



Quality People. Quality Projects.

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.

December 11, 2017

RECENT COURT ACTION ON ISSUES IMPACTING CONTRACTORS

Prohibition of Employee Residency Requirements (aka Local Hire):

Thursday afternoon, the Eighth Appellate District Court of Appeals' in Cuyahoga County upheld a Cleveland trial court's injunction on the statute prohibiting the use of residency requirements on public improvement contracts in Ohio. The court held that the law was unconstitutional and violated municipalities' right of home rule. AGC of Ohio, Ohio Contractors Association, and several other construction and businesses associations, strongly supported the legislation (H.B. 180) that was enacted last year. The court's decision, while disappointing, was expected. The state of Ohio has 45 days from the date of the ruling to file an appeal to the Ohio Supreme Court, which in the past upheld a previous residency prohibition statute related to police and fire. More details will follow as it becomes available. [Cleveland v State](#), 2017.

General Liability Insurance:

The Ohio Supreme Court announced last week that it will hear a case about general liability insurance. AGC of Ohio and several other construction associations had filed amicus curiae briefs encouraging the Court not to hear the case. In January, Ohio's Third District Court of Appeals ruled that an insurer, in this case Cincinnati Insurance, has the duty to defend and indemnify a contractor against claims made by a project owner for property damage resulting from a subcontractor's defective work. The court rejected the Cincinnati Insurance's argument that claims of defective work, regardless of who performed the work, are not covered under CGL policies since defective work does not constitute an insurance. Prior to the District Court's ruling, the trial court found in favor of the insurer. [Ohio Northern University v. Charles Construction Services, Inc.](#)

Municipal Tax Reform, Optional Centralized Net Profits Collection:

More than 100 cities and villages have filed a civil lawsuit in the Franklin County Court of Common Pleas challenging the constitutionality of key municipal income tax reforms signed into law through H.B. 49 in June 2017 and H.B. 5 in December 2014. AGC was an active proponent of the municipal tax changes. The suit names the State of Ohio, Ohio Tax Commissioner Joe Testa, Ohio Treasurer Josh Mandel and Director of the Ohio Office of Budget and Management Tim Keen as defendants, and asserts violation of the Ohio Constitution's home rule authority for municipalities. The suit seeks an immediate preliminary and permanent injunction to halt all work by the State of Ohio to implement centralized net profits filings through the Ohio Business Gateway along with other state-administered municipal tax operations.

The new, optional net profits centralized collection filing feature, part of H.B. 49 provisions, is due to launch for the 2018 tax filing season. Ohio Department of Taxation has said centralized filing could save Ohio businesses an estimated \$800 million in compliance costs if they all participate. Registration has already been available since Oct. 20 on ODT's [website](#). Ohio Tax Commissioner Testa has indicated the state will continue implementing the program, unless ordered otherwise by the court. AGC is working with other supporters of the tax reform legislation to urge the court to refuse an injunction.

HEARINGS CONTINUE ON UNEMPLOYMENT COMPENSATION BILL

The Ohio House continues to have hearings on H.B. 382, legislation that would make changes to Ohio's unemployment compensation laws, despite several hearings with no one testifying, and employer groups and labor opposed. The bill is up for another hearing this week. Speaker Rosenberger has publicly indicated he hopes to vote out the bill before the end of the year, although many question if there are enough votes to pass it.

Hearings have also been held on a companion proposal, House Joint Resolution, H.J.R. 4, that proposes a constitutional amendment to permit the issuance of general obligation bonds to pay unemployment benefits or to repay outstanding advances made by the federal government to the state unemployment compensation program. It has the support of many business groups, but some opponents question the management of the debt service – its potential impact on general revenue funds and Ohio's credit rating.

HELP AGC ADVOCATE FOR YOU - *Contribute to AGC of Ohio Action today!*

Fundraising is part of the political process, and a healthy PAC is vital to AGC's success at the Statehouse! Make checks payable to AGC of Ohio Action (non-corporate contributions only). Sole proprietors, partnerships and unincorporated associations, which include limited liability companies under Ohio campaign finance law, may use company funds to contribute; such contributions should include the name of the entity and individual making the contribution.

AGC TESTIFIES ON STRUCTURAL STEEL WELDING LEGISLATION

On November 28, AGC testified on H.B. 127, legislation that would establish structural steel welding and bridge welding requirements in the Ohio Building Code. The intent of the bill is to prevent the use of falsified certifications for structural steel welds as required by the architect/engineer in project specifications. AGC testified as an interested party, informing the House Economic Development, Commerce and Labor Committee that the bill as drafted was misguided and unworkable.

As a result, an interested party meeting was held last week to discuss changes to better reflect the bill's intent and provide a more practical solution. A new draft of the legislation is expected.

OHIO ASBESTOS PROGRAM UPDATE

Effective January 1, 2018, the Ohio Department of Health's asbestos program will be transferred to the Ohio EPA's Division of Air Pollution Control (DAPC). Take a look at the [fact sheet](#) for information about important details. DAPC has two upcoming webinars about the transition, and participants should register in advance: December 13, 2017, [Ohio EPA and Ohio Department of Health Asbestos Program Merger- The new merged project notification form – Hard Copy](#); and January 4, 2018, [Ohio EPA and Ohio Department of Health Asbestos Program Merger- Online Notification Form](#).

Note the following important deadlines for this program and visit the EPA [web page](#) for more information. send hard copy forms with checks to Ohio EPA Central Office if postmarked after December 21; Ohio EPA begins regulation of asbestos program on January 1; ODH turns off online asbestos notification submission at 5 p.m. on January 2; new merged notification form available on Ohio EPA eBusiness Center on January 5; and all remaining asbestos forms will be available through eBusiness Center in Summer 2018. Submit any questions to asbestos@epa.ohio.gov.



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

SENATE APPROVES TAX REFORM LEGISLATION - *Conferees Begin Negotiations*

On Dec. 2, the Senate passed its version of tax reform legislation on a mostly party line [vote](#) of 51-49, with Senator Bob Corker (R-Tenn.) being the only Republican to oppose the bill. Prior to the vote, Senate Republicans unveiled a host of [last minute changes](#) to the legislation, which included an increase of the pass-through deduction from 17.4 percent to 23 percent. Combined with the Senate's proposed individual rate schedule, this would lower the top marginal effective tax rate on pass-through businesses to 29.6 percent. This is a significant improvement compared to the original Senate proposal.

Unfortunately, however, there were some negative changes as well. The final Senate bill reinstated both the corporate and individual Alternative Minimum Tax (AMT), with the individual AMT income thresholds temporarily increased. AGC is very concerned about this development, and we will work with the Congressional tax writers to ensure that the AMT is fully repealed in tax reform.

Last week, both the U.S. House and Senate voted to go to conference committee, and leadership appointed Republican and Democratic conferees from both chambers. Conferees will meet over the coming weeks to negotiate the [differences](#) between the House and Senate bills, and eventually produce a conference report, which will then be voted on again by both the House and Senate.

[AGC sent a letter](#) to conferees outlining our preferences between the House and Senate bills, along with other outstanding concerns. AGC will continue to aggressively push for the best possible bill for the construction industry during these negotiations.

AGC FIGHTS TO MAINTAIN INFRASTRUCTURE TOOLS IN TAX REFORM - *PABs, Advanced Refunding & Historic Tax Credit*

Last week, AGC of America—along with a broad group of stakeholders—[urged](#) congressional leaders to maintain key provisions in the tax code that help finance infrastructure projects throughout the country. Among others, AGC addressed maintaining the tax-exempt status of Private Activity Bonds (PABs). PABs are a traditional means of tax exempt financing for surface transportation projects, airports, ports facilities, water and wastewater facilities, and multi-family housing projects. PABs and their tax-exempt status were eliminated in the House bill, but maintained in the Senate bill.

AGC also continues to push to maintain the use of Advanced Refunding of Municipal Bonds, which is a tool that allows states and localities to free up borrowing capacity for new investment in infrastructure by taking advantage of lower interest rates on outstanding debt. Advanced Refunding was eliminated in both the House and Senate bills. Additionally, AGC continues to push to maintain another tool – the Historic Tax Credit – as the House bill eliminates the credit and the Senate bill severely restricts its use.

[Contact your U.S. Representative and Senators](#) and tell them to not slash these important incentives for public and private construction.