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GOVERNMENT AFFAIRS UPDATE

Associated General Contractors (AGC) of Ohio's *Government Affairs Update* provides information about government related matters of interest to the commercial building industry and AGC's advocacy efforts. It is e-mailed to AGC of Ohio members and available online at www.agcoho.com/advocacy.html. Direct questions and comments to Andrea Ashley, Vice President of Government Relations: andrea@agcoho.com or (614) 486-6446.

May 6, 2016

FINALLY... MOVEMENT ON LEGISLATION PROHIBITING RESIDENCY MANDATES

Right now, the legislature has two companion bills that would prohibit residency requirements on public improvements: [SB 152](#) (Uecker, R-Miami Township) and [HB 180](#) (Maag, Lebanon).

Last week, after nearly three months of trying to garner the votes, the House State Government Committee amended [SB 152](#) with a controversial amendment pushed by the Associated Builders and Contractors (ABC) that would essentially prohibit project labor agreements (PLAs) on public improvements. On Wednesday afternoon, the House passed [SB 152](#) with the PLA amendment by a very narrow 51-45 vote (50 votes are needed to pass a bill). [HB 180](#), which is the same bill sans the PLA language, passed the House with a bipartisan, 62-31 vote. When [SB 152](#) was presented to the Senate after the House vote, as expected, the Senate voted 25 to 8 not to concur with the House's changes to the bill.

(Note: AGC of Ohio opposes PLAs, but did not want the amendment added to [SB 152](#) understanding the Senate would not have the votes to concur. The PLA debacle has only served to stall the bill and force impacted contractors to deal with residency requirements for another construction season.)

After the Senate non-concurrence vote, the Senate Gov't Oversight & Reform Committee passed [HB 180](#) along party lines without any amendments. There was an attempt by the Construction Employers Association (CEA) and the city of Cleveland to include a carve out for Cleveland. Fortunately, the amendment was tabled.

Senate President Faber has indicated [HB 180](#) will be on the Senate floor next Wednesday for a vote. If it passes without amendments, the measure will go directly to the Governor's desk for his signature. The bill would take effect 90 days after the Governor's signature.

CAPITAL BILL SENT TO GOVERNOR KASICH

Yesterday the Ohio House passed the \$2.62 billion [capital appropriations budget measure](#) for fiscal years 2017-2018. [SB 310](#) sailed through the legislature in three weeks, with little opposition and no amendments. Most of the negotiations among lawmakers, local communities and the Administration took place prior to its introduction. Only one legislator, Rep. Paul Zeltwanger (R-Mason), voted against the bill.

The funding measure includes a few policy items proposed by the Administration. Of particular interest is a plan to allow local schools to issue Certificates of Participation, or lease-purchase agreements, to help cover the local match for OSFC projects.

[SB 310](#) now goes to the Governor for his signature. Once signed, most of the spending measure will take effect July 1, with the exception of the policy changes, which must wait until 90 days after the governor's signature.

The proposed spending is about \$200 million more than the last capital budget and includes:

- \$650 million for K-12 buildings through the Ohio School Facilities Commission (OSFC)
- \$500 million for local infrastructure through the Public Works Commission
- \$428 million for higher education projects
- \$323 million for improvements to dams, state parks and forests through the Department of Natural Resources allotment
- \$160 million for "community projects"
- \$150.8 million for the Department of Rehabilitation and Correction
- \$100 million for health and human services and Youth Services facilities
- \$100 million for transportation projects
- \$68.5 million for the Department of Administrative Services

A county-by-county spending breakdown is available [here](#).

HOUSE COMMITTEE FAVORABLY REPORTS MEDICAL MARIJUANA BILL; HOUSE VOTE, SENATE HEARINGS EXPECTED NEXT WEEK

After three weeks of debate, the House Select Committee on Medical Marijuana today passed [HB 523](#) (Huffman, R-Tipp City).

Yesterday the committee adopted a substitute bill that made several revisions to the bill, most dealing with the framework for allowing physicians to recommend and patients to obtain marijuana for medicinal purposes, and rules governing the system will be created by a Medical Marijuana Control Commission formed under the Department of Health. The employer protection provisions have remained intact.

The committee chair indicated that the plan is to have [HB 523](#) up for a vote on the House floor Tuesday, freeing up the Senate for its own hearings on the measure. The intent is to send the bill to the Governor by the end of May in the hopes of countering any potential outside ballot issues.

SENATE APPROVES AGC-SUPPORTED PROPERTY TAX INCREASE SUSPENSION, WORKERS COMP SUBROGATED CLAIMS BILLS

This week, the Senate approved two AGC-supported measures.

On Tuesday, the Senate unanimously passed [HB 207](#) (Henne, R-Clay Township; McColley, R-Napoleon). The bill would require workers' compensation claims to be charged to the BWC Surplus Fund Account instead of a state fund employer's experience in certain circumstances when a claim is due to a motor vehicle accident involving a third party. AGC advocated for the bill and submitted a letter of support in conjunction with OCA, CEA, MCA and NECA. The bill will now go to the Governor for his signature.

[SB 235](#) (Beagle, R-Tipp City; Coley, R-Liberty Township) received more debate on the Senate floor the following day. The measure would suspend increases in business property taxes for commercial or industrial improvements on unutilized properties until a certificate of occupancy is granted. AGC has been working with the Cincinnati Chamber on the legislation and provided [proponent testimony](#). [SB 235](#) ultimately passed 22-11, with nine Democrats and two Republicans voting against it. Sen. Cecil Thomas (Cincinnati) was the only Democrat to support the bill, and the Republicans in opposition were Sens. Randy Gardner (Bowling Green) and Jay Hottinger (Newark).

UPCOMING PROGRAMS/EVENTS

AGC of Ohio Safety Meeting & Luncheon

- June 10; More information/register at www.tfaforms.com/420985

OFCC Conference

- August 24 - Columbus #1
- September 22 - Cleveland
- September 28 - Cincinnati
- October 12 - Columbus #2

Additional information will be announced in the weeks to come. Follow OFCC on Twitter for conference updates: @OHFacilities



ON THE NATIONAL FRONT... Information courtesy of AGC of America

REGULATORY BURDEN QUANTIFIED BY COMPETITIVE ENTERPRISE INSTITUTE REPORT

AGC members have every reason to believe they are constantly being threatened by a barrage of new regulatory initiatives. AGC is following more than 20 major rulemakings that impact the industry right now such as the “Waters of the US” proposed rule, the silica rule, the “ambush” election rule, the overtime rule (see next story for an update on AGC’s efforts), and the “blacklisting” rule to name a few. Today, the Competitive Enterprise Institute (CEI) released its annual survey of the size, scope, and cost of federal regulations, and how they affect American consumers, businesses, and the U.S. economy.

Highlights from the CEI press release on the 2016 edition include:

- The federal regulatory cost reached \$1.885 trillion in 2015.
- Federal regulation is a hidden tax that amounts to nearly \$15,000 per U.S. household each year.
- In 2015, 114 laws were enacted by Congress during the calendar year, while 3,410 rules were issued by agencies. Thus, 30 rules were issued for every law enacted last year.
- Many Americans complain about taxes, but regulatory compliance costs exceed the \$1.82 trillion that the IRS is expected to collect in both individual and corporate income taxes from 2015.
- Some 60 federal departments, agencies, and commissions have 3,297 regulations in development at various stages in the pipeline.
- The top five federal rulemaking agencies account for 41 percent of all federal regulations. These are the Departments of the Treasury, Commerce, Interior, Health and Human Services, and Transportation.
- The 2015 Federal Register contains 80,260 pages, the third highest page count in its history. Of the seven all-time-highest Federal Register total page counts, six occurred under President Obama.
- The George W. Bush administration averaged 62 major regulations annually over eight years, while the Obama administration has averaged 81 major regulations annually over seven years.

Read the entire report [here](#).

AGC WINS ROUND 1 AGAINST BLACKLISTING EXECUTIVE ORDER

Amendment Added to House Defense Bill

In what may be a 12 ring bout, AGC won round one to block President Obama's [Blacklisting Executive Order](#) (EO). Last week, the House Armed Services Committee added an AGC-backed provision to the National Defense Authorization Act—a bill that has been annually enacted into law for 54 consecutive years—that ensures the EO will not apply to Department of Defense and National Nuclear Security Administration contracts. AGC will work to expand the application of the EO government-wide when the bill hits the House floor and during consideration in the Senate.

Under the EO, both prime and subcontractors must report violations of 14 federal labor laws and “equivalent” state labor laws—which have not been articulated yet—during the previous three years, and again every six months, on federal contracts over \$500,000. Prime contractors would also be responsible for evaluating the labor law violations of their subcontractors at all tiers. A single violation, or a combination of multiple violations, could lead a contracting officer to either (1) deny a prime contractor the right to compete for a federal contract; or (2) remove a prime contractor or subcontractor from an ongoing project. Such determinations would be made on an individual contracting officer basis with assistance from newly-created agency labor law compliance advisors.

AGC LOBBIES OMB ON OVERTIME RULE

AGC and its industry partners met with the Office of Management & Budget (OMB) to discuss the U.S. Department of Labor's (DOL) Wage and Hour Division proposal to increase the overtime salary threshold from \$23,660 per year to \$50,440. The proposal would be adjusted annually, and while the intended goal of the administration is to guarantee overtime pay to most salaried workers earning less than \$50,400 per year (conceivably resulting in higher wages for these workers), AGC's analysis shows a different outcome.

Based on projections, construction employers are more likely to reclassify impacted workers, limit weekly hours to no more than 40 hours, limit fringe benefits, eliminate some positions, or transition some full-time positions to part time roles. Such outcomes would surely have a detrimental impact on employee morale.

AGC used OMB's review process (the last step in the regulatory rulemaking process before an agency's rule is finalized and implemented) to argue the proposed salary increase is too much to absorb at once. AGC contends that the salary threshold should take into account regional economic differences and that salaries will not unilaterally rise as a result of the rule.

OMB could finalize the review process in the coming weeks and a final rule could be announced shortly thereafter. AGC will continue to monitor the rule and, absent changes to the rule by OMB, we will continue to call for Congressional action to make the rule workable for the industry.

TREASURY DENIES APPLICATION TO SUSPEND BENEFITS UNDER MULTIEMPLOYER PENSION REFORM ACT

The U.S. Treasury Department today announced that the Central States Teamsters Pension Funds application to suspend benefits under the Multiemployer Pension Reform Act of 2014 was denied. Today's decision puts into question the status of the [4 applications](#) for benefit suspension under review by the Treasury Department (2 Ironworkers Plans, 2 Teamsters Plans while one small Teamster Plan has withdrawn its application without any public reason given).

AGC continues to advocate for congress to authorize Composite Plans and will monitor the political fallout of today's decision and how it'll impact the prospects of Composite Plan. AGC will also be closing monitoring the impact on the PBGC and any calls to raise PBGC premiums. The Central States plan is expected to become insolvent in the next 8 years which will result in an insolvency at the PBGC.

View AGC's response on the next page.



ADMINISTRATION’S REFUSAL TO ACCEPT CENTRAL STATES RETIREMENT FUNDS’ RESCUE PLAN WILL FORCE “DRACONIAN” CUTS ON ALL ITS MEMBERS

Nation’s Top Construction Official Says Federal Officials Refusal to Let Plan Take Voluntary Steps to Keep the Funds Solvent Puts Political Considerations over the Need to Protect Retirees

The chief executive officer of the Associated General Contractors of America, Stephen E. Sandherr, issued the following statement today in response to the Treasury Department’s refusal to accept a rescue plan by the Central States, Southeast and Southwest Areas, Health and Welfare Pension Funds to take a voluntary steps to keep the funds solvent:

“Tens of thousands of retirees face the likelihood that the Central States pension funds they depend upon will soon become insolvent because the Obama administration has chosen politics over the need to protect retirees. The Multiemployer Pension Reform Act that President Obama signed into law in 2014 received overwhelming, bipartisan support in Congress because it wisely empowered the trustees of pension plans to take steps to prevent the draconian benefits cuts that come with insolvency.

“Among the steps the President authorized two years ago, multiemployer pension plans have the option to voluntarily reduce benefits for some retirees if they can demonstrate that those temporary reductions will ensure the long-term solvency of the plan and that the cuts will be restored once the plan returns to sound financial footing. While nobody likes the idea of asking some retirees to endure the pain and hardship that comes with a temporary cut in their benefits, members of both parties understood that denying plans the voluntary tools needed to repair their funds would guarantee far more significant and permanent cuts to retiree benefits. That is because the Pension Benefit Guarantee Corporation lacks the resources needed to withstand the insolvency of a large plan like the one operated by Central States.

“Without the protections the corporation theoretically provides, all participants in an insolvent fund would be forced to endure significant cuts to their benefits that will leave them receiving cents on the dollars they worked so hard and so long to earn in their retirement. By denying a rescue plan that responsibly but regrettably employs benefit reductions, the administration creates false hope that a better deal for affected retirees is possible. The sad truth is that this is the best deal available.

“Instead of subjecting retiree benefits to the whims of political fortune, the Obama administration could do a lot more to help keep multiemployer retirement plans vibrant. Chief among those measures is championing changes to pension laws that would allow firms and employees to voluntarily establish innovative retirement plans known as composite plans that better allocate pension risks. These plans, which are similar to plan designs in other developed nations, would make participating in multiemployer retirement plans far more attractive, helping guarantee their long-time viability.

“The Associated General Contractors of America will continue to work with its partners in the business and labor community to push for these common sense plan changes. Our goal is to craft a multiemployer pension system that never forces retirees to suffer for the political machinations of those who were ostensibly elected to protect them.”

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