaks for airlines on jet fuel
- Flat \$5 per night hotel/motel tax statewide
- Counties are provided the option of holding a referendum to institute a local sales tax of a fraction of a penny to fund transportation projects.

Background on this issue: Georgia's economic success largely relies on our position as a transportation and logistics hub, along with our ability to safely and reliably move people and goods. Georgia has been recognized nationally as the best state to do business. Passage of HB 170 helps ensure we have adequate funds to address our state's future transportation infrastructure needs.

Partnership for Public Facilities and Infrastructure

Act (P3): Senate Bill 59 – Sponsor: Senator Hill

AGC Georgia Supports

www.legis.ga.gov/Legislation/20152016/154001.pdf

Governor Deal signed SB 59 (Act 72) into law on May 5, and it became effective upon his signature.



AGC Georgia has been actively engaged with stake holder groups on P3 for the last three years. This legislation, which had input from all impacted groups, creates the "Partnership for Public Facilities and Infrastructure Act." It grants board authority to state and local governments to finance design and build all types of infrastructure projects through Public-Private Partnerships.

Atlanta Belt Line Urban Redevelopment: Senate Bill 4 – Sponsor: Senator Gooch – AGC Georgia Supports

www.legis.ga.gov/Legislation/20152016/148687.pdf

Governor Deal signed SB 4 (Act 210) into law on May 12 and it becomes effective July 1, 2015.

SB 4 is an urban redevelopment measure for the Atlanta Belt Line project that is utilizing Public Private Partnerships as a tool to help finance and build the project. Current law provides that certain projects or uses of

land may qualify as rehabilitation or conservation in an urban redevelopment area. Such stipulated uses of land may qualify for public and private financing for the purpose of combating the spread of slums. AGC Georgia supports SB 4 and the use Public Private Partnerships (P3) as a tool to help public owners address their respective infrastructure needs.

Workforce Development: Senate Bill 2 *Sponsor: Senator Tippins – AGC Georgia Supports*
www.legis.ga.gov/Legislation/20152016/152455.pdf

Governor Deal signed SB 2 (Act 33) into law on April 30. It becomes effective July 1, 2015.

AGC Georgia supports SB 2 and testified in favor of the measure as it moved through the process in the Senate and House. We believe this legislation has the potential to help address the construction industry's skilled workforce needs.

Background on this issue: Lt. Governor Cagle and Senator Tippins led efforts with this legislation. It allows high school students who have completed ninth and tenth grade requirements and assessments to enroll in post-secondary institutions (technical, career and/or community college). They can work toward an associate degree while counting that coursework toward high school graduation requirements. The business and education community have enthusiastically endorsed this proposal as a way to help address our state's workforce needs. AGC Georgia and other members of the business community continue to stress the need for the education community to work in tandem with business to help ensure their training programs are addressing real business needs.



Following the signing ceremony for SB 2, Mark Woodall thanked Senator Tippins (r) and Lt. Governor Cagle for their support of the bill.

Move on When Ready Act: Senate Bill 132 – *Sponsor: Senator Dugan – AGC Georgia Supports*
www.legis.ga.gov/Legislation/20152016/153728.pdf

Governor Deal signed SB 132 (Act 34) into law on April 30 and it becomes effective July 1, 2015.

Background on the Issue: SB 132 is the Governor's bill and complements SB 2 by revising the **Move on When Ready Act** regarding dual enrollment. It is designed as "umbrella" legislation to consolidate the various dual enrollment programs in Georgia into one unified program. Today, the various technical college and university programs are in separate locations and the marketing of such programs to students and parents is confusing. SB 132 signals Georgia's commitment to make dual enrollment a larger part of the high school experience by:

- Limiting out-of-pocket costs to high school students wanting to dual enroll (currently not the case)
- Funding full tuition for both academic and technical dual enrollment (currently not the case)
- Acknowledging importance of the kind of dual enrollment proposed in SB 2
- Ensuring courses taken while dual enrolled do not deplete the "HOPE cap" on the total number of college courses eligible for HOPE funding

Equal Green Building Credits for Georgia Forest Products: House Bill 255

Sponsor: Rep. Cheokas AGC Georgia is Neutral

www.legis.ga.gov/Legislation/20152016/153406.pdf

Governor Deal Signed HB 255 (Act 47) into law on May 4, and it becomes effective July 1, 2015.

HB 255 was introduced at the request of Georgia Forestry Association. It codifies an Executive Order issued by Governor Deal in 2012 requiring Georgia forest products receive equal certification credit when the state uses Green Building Standards in state construction projects. Current LEED Certification standards **do not** recognize Georgia's wood certification standards. Thus, the use of LEED standards will be prohibited on state projects, until certification credits are given equally to Georgia forest products grown, manufactured and certified under the sustainable Forestry Initiative, the American Tree Farm System and Forest Stewardship council.

There was a tremendous amount of lobbying on this bill with the environmental community strongly opposing it. Good information was provided by both sides of the proposal. However, questions regarding current compliance with the Governor's Executive Order may have helped assure passage of this legislation. Hopefully, this issue will be addressed by USGBC in the near future.

Building Officials Association of Georgia Certification (BOAG): House Bill 341

Sponsor: Representative Maxwell - AGC Georgia Supports

www.legis.ga.gov/Legislation/20152016/153790.pdf

Governor Deal Signed HB 341 (Act 148) into law on May 6, and it becomes effective July 1, 2015.

AGC Georgia worked on HB 341 with bill sponsor Howard Maxwell, Regulated Industries Chairman, and representatives of the Builders Officials Association of Georgia (BOAG) and the Department of Community Affairs (DCA). Our common goal was to develop appropriate criteria for qualified inspector status under the law. HB 341 requires experience, continuing education and testing for BOAG Qualified Inspector certification levels II, III, IV and V. Other certification programs only require experience and testing.

Metal Theft: HB 461 *Sponsor: Representative Shaw - AGC Georgia Supports*

www.legis.ga.gov/Legislation/20152016/153808.pdf

Governor Deal Signed HB 461 (Act 84) into law on May 5, and it becomes effective July 1, 2015.

AGC Georgia has worked for a number of years with various stakeholder groups to address metals theft. In 2015, we once again addressed the issue with HB 461. It cleans up some of the existing language in the law and most importantly establishes a deadline for compliance for metal recyclers to upload required information on metals sales/purchases to the newly created GBI database.

Establishing Payroll Card Program: SB 88 *Sponsor Senator Burt Jones – AGC Georgia Supports*

www.legis.ga.gov/Legislation/20152016/153816.pdf

Governor Deal Signed SB 88 (Act 85) into law on May 5, and it became effective upon his signature.

Senate Bill 88 creates a new option for employers who would like an alternative and more convenient form of payment to their employees. Employers will now be authorized to use a prepaid payroll debit card account as a legal method of payment of wages to employees. Georgia law has previously allowed for checks, cash, and direct deposit but was silent on using prepaid debit cards as an authorized method. This method of payment is used in other states, but some employers have been reluctant to use this method until Georgia state law was amended and clarified.

In many sectors of our Georgia economy, there are employees who are un-bankable. For employees who may not have a checking account, direct deposit is not an option. The prepaid payroll debit card method offers a secured alternative to cash and also avoids issues of fraud and fees associated with physical checks. Employees who receive payment in this method can use the debit card for purchases just as any other debit card, and are allowed to withdraw cash from any ATM.

The law requires any employer electing to participate in the method to deliver a written description of any bank fees associated with the program and allows 30 days for an employee to request a physical check in lieu of the debit card. It also allows employees to transfer to direct deposit at any time.

Coastal Marshland Buffers: SB 101 *Sponsor: Senator Ben Watson – AGC Georgia Supports*

www.legis.ga.gov/Legislation/20152016/152997.pdf

Governor Deal signed SB 101 (Act 175) into law on May 6, and it becomes effective July 1, 2015.

SB 101 was introduced to address the confusion and controversy regarding buffer zone requirements in Georgia coastal tidal zone areas. SB 101 establishes a 25 foot buffer along coastal marshlands and provides variances for activities associated with existing infrastructure, proposed new activities within the buffer

zone and the activities of utilities. SB 101 clarifies permit requirements for business and private activities within the marshes and should reduce permitting time, complexity and costs for businesses and utilities with infrastructure and other developments located within the marshland environment.

Historic Preservation Tax Credits: HB 308 *Sponsor Representative Ron Stephens – AGC Supports*

<http://www.legis.ga.gov/Legislation/20152016/153960.pdf>

Governor Deal signed HB 308 (Act 211) into law May 12, and it becomes effective January 1, 2016

HB 308 strengthens Georgia's Historic tax credit, making Georgia more competitive with neighboring states and opening the door to greater investment in its historic downtowns and Main Streets. HB 308 raises the cap for income-producing projects from \$300,000 per project to \$5 million per project. This legislation would put us on par with surrounding states that have attracted large investment through historic rehabilitation construction projects.

K-12 School Construction Study Committee: SR 564 *Sponsor: Senator Black – AGC Georgia Neutral*

www.legis.ga.gov/Legislation/20152016/151804.pdf

SR 564 creates a Senate Study Committee charged with reviewing K-12 school construction cost by region, square feet, FTE students and the practice of compensation architects based on a percentage of construction costs. AGC Georgia met with the sponsor and shared our interest to participate in these committee hearings.

Bills Held over for Consideration in 2016

Call Before You Dig Requirements/Single Statewide Standard: SB 191

Sponsor: Senator Tippins - AGC Georgia Supports

www.legis.ga.gov/Legislation/20152016/150218.pdf

SB 191 passed the Senate, but did not make it out of House Rules for consideration.

SB 191 was our lone pro-active bill that did not get on the dance floor for final consideration this year. The House Rules Committee would not place it on the House debate calendar. This bill remains alive for consideration next year and only needs to pass the House for final consideration by Governor Deal. This issue will now officially be taken up by the Call Before You Dig Legislative Committee for consideration during the legislative off-season.

SB 191 provided one of the most exciting votes of the entire session. An unfriendly amendment was proposed during debate on the floor of the Senate which would have gutted the bill. The amendment failed twice by two separate tie votes - 23-23 and 26-26. AGC Georgia testified in favor of the bill in the House Energy, Utilities & Telecommunication committee. The measure passed out of both sub and full committees over the opposition of the municipalities and counties.

This legislation would prohibit local government from adopting and enforcing different standards regarding white lining requirements other than those required under the Statewide Call Before You Dig law. AGC Georgia supports a single statewide standard versus having to operate under 159 county and 500 municipal standards that could vary in each jurisdiction. Members and AGC Georgia staff worked on Call Before You Dig Legislation over the past two years through a stakeholder group that included representation by local governments, including Association County Commissioners of Georgia (ACCG) and Georgia Municipal Association (GMA). If local government wants to raise the bar for white lining, we feel state law is the place to do it, not individually, on a county by county and city by city basis.

AGC Georgia owes a great debt of gratitude to a number of people for another successful year. Our legislative committee is comprised of over 40 members who help guide AGC Georgia's annual legislative agenda. I want to offer my sincere appreciation to two committee members - Randy Hall and Phil Beck. Randy has served as chair of the Legislative Committee for two years and is a valuable asset to our

*group. Phil served as chair of the Pitts Case taskforce and volunteered countless hours of his professional expertise to help craft HB 412. I'm also very appreciative of the legislators who served as sponsors of our bills and other elected friends who helped support our efforts. **Most importantly, I thank you for your continued support and the opportunity to represent the very best the construction industry offers.***

If you have questions about AGC Georgia's positions or advocacy roles on behalf of the membership, please contact me at woodall@agcga.org or 678-298-4116.