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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, VP of Government Relations: andrea@agcoho.com or (614) 486-6446. **NOTE: With state legislators on break and very limited legislative action expected prior to the November election, the *Government Affairs Update* will be e-mailed with less frequency until after the election.**

October 31, 2016

HEARINGS CONTINUE ON UNEMPLOYMENT COMPENSATION

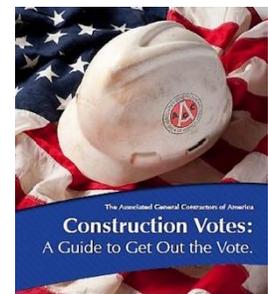
An Ohio House and Senate Joint Committee has continued hearings on unemployment compensation and ensuring its long-term solvency. An additional hearing will be held this Thursday. Late last year, the Ohio House attempted to quickly pass [HB 394](#), which would have made significant changes to Ohio's unemployment compensation system. AGC of Ohio and other construction employer associations expressed concern about the measure and its potential disparate impact on the construction industry. AGC continues its advocacy efforts to ensure any changes will not hamper the industry's ability to sustain a viable workforce and protect construction employers.

VOTING RESOURCES

[ConstructionVotes.com](#); [MyOhioVote.com](#); [Candidates' Records](#)

We're almost a week away from the November 8 election. This year's caustic presidential election could impact down-ticket candidates, making it more important than ever to get out the vote and support candidates that support construction. Below is a recap of some of the voting resources:

ConstructionVotes.com: AGC of America's <http://constructionvotes.com> is a voting resource for both employers and employees. Research indicates that 4 out of 5 workers want information from their employers about candidates, issues and elections. In fact, employees cite their employer as the single most trusted source of this information. (Source: [BIPAC Market Research](#).) Download the [Construction Votes: A Guide to Get Out the Vote](#) to learn how you can help your employees learn about the candidates and issues and vote in this year's election. Additionally, helpful resources are available that you can cut and paste, or customize to fit your "get out the vote" needs. They are available at: <http://constructionvotes.com/employer>.



MyOhioVote.com: The Ohio Secretary of State website provides a plethora of voter information, including links where you can check your voter registration, print an absentee ballot request form, find polling locations, and view sample ballots. Learn more at www.myohiovote.com.

Candidates Records: AGC of America provides a history of voting records on AGC issues for Congress at www.agc.org/industry-priorities/advocacy/agc-voting-records. If you had a question about a state legislator and his or her support of AGC issues, contact Andrea Ashley at andrea@agcoho.com or (614) 486-6446. With the increased usage of budget bills to push policy in recent years, it is difficult to provide accurate and thorough voting records of Ohio legislators on industry issues.

CONTRIBUTE TO AGC OF OHIO ACTION!

Many state legislators are facing unusually tough races due to the corrosive election environment created by those “up ticket.” AGC of Ohio’s PAC, AGC of Ohio Action, has spent more this year than in the past to support those candidates that have a proven track record of supporting construction industry issues.

If you have not already done so, contribute to AGC of Ohio Action! It is vital to AGC’s legislative efforts, and vital to construction-friendly elected officials. Send personal or PAC checks to: AGC Action, 1755 Northwest Blvd., Columbus, OH 43212. *(Note: Make checks payable to AGC Action. Corporate contributions are not permitted. Sole proprietors, partnerships and unincorporated associations may use company funds to contribute.)*

ANNOUNCEMENT FROM OFCC ABOUT LEED VERSION 4

To: OFCC Customers, Architects, Engineers, Construction Managers

Date: October 25, 2016

Since September 2007, the Ohio Facilities Construction Commission has maintained a commitment to design and construct energy efficient and environmentally friendly schools for our K-12 customers. The Commission's requirement for schools built with state dollars is to achieve Leadership in Energy & Environmental Design (LEED) Silver Certification. This commitment to LEED for Schools provides healthy, high performing schools that allow the districts to save future operation and maintenance dollars.

Currently, the OFCC has almost 400 schools registered or certified through Version 2 and Version 3 of the U.S. Green Building Council (USGBC) LEED for Schools rating systems. Since the beginning of this initiative, our project teams have certified 273 schools across Ohio ranging from Certified to Platinum levels.

As you are aware, the USGBC periodically updates the LEED rating systems in order to stay current with building codes and best practices. As such, the LEED for Schools Version 3, which has been our design standard, will no longer be available after October 31, 2016. New projects proceeding after that date will need to be registered in LEED Version 4 - LEED for Schools.

The new Version 4 rating system was reviewed to ensure the sustainability goals of the Commission's K-12 schools program would still be met under this updated system. We feel that with the experience of our project teams, a Silver certification level will still be attainable under Version 4. OFCC will be proceeding with a few pilot projects under Version 4 and these projects will have assistance from the OFCC and GBCI. We will use these pilot projects to identify any issues or concerns in order to ease the way for other projects to follow. If you are interested in working on a pilot project and have a new school, please let me know.

There are a number of significant changes with Version 4 and our project teams will need to educate themselves on these changes. As such, I will be hosting round table discussions on Version 4 categories in upcoming months. If there is enough interest expressed in various regions, forums may be held in locations across the state. More information on these sessions will be coming out soon. In the meantime, please feel free to email me any questions or concerns you may have.

I have taken steps to register all of the new projects that I am aware of that have or will have funding in 2016/early 2017. (I have also registered projects that have a good chance of securing funding at the November ballot.) Once an architect is under contract, I will transfer the project to them for management. If you are uncertain about your project, please contact me before proceeding to register it at lisa.laney@ofcc.ohio.gov and I will let you know if I have it or not.

I appreciate your time and attention and I look forward to working with you on your sustainable schools and facilities. Best regards,

Lisa A. Laney, LEED AP, BD+C, Sustainability Administrator

Direct: 614-995-7454; Main: 614-466-6290; lisa.laney@ofcc.ohio.gov

AGC OF OHIO SAFETY MEETING

December 2, 9:30-noon, AGC office; [RSVP Attendance](#)

The next AGC of Ohio Safety Meeting is scheduled for Friday, December 2 from 9:30 a.m. to noon at the AGC office in Columbus. The meeting agenda will include:

- 9:30 a.m. Corey Crognale, partner, Ice Miller: Corey will address the potential impact of new state and national safety and health regulations on employers.
- 10:30 a.m. Jim Blazer, Southeast regional business development manager, Ohio BWC: Jim will discuss various BWC employer initiatives, how the agency is handling medical marijuana, other states coverage, and other workers' comp matters of interest to contractors.
- 11:15 a.m. Working Lunch: Address other regular agenda items, including OSHA enforcement around the state, AGC safety efforts, and a roundtable discussion on safety and health matters of interest.

The meetings are very open, and participants are encouraged to bring up any safety-and-health items of interest. RSVP and direct questions to Andrea Ashley at: andrea@agcohio.com or (614) 486-6446. Be sure to let her know of any additional agenda items you would like discussed.



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

AGC ENSURES THAT FINAL FEDERAL DEBT-EQUITY REGULATIONS INCLUDE EXEMPTIONS FOR DOMESTIC CONSTRUCTION COMPANIES

AGC Successfully Pushes Treasury Department to Exempt Construction Firms from Key Part of Its Anti-Inversion Rules

AGC scored a regulatory victory for member firms last week when the federal Treasury Department announced it would exempt domestic construction firms from key parts of its new anti-inversion rules. Specifically, the final Section 385 rule, as the anti-inversion measure is known, exempts domestic construction firms that are pass-throughs entities from the ambiguous bifurcation rule and onerous documentation rules.

The Treasury Department decision comes after AGC of America encouraged members to contact their members of Congress via the AGC Legislative Action Center to oppose the 385 regulations, AGC arranged for [Financial Issues Committee member](#) Michael Lucki from Lucki Advisors to testify at the IRS public hearing on the proposed rule in July, and [AGC sent a comprehensive comment letter](#) to the IRS in advance of the public hearing. The final anti-inversion rules as published in the Federal Register are available [here](#).

OSHA DELAYS RECORD KEEPING RULE ENFORCEMENT RELATED TO POST-INCIDENT DRUG TESTING POSITION; WEB-ED ON RULE

At AGC's Urging Congress Weighs in on this Issue; [Complimentary Webinar on Making Sense of OSHA's Drug Testing Position in the Rule](#)

The U.S. Occupational Safety and Health Administration (OSHA) this week delayed enforcement [until Dec. 1, 2016](#), of the anti-retaliation provisions in its injury and illness [reporting rule](#), which highlighted OSHA's intention to enforce policies that could restrict mandatory post-incident alcohol and drug testing. Also this week, at [AGC's urging](#), more than 30 members of Congress [called on](#) OSHA to reconsider and withdraw this controversial and unsubstantiated position.

OSHA issued this delay at the request of a federal court currently considering a motion challenging the anti-retaliation provisions. The letter from members of Congress comes on the heels of AGC grassroots efforts and AGC Chapter and contractor Capitol Hill meetings following the association's National and Chapter Leadership Conference in late September.

AGC previously met with the [head of OSHA](#), noting the association's opposition to the agency's drug testing position and that position's challenge to safe, drug-free workplaces and drug testing programs collectively bargained with organized labor, among other things. The association will continue its efforts to oppose this unreasonable OSHA position, while educating its members on how best to comply.

WebED:

AGC will hold a [complementary webinar](#) for AGC members (\$49 for non-members) to explain OSHA's position and contractor requirements under this rule on October 31 from 2:00 to 3:00 p.m.

Under this new rule, OSHA may cite contractors for implementing drug testing and/or safety incentive programs in the context of their possibly discouraging employees from reporting injuries and illnesses. During the webinar, Jackson Lewis safety and health law attorney [Brad Hammock](#), AGC Senior Director of Safety Kevin Cannon and AGC Regulatory Counsel Jimmy Christianson will: discuss if employer's current injury and illness reporting policies are compliant with the new "anti-retaliatory" provisions; identify areas (e.g. safety incentive programs, mandatory post-incident drug testing, and safety disciplinary policies) that employers may need to focus on to ensure compliance with the new requirements; and discuss the new electronic reporting requirements and effective dates. To register, [click here](#).

DOL RULE INCREASES SALARY THRESHOLD FOR OVERTIME RULE

Effective Dec. 1, 2016

The Department of Labor (DOL) [final rule](#) under the Fair Labor Standards Act (FLSA) increases the overtime coverage by over 100% and will cover over four million employees by the end of 2017. The rule increases the salary threshold from \$455 to \$913 per week for standard salaried employees, and \$100,000 to \$134,004 per year for highly compensated employees. It goes into effect on December 1, 2016. Future automatic updates to these thresholds will occur every three years, beginning on January 1, 2020.

The salary and compensation levels for executive, administrative, and professional workers will be increased. Additionally, the final rule amends the salary basis test to allow employers to use nondiscretionary bonuses and incentive payments, such as commissions, to satisfy up to 10 percent of the new standard salary level.

The concerns of AGC member companies were expressed via joint [comments](#) submitted by the Partnership to Protect Workplace Opportunity coalition; a diverse group of associations, businesses, and other stakeholders representing employers with millions of employees across the country in almost every industry. AGC also submitted an [independently-drafted letter](#) to highlight the impact that the proposed rule would have in the construction industry as expressed in the AGC survey results.

For more information from DOL on the overtime rule [click here](#).

FREE CONSENSUSDOCS PREQUALIFICATION & BOND FORMS

The ConsensusDocs Coalition offers all of its prequalification and bond forms for free. ConsensusDocs publishes performance, payment, warranty and bid bond forms for the design and construction industry, including the only bond forms specific to design-build that provide an option to cover design liability. And, all of the ConsensusDocs qualification statement forms are available via a free subscription. For more information and to start using your complimentary subscription today, visit [ConsensusDocs.org](#). **AGC Members receive a 20% discount on all ConsensusDocs products simply by using Discount Code AGC100.**

COURT TEMPORARILY HALTS FAIR PAY SAFE WORKPLACES, "BLACKLISTING," EXECUTIVE ORDER IMPLEMENTATION; NEW AGC BLACKLISTING EXECUTIVE ORDER RESOURCES

Federal Court Grants Preliminary Injunction; AGC Educating Members about Regulation Requirements

On October 24, the U.S. District Court in the Eastern District of Texas granted a request for preliminary injunction against parts of the Obama Administration's implementation of the Fair Pay and Safe Workplaces, or "Blacklisting" as it is known, Executive Order (EO). As a result direct federal contractors will not—at this time—be required to report labor law violations with their bids on federal contract solicitations and awards.

In addition, the court halted the federal government from enforcing the order's requirement regarding contractor arbitration agreements with employees covering disputes arising out of sexual assault or harassment disputes, among other things. The court, however, does not bar implementation of the order's paycheck transparency requirement scheduled to take effect on January 1, 2017.

The EO requires both prime and subcontractors—who work directly for federal construction agencies—to report violations of 14 federal labor laws before contract award and again every six months after contract award, on federal contracts, among other things.

The Obama Administration will very likely take steps to counter this court order. The situation, therefore, remains fluid. It is unclear how long implementation of this Executive Order and its various requirements will be delayed. The court order certainly delays implementation of the labor law violation reporting for solicitations on contracts exceeding \$50 million issued on or after October 25 and the arbitration agreement requirement also scheduled to take effect October 25. Nevertheless, it remains undetermined how or if this court order will impact other implementation deadlines. To review when those deadlines as currently scheduled, see AGC's comprehensive review of the EO [here](#).

AGC and other business groups are currently determining how best to proceed, including whether to file another case separately and/or bolster the current legal effort. Ultimately, AGC's goal remains not only temporary relief, but the complete dismantling of this unconstitutional executive order and its unnecessary regulatory regime.

Educational Resources:

To continue to assist members understand the breadth of the president's "Fair Pay and Safe Workplaces" (Blacklisting) Executive Order (EO), AGC of America recently held its [second WebED](#)—complementary for AGC members—detailing the types of labor law violations they will have to report in order to be considered for certain federal contracts. That WebEd and its accompanying power point presentation, in addition to other resources, can be found at www.agc.org/blacklisting.

For more information, go to www.agc.org/blacklisting.

AGCWEBED: FEDERAL CONTRACTORS, GET READY FOR THE NEW PAID SICK LEAVE RULE!

Wednesday, Nov. 16 | 2:00-3:30 p.m. EST

Virtually all construction contractors that perform work directly for the federal government will be required to provide paid time off to employees for sickness and other covered purposes under a [new rule](#) issued by the U.S. Department of Labor that takes effect on January 1, 2017. AGC of America will hold a [WebEd](#) (webinar) on November 16 from 2:00 to 3:30 p.m. to help construction contractors understand the rule's myriad mandates and avoid costly sanctions for noncompliance.

Click [here](#) for more info or to register now at the AGC-member price of \$79 or the non-member price of \$99. For additional AGC information on this new regulation, [click here](#).