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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](http://www.agcoho.com/advocacy.html). Direct questions and comments to Andrea Ashley, VP of Government Relations: [andrea@agcoho.com](mailto:andrea@agcoho.com) or (614) 486-6446.

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### OHIO BUSINESSES CAN OPT IN BY MARCH 1 FOR CENTRALIZED FILING OF BUSINESS TAX RETURNS; NEW MUNICIPAL TAX OPTION CAN REDUCE FILING COSTS

A new, optional municipal tax filing and collections system that allows businesses to centrally file and pay municipal net profit taxes through the Ohio Business Gateway is now accepting registrations. As businesses prepare for tax season, they should register to opt-in by March 1 to centrally file in 2018. The election is binding for one tax year.

The centralized filing option is great news for Ohio businesses that file quarterly and annual returns in multiple cities or villages. Ohio Tax Commissioner Joe Testa [estimates](#) the filing option will save businesses a combined \$800 million annually in compliance costs if all Ohio businesses participate.

A group of Ohio cities and villages filed two separate lawsuits in late 2017 that seek to kill recent municipal tax law reforms, but The Ohio Society of CPAs is confident the laws are constitutional as enacted, and the state of Ohio will prevail in moving ahead with centralized filing which will dramatically improve tax filing administration for thousands of Ohio businesses. On Dec. 21, the Franklin County Court of Common Pleas issued an agreed order giving cities additional time to reconcile their ordinances with the law, but said "all other provisions of House Bill 49, other than the Ordinance Reconciliation provisions, ***shall remain in full force and effect*** until or unless further order of this Court."

Business taxpayers should register on ODT's [website](#) to opt in for centralized filing. A business must register on or before the first day of the third month of a taxpayer's fiscal year (March 1 for calendar year filers), and also notify each municipal corporation in which the taxpayer conducted business during the previous taxable year by sending [Form MNP MN](#) to each municipality.

Contrary to assertions, the new municipal tax laws will not reduce the amount of taxes businesses owe. They simply make it easier and less costly for taxpayers to comply with filing in numerous Ohio cities and villages. Participating businesses will file and make one payment of net profit taxes centrally through the Ohio Business Gateway. The Ohio Department of Taxation will then remit payments to the various jurisdictions where tax is due and handle all related administrative tasks, such as refunds and audits.

Since 2012, the [Municipal Tax Reform Coalition](#)—which includes AGC of Ohio, The Ohio Society of CPAs and many other employer associations representing hundreds of thousands of Ohio businesses—has worked to pass reforms aimed at fixing the most burdensome municipal tax system in the nation.

**Related:** [ODT video details municipal net profit tax administration, including how to opt-in.](#)

## HAS YOUR COMPANY EXPERIENCED INCREASED PROBLEMS WITH THE AGENCY EXCLUSION OR OTHER PARTS OF OHIO'S CORPORATE ACTIVITIES TAX (CAT)?

It has come to our attention that over the last year, the Ohio Department of Taxation (the "Department") has become increasingly aggressive in all CAT audits. In particular, the Department has narrowly construed the agency exclusion. Based on public record of its rulings, the Department has denied the agency exclusion in every case. Several cases are being litigated; some cases have been settled but the terms are not public.

Additionally, we have heard that the Department's aggressive position is starting to be addressed in construction contractor audits. The Department appears to be ignoring the guidance set forth in its rule, and is arguing that the agency exclusion does not apply and that the reimbursable costs in a cost-plus contract are subject to CAT.

Please let AGC know if your company has had similar experiences or other problems with how the Department has been addressing the CAT. Contact Andrea Ashley at AGC of Ohio: cell 614-949-2739 or [andrea@agcohio.com](mailto:andrea@agcohio.com).

**Background:** AGC of Ohio took issue with the CAT prior to its enactment due to its "pyramid effect" in- the commercial building industry—a high volume, low margin industry with numerous tiered contractual relationships that results in a significant amount of project dollars being taxed multiple times by the CAT. AGC continues to advocate for a more reasonable application of CAT on the industry.

When the CAT first took effect, there were concerns about whether certain reimbursable costs a general contractor receives from its customer to pay the subcontractors may be considered taxable gross receipts for CAT purposes. Several contractors requested opinions from the Department and the industry reached out for guidance. The Department issued several opinions and ultimately issued guidance in the form of a rule setting forth the criteria they would apply to payments a general contractor pays to a subcontractor. Under the guidance, most cost-plus contracts would qualify for the agency exclusion because the general contractor is acting as an agent for the customer. In those cases, the reimbursable costs would not be subject to CAT. Reimbursable costs under a lump-sum contract are typically subject to CAT.

## LEGISLATURE BACK TO BUSINESS; WHAT TO EXPECT IN 2018

The Ohio House and Senate are back at the Statehouse. Much of the buzz around Capital Square involves the upcoming elections—with all state's House and half the Senate legislative seats up for grabs, high-profile Ohio Congressional races, and statewide executive races. Combined with the political jockeying of two Republicans who want to be the next Speaker of the House... this should be a very interesting year.

Elections tend to impact policymaking. Expect legislators to pass necessary measures, and ones they can promote on the campaign trail (i.e. local project funding in the Capital Bill). More controversial issues are usually saved for lame duck (post-election to December 31, which gives voters at least two years to forget).

**Capital Bill:** The biennial spending measure that funds capital improvements and maintenance of structures is expected to be introduced next month. While details have yet to be made public, many anticipate the dollar amount to be less than the previous budget. It should pass both chambers quickly, and like the other capital bills under Kasich's Administration, without any contentious policy changes.

In addition to the upcoming Capital Bill, AGC continues to monitor many pieces of legislation that impact commercial builders. The following page contains those that have recently been introduced or could have some hearings over the next few months:

### 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.

- HB98 CAREER INFORMATION FOR STUDENTS** (DUFFEY M, BOGGS K) Regarding the presentation of career information to students. **Status:** 1/17/2018 - Senate Education, (1st Hearing)
- HB127 BUILDING CODE REQUIREMENTS-WELDING** (PERALES R, DEVER J) To establish in the Ohio Building Code requirements pertaining to structural steel welding and bridge welding. **Status:** 11/28/2017 - House Economic Development, Commerce and Labor, (3rd Hearing)
- HB164 ROOFING CONTRACTORS LICENSURE** (PATTON T) To require commercial roofing contractors to have a license. **Status:** 12/12/2017 - House Economic Development, Commerce and Labor, (3rd Hearing)
- HB246 DEVELOPMENTAL DISABILITY CLASSROOMS** (BOCCIERI J, REZABEK J) To require the Ohio School Facilities Commission to provide funding to certain county boards of developmental disabilities to assist in the acquisition of classroom facilities. **Status:** 1/16/2018 - House Education and Career Readiness, (3rd Hearing)
- HB268 WORKERS COMPENSATION-SELF-INSURERS** (HENNE M) To make changes to the Workers' Compensation Law with respect to self-insuring employers. **Status:** 12/13/2017 - House Insurance, (3rd Hearing)
- HB269 WORKERS COMPENSATION OVERHAUL** (HENNE M) To rename the entities who carry out workers' compensation functions in this state, to require the Administrator of Worker Safety and Rehabilitation to develop incentives for employers to participate in safety consultations and loss prevention programs, to require an employee who is receiving temporary total disability compensation to comply with a return to work plan, and to make changes with respect to compensation for permanent total disability and death benefits. **Status:** 12/13/2017 - House Insurance, (3rd Hearing)
- HB378 OHIO BROADBAND DEVELOPMENT** (SMITH R, CERA J) To create the Ohio Broadband Development Grant Program and to make an appropriation. **Status:** 12/12/2017 - House Finance, (2nd Hearing)
- HB380 WORKERS COMP-ILLEGAL ALIENS** (SEITZ B, HOUSEHOLDER L) To prohibit illegal and unauthorized aliens from receiving compensation and certain benefits under Ohio's Workers' Compensation Law. **Status:** 12/5/2017 - **PASSED BY HOUSE**; Vote 65-30
- HB382 UNEMPLOYMENT COMPENSATION LAW** (SCHURING K) To modify terms describing payments made under the Unemployment Compensation Law, to increase the amount of wages subject to unemployment compensation premiums, to require qualifying employees to make payments to the Unemployment Compensation Insurance Fund, to allow the Director of Job and Family Services to adjust maximum weekly benefit amounts, to reduce the maximum number of benefit weeks, and to make other changes to the Unemployment Compensation Law. **Status:** 1/17/2018 - House Government Accountability and Oversight, (8th Hearing); Hearings scheduled on 1/23/2018 and 1/24/2018
- HB415 LOCAL GOV ROAD IMPROVEMENT** (GREENSPAN D, RYAN S) To allocate one-half of any surplus revenue to a new Local Government Road Improvement Fund, from which money will be distributed directly to local governments to fund road improvements. **Status:** 12/12/2017 - House State and Local Government, (2nd Hearing)
- HB459 WORKERS COMP-SELF-INSURING EMPLOYERS** (HENNE M) To allow groups of employers to be granted status as a self-insuring employer for purposes of the Workers' Compensation Law. **Status:** 1/16/2018 - Referred House Insurance Committee; First hearing scheduled 1/24/2018
- HJR4 UNEMPLOYMENT COMPENSATION BONDS** (SCHURING K) To allow the General Assembly to provide by law for the issuance of bonds to pay unemployment compensation benefits when the fund created for that purpose is or will be depleted or to repay outstanding advances made by the federal government to the unemployment compensation program. **Status:** 1/17/2018 - House Government Accountability and Oversight, (8th Hearing); Hearings scheduled on 1/23/2018 and 1/24/2018
- HJR8 PRIVATE SECTOR UNION PROHIBITIONS** (BECKER J, RIEDEL C) Proposing to enact Section 22 of Article I of the Constitution of the State of Ohio to prohibit laws, rules, and agreements that require employees of private sector employers to join or pay dues to an employee organization and to prohibit employee organizations from representing nonmember private sector employees in employment-related matters. **Current Status:** 1/16/2018 - Referred House Government Accountability & Oversight Committee
- HJR9 PUBLIC CONTRACTOR WAGE PROHIBITIONS** (BECKER J, RIEDEL C) Proposing to enact Section 43 of Article II of the Constitution of the State of Ohio to prohibit a public authority from requiring a contractor on a public improvement to pay the contractor's workers the prevailing rate of wages for work performed on the public improvement. **Current Status:** 1/16/2018 - Referred House Government Accountability & Oversight Committee
- HJR10 GOVERNMENT CONTRACTS-REQUIREMENT PROHIBITIONS** (BECKER J, RIEDEL C) Proposing to enact Section 2 of Article XV of the Constitution of the State of Ohio to prohibit certain requirements or prohibitions regarding labor agreements in government contracts. **Current Status:** 1/16/2018 - Referred House Government Accountability & Oversight Committee
- SB8 SCHOOL INFRASTRUCTURE AND TECHNOLOGY** (GARDNER R, TERHAR L) To require the Ohio School Facilities Commission to establish a program assisting school districts in purchasing technology and making physical alterations to improve technology infrastructure and school safety and security. **Status:** 12/22/2017 - **SIGNED BY GOVERNOR**; Eff. 90 days

## **BWC OPENS REGISTRATION FOR OHIO SAFETY CONGRESS; ROLLS OUT WORKPLACE WELLNESS PROGRAM**

**Safety Congress:** Registration opened for the [Ohio Safety and Congress Expo](#) set for March 7-9 at the Greater Columbus Convention Center. Hosted by the Ohio BWC, admission is free. The event provides educational programs for Ohio's leading industries, including construction employers: [view](#). Learn more and register at [www.ohiosafetycongress.com](http://www.ohiosafetycongress.com).

**Wellness Program:** Ohio BWC officials began canvassing the state Thursday to announce a new, free workplace wellness program that targets workers who are at greater risk for on-the-job injuries. Called [Better You, Better Ohio!](#) and sponsored by the BWC, the program's goals are to boost employee health, reduce workplace injuries, and save employers money on medical, legal and other costs associated with injury claims and poor health.

[Better You, Better Ohio!](#) will target employees of businesses with 50 or fewer workers in industries that experience higher injury rates on average than others like construction. Available February 1, it is funded by BWC's investment returns and operated by ActiveHealth Management. Enrollment is a simple, paperless process, and there is no charge to employers or employees.

## **OFCC NEWS: PROJECT SIGNAGE UPDATE & MORE**

With the recent notification of the sunseting of the Ohio School Facilities Commission (OSFC), the Ohio Facilities Construction Commission (OFCC) has been in the process of updating documents/specifications.

The following documents have been recently updated, and will be included in the 2018 edition of the *Ohio School Design Manual (OSDM)*: K-12 Dedication Plaque; K-12 Drawing Title Sheet Boilerplate; K-12 Specification Title Page; and K-12/Agency/Higher Education Project Signage. In the meantime, they can be found on the [OFCC website](#), and should be used on OFCC-funded K-12 projects. On Agency and Higher Education projects managed by OFCC, use the revised Project Signage layout.



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

### **TAX REFORM'S IMPACT ON YOUR CONSTRUCTION BUSINESS & MARKET**

**Complimentary AGC [WebEd](#): January 30 from 2:00 to 3:00 p.m.**

Congress recently passed the most far-reaching tax reform legislation since 1986. No matter what your construction market—public or private—or construction firm—C-corporation, S-corporation, LLC, LLP, or partnership—the new tax reform law will have an impact on you. [Register today](#) for this complimentary AGC webinar and learn more.

During the program tax and accounting firm CBIZ's Cord Armstrong (a CPA and leader in the firm's National Construction Industry Practice Group), AGC's lead infrastructure and tax lobbyists and policy experts Sean O'Neill and Matt Turkstra, and Chief Economist Ken Simonson will discuss: the impact of the new law on your construction business, no matter the type—C-corp, S-corp, LLC, partnership, etc; Things your business should consider before converting to a C-corp, such as the 20 percent pass-through deduction and how it works; changes to tax incentives for public and private construction, including but not limited to private activity bonds and the historic tax credit; ambiguities in the law to be aware of and the chances of this Congress enacting "technical corrections" to address them; what's next for the Department of the Treasury and Internal Revenue Service when it comes to issuing guidance and regulations to help you understand how to comply; and how AGC advocated for your construction business throughout this process and continues to do so.

For more information, [click here](#).

## **AGC URGES CONGRESS TO FUND THE GOVERNMENT**

### ***What Contractors Should Know about a Shutdown***

On Jan. 18, AGC [urged](#) Congress to pass a short-term funding bill that would avoid a government shutdown and provide temporary relief from several Obamacare taxes impacting construction employers. AGC has compiled resources – [What Contractors Should Know in the Event the Government Shuts Down](#) – to help your company deal with the consequences of a government shutdown.

As noted, the funding bill would additionally provide essential relief from a number of Obamacare taxes that would otherwise detrimentally impact construction contractors, especially small businesses. Specifically, the bill delays until 2022 the [Cadillac tax](#), a 40 percent excise tax on employer-sponsored health coverage whose benefits exceed specific thresholds. The legislation would also provide a one year, 2019 moratorium on the [health insurance tax](#) that will increase the cost of health insurance for small business employers, the majority of AGC's construction contractor membership.

## **MULTIEMPLOYER PENSION PLAN REFORM: COMPOSITE PLAN LEGISLATION TO BE INTRODUCED**

### **[Take Action!](#) Encourage Congress to Support**

On Tuesday, AGC of America participated in a media rollout of the Give Retirement Options to Workers (GROW) Act with the future bill sponsors, the National Coordinating Committee for Multiemployer Plans and North America Building Trades Union. The GROW Act is more commonly known as composite plans and has long been an AGC priority. Below are several media stories:

- Sandherr/McGarvey OpEd - [The time is now to ensure multiemployer pension plan security](#), January 9, 2018 The Hill
- [Bill Meant to Stabilize Union Pensions on Way in House](#) January 9, 2018 BNA
- [Lawmakers Working to Overhaul Pension Rules](#), January 9, 2018 The Washington Free Beacon
- [Roe, Norcross Unveil Bipartisan Plan to Give Retirement Options to Workers](#), January 9, 2018 Press Release

The legislation could be formally introduced soon and AGC is calling on members to send letters of support to their legislators by the [AGC Legislative Action Center](#).

**Additional Background:** AGC continues to work with Congress, the Building Trades and other stakeholders in the authorization of composite plans. AGC has long viewed the plan design as being comprised of the best features of defined benefit plans and defined contribution plans. These composite plans would offer voluntary options to share risks to provide funding stability, provide lifetime income to participants and limit employer obligations to negotiated contributions only.

Composite plans were initially proposed in the NCCMPs Solutions Not Bailouts, but were not included in the Multiemployer Pension Reform Act of 2014 (MPRA). Since that time AGC has led efforts to advance composite plans. Efforts are also underway to refine proposals to save distressed plans where MPRA is not an option (including but not limited to Central States). We are working to provide credible and realistic solutions to the solvency problems of these plans which will not increase the long-term financial exposure for non-distressed plans in the multiemployer system.

More information can be found on the campaign website: [Save Our Futures](#).

## **THE KEY TO MORE EFFICIENT CONSTRUCTION PROJECTS IS COLLABORATIVE CONTRACTS**

AGC of America recently participated in a *Construction in America* campaign where AGC united with likeminded industry leaders to advocate for how modern technology, people and equipment are helping our construction professionals manage risk and build quality projects safely, on time and within budget. The campaign was distributed through USA TODAY on December 19<sup>th</sup>, 2017 and is published online [here](#).



## NLRB OVERTURNS AGC-OPPOSED BROWNING-FERRIS “JOINT EMPLOYMENT” RULING

On December 14, the National Labor Relations Board (NLRB) [overturned](#) a highly controversial and AGC-opposed 2015 [ruling](#) in Browning-Ferris Industries and effectively returns the joint employment standard to the prior standard. AGC submitted an [amicus brief](#) with other associations supporting Browning-Ferris’s appeal of the 2015 decision in the U.S. Court of Appeals for the District of Columbia Circuit.

The Board determined that, to be classified a "joint employer" of another company’s employees under the National Labor Relations Act, a business must have a direct and immediate control over the employees. The Board said the Democratic majority in *Browning-Ferris* overstepped its authority by altering the legal definitions of employment and by holding that a company could be a joint employer even if it had only indirect or reserved control over the employees in question.

## OSHA’S SILICA RULE UPHELD BY DC CIRCUIT COURT

On Dec. 22, the U.S. Court of Appeals for the District of Columbia Circuit upheld OSHA’s controversial occupational exposure to crystalline silica rule, rejecting all industry challenges to the rule. Ultimately, the court’s decision means that the rule will remain in effect as written. That is why AGC has long cautioned our members to take the steps necessary to comply with the rule—utilizing AGC’s silica compliance educational resources—instead of anticipating a legal victory.

The construction industry challenges to the rule primarily focused on whether it is technologically and economically feasible, while also raising concerns regarding certain aspects of the medical surveillance requirements and the prohibition of dry sweeping during cleanup operations. The decision underscores just how difficult it is to overturn federal regulations, even one as deeply flawed as this. AGC’s intention has always been to find a way to continue reducing exposure to, and illness from, silica. While SHV never disagreed with federal officials’ motives, AGC has long felt that this rule would do little to improve workplace health and safety and that better approaches exist.

Moving forward, AGC will continue to work closely with federal officials to both help ensure the undertaking of reasonable enforcement efforts and to help improve and expand upon Table 1, which lists “safe harbor” guidelines for compliance regarding 18 silica generating construction tasks. AGC will also maintain efforts to provide members with resources and support to comply. In particular, AGC will continue working to stimulate the development of new technology that will enable firms to comply with standards that exceed current technological capacity.

### Silica Resources

- **AGC of America Silica Webpage:** AGC developed the [“Respirable Crystalline Silica in Construction”](#) webpage with a host of resources—sample forms, webinars, flowcharts, FAQs, and more—to help AGC members understand their compliance responsibilities. Also includes the [Silica Inspection Reporting Form](#).
- **CEA Silica Program:** Several AGC divisions in Ohio are participating as “Contributing Associations” in a [silica program](#) developed by the Construction Employers Association (CEA) to assist contractors with compliance, especially for tasks not covered under the Silica Rule’s “Table One,” which requires sampling or the use of “objective data.” The program saves contractors thousands on silica sampling while simultaneously building a searchable sampling database for the construction industry to create “objective data.” Participating contractors can rely on the database in the future when managing employee safety and multiple-contractor activities where job tasks produce respirable silica emissions. Contact your local AGC division to see if the association is participating. Learn more at: [www.ceacisp.org/safety/silica-sampling-objective-data-program](http://www.ceacisp.org/safety/silica-sampling-objective-data-program).