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GOVERNMENT AFFAIRS UPDATE

Associated General Contractors 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.

January 9, 2016

Hearing Held on Residency Prohibition Legislation; Vote Expected Soon

The Ohio House State Government Committee heard proponent and opponent testimony on [SB 152](#) (Uecker, R-Miami Township), legislation that would prohibit residency mandates on public improvements. The legislation remains a top priority for AGC of Ohio.

Among those testifying in support was Terry Phillips of Allied Construction Industries, the association that houses the Cincinnati AGC. Terry informed the committee that Cincinnati's residency ordinance has been a problem since its enactment three years ago. "While local hiring regulations are designed to help residents gain employment, they have had the opposite effect in Cincinnati... local hire has provided an unfair advantage to out of state contractors who take the work without any obligation of compliance."

Also expressing support were the National Electrical Contractors Association; the American Council of Engineering Companies of Ohio; and Associated Builders and Contractors. Expressing opposition to the bill were the Construction Employers Association (Cleveland) and the Greater Cleveland Partnership.

The State Government Committee accepted one amendment, which would allow ODOT to continue to comply with a federally required job-training program for enrollment of women and minority contractors on the Opportunity Corridor project in Cleveland.

The chairman of the State Government Committee has indicated that he plans to put [SB 152](#) up for a vote during the committee's next hearing.

Senate Passes AGC-Supported Bill Providing Civil Immunity for Contractors during Emergencies; Legislation Awaits Governor's Signature

[HB 17](#) (Blessing, R-Cincinnati & Landis, R-Dover) passed the Ohio Senate on January 20 with only one dissenting vote. The measure would provide civil immunity to architects, engineers, surveyors, contractors and tradespeople providing volunteer services during a declared emergency without a contract.

The bill was initially drafted to only apply to architects, engineers and surveyors. AGC worked with interested parties during the last General Assembly (G.A.) to have it amended to include contractors and tradespeople. During that G.A., the bill was held up during lame duck. It was reintroduced last year at the start of this G.A., and quickly passed the House last February.

[HB 17](#) will take effect 90 days after it is signed by Governor Kasich.

AGC, Other Construction Groups Express Concern about Unemployment Comp Bill

The Ohio House Insurance Committee has held several hearings the past month on [HB 394](#) (Sears, R-Monclova Twp.), legislation that would make significant changes to Ohio's unemployment compensation laws and rates. AGC of Ohio and the Ohio Contractors Association, who represents heavy highway contractors, twice submitted joint testimony on the legislation, expressing concern that provisions in the bill could hurt contractors' ability to recruit new people into construction, and even force craftworkers currently in the industry to consider different careers.

Two weeks ago, AGC, several other construction employer groups, construction labor groups, and four employer associations supporting the bill participated in a conference call with the bill's sponsor, Rep. Sears. During the call, the construction industry collectively made clear that their concerns were not alleviated by the most recent amendments to the legislation. The construction employer groups also sent a letter on January 18 to all representatives in the House highlighting their three key issues with [HB 394](#).

It appears [HB 394](#) (Sears, R-Monclova Twp.) has stalled for the time being. AGC hopes to work with all interested parties and find balanced solutions that address the construction industry's concerns, as well as truly address the solvency of the unemployment compensation fund.

Hearings Held on Capital Reappropriations Bill

The Ohio House Finance Committee passed \$1.48 billion capital reappropriations measure, [SB 260](#) (Coley, R-Liberty Township), this morning. The bill reauthorizes previously allocated funding for capital improvements for nearly two dozen agencies. The Public Works Commission, Facilities Construction Commission and Higher Education account for 80 percent of the renewed funding.

The bill was introduced in the Senate on January 19, and passed the Senate within two weeks. The House is also moving quickly on the bill, and [SB 260](#) is scheduled for a vote on the House floor tomorrow. To meet the statutory deadline for continued project funding, the Governor must sign the bill into law by April.

Enforcement of Ohio's Damage Prevention Laws Begins

As of January 1, 2016, an "aggrieved person" as defined in the Ohio Revised Code (O.R.C.) [4913.01\(A\)](#) now has the option of reporting a suspected compliance failure of one of the sections of the O.R.C. defined in [4905.041 \(A\)](#). Reports may be filed with the Public Utilities Commission of Ohio (PUCO) and must be made within 90 days of discovering the suspected compliance failure, per O.R.C. [4913.05 \(A\)](#).

Some contractors may consider adding contract provisions to address the role of the excavators on their jobsites and potential liability concerns with enforcement.

Ohio Underground Protection Service's website provides a complete overview of the underground damage prevention law and informational documents: www.oups.org. Visit the PUCO website for information about filing a complaint and FAQs about the details of this process: www.puco.ohio.gov/puco/index.cfm/industry-information/industry-topics/damage-prevention/#sthash.ITbomrsb.dpbs.

Ohio BWC to Host Safety Congress March 9-11

The annual Ohio BWC Safety Congress & Expo will be held at the Columbus Convention Center from March 9-11, 2016. OSC16 offers more than 200 educational sessions, 225 exhibitors and free continuing education credit. By attending the safety congress, participants will learn to: prevent workplace injuries and illnesses; achieve better outcomes for injured workers; reduce workers' compensation claims costs; and keep Ohio's work force healthy and productive. Learn more and register [here](#).

Municipal Tax Reform Went into Effect January 1; Highlights of Changes

Changes to municipal tax laws made by AGC-supported HB 5, passed during the last General Assembly, took effect January 1st. Summarized below are some of the benefits. If you have not already done so, be sure to consult with your tax professional about properly taking into account the modifications.

Pass-through entities: If your business is organized as a pass-through entity (“PTE”), the municipal net profits tax will now be imposed at the entity level (unless your municipality is one of a handful that previously voted to tax resident S corporation owners at the shareholder level), with the owner needing to file only in their city of residence. Also, gains and losses that are generated by resident taxpayers’ different pass-through entities and their own net profit may offset each other during the year in which such gains and losses were generated to arrive at the total amount of tax due.

NOL carryforward: If your business does not have a profitable year, some relief is coming: starting in 2017 all municipalities must allow businesses to deduct any *new* net operating losses (NOL) and allow a five-year carryforward of those losses. Profits and losses are measured on a 12-month basis simply as an accounting tool used to facilitate the collection of tax revenues. However, businesses are established with the goal of making a profit over the long haul, not simply in any particular 12-month period. When you have a loss, an NOL carryforward is treated as an asset on your balance sheet to help offset future gains. Therefore, the NOL carryforward becomes an economic development tool by allowing businesses to deduct losses and continue to operate, helping you with job retention in down years.

Occasional entry rule: A significant improvement to the “casual entrant” exemption increases the number of days (from 12 to 20 per year) that individuals may work in a non-principal place of business municipality before incurring income tax liability there. Should your employee be there 21 or more days, you will need to withhold in that “other” city from day 21 forward until the end of the calendar year. The new law also defines a day to allocate tax liability to the city where an employee spent the majority of time working that day (you must withhold only to one municipality per calendar day), and provides that the casual entrant rule applies to all compensation. Businesses and cities may continue to work out other agreements as well if both parties agree.

Another major change eliminates the requirement for employers with gross receipts of less than \$500,000 a year to track where their employees are working; instead, these small businesses will simply withhold to the jurisdiction where the principle place of business is located. These businesses must still file net profits returns in every city where they do business, but will owe no tax if the amount due is \$10 or under.

Other common sense changes: If you’ve done work in a municipality in the past but no longer work there, many cities require you to continue filing tax returns anyway for up to three years. The new law allows you to certify to a municipal tax administrator that you are no longer a taxpayer there. Upon certifying, you are no longer required to file with that municipality during future taxable years, unless the tax administrator possesses conflicting information or you start working there again.

Taxpayer Bill of Rights: The new law includes the full version of the state’s Taxpayer Bill of Rights at the local level, and requires municipalities to publish a summary of the taxpayers’ bill of rights and responsibilities online, as well as publish its municipal tax ordinances and regulations. It also aligns municipal return filing dates with state filing dates, and makes consistent with federal, state and current municipal tax law the tax return due date for entities with a fiscal year-end other than a calendar year-end.

Residency changes: The new law prescribes an income tax employer withholding schedule for all municipalities on a monthly vs. quarterly basis depending on your recent withholding amounts. Finally, municipalities are allowed to treat an individual as a resident for income tax purposes only if the individual is domiciled there, and it adopts 25 generally recognized common law factors for determining an individual’s domicile.



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

Equal Employment Opportunity Commission Proposes to Add Pay Data and Hours Worked to EEO-1 Report

The U.S. Equal Employment Opportunity Commission (EEOC) announced a proposal that would revise the Employer Information Report (EEO-1). The new report would require all employers with 100 or more employees to submit compensation data and hours worked in addition to racial, ethnic and gender status data that is currently required by the federal government. The new form would also apply to federal contractors with more than 100 employees, and, if implemented, will replace the Office of Federal Contract Compliance Program's (OFCCP) [proposed Equal Pay Report for federal contractors](#).

According to the [EEOC's website](#), the new data required by the report “would provide the EEOC and OFCCP with insight into pay disparities across industries and occupations and strengthen federal efforts to combat discrimination.” A copy of the proposal is available in the [Federal Register](#). AGC is preparing to submit comments on the proposed changes before the April 1 deadline.

For more information on the proposed revisions to the form, including a [Fact Sheet for Small Business](#)) and a [Question and Answer document](#), visit the EEOC [website](#). Direct questions to Tamika Carter at AGC of America: cartert@agc.org or (703) 837-5382.

Take Action! Urge Congress' Support for Composite Plan Design for Multiemployer Pension Plans

[Show your support for composite plans!](#) It only takes 2-3 minutes with AGC's Take Action [page](#).

Background: The Multiemployer Pension Reform Act of 2014 (MPRA) included several AGC priorities and was the culmination of a set of recommendations from a joint business-labor coalition. However, the law did not include the important recommendation of creating “composite” benefit plans which are a hybrid between a defined contribution and a defined benefit plan. Allowing plans to transition to composite plan designs is vital to providing retirement security for the industry's workers and the fiscal viability of employers that contribute to current multiemployer pension plans.

Action Needed: [Tell Congress](#) to support legislation that would allow for the adoption of composite plans in multiemployer pension plans, for these four reasons:

- **Composite Plans Offer Advantages over Existing Plan Designs.** Composite plans take the best features from today's traditional defined benefit pension plan and a 401(k)-style defined contribution plan. The costs will be more predictable while offering lifetime income.
- **Mechanics of Composite Plans Ensure Plans are Fiscally Viable in the Future.** Employers will contribute to the plans based on collectively bargained contribution rates and there will be no liability outside the negotiated rate or withdrawal liability.
- **Composite Plans Improve Upon the Current Multiemployer Pension System.** The plan design requires a 20 percent funding cushion to guarantee future plan solvency, emphasizes responsible funding policies, provides early intervention tools to address funding imbalances, and provides the ability to attract and retain contributing employers thereby limiting the chances of plan failure or insolvency.
- **Composite Plans Have Proven to Be Viable.** The model has been successfully stress tested and the design is common throughout much of Canada.

Click [here](#) to contact Congress.