



## AGC of Ohio's Advocacy Efforts - 2019

AGC of Ohio's government affairs program covers all three branches of state government.

Below is a synopsis of some of the efforts in 2019. Direct related questions to Andrea Ashley at AGC of Ohio (614) 486-6446 or [andrea@agcoho.com](mailto:andrea@agcoho.com).

### Legislative

**INFRASTRUCTURE & FACILITIES FUNDING:** AGC of Ohio supported the gas tax increase that will provide additional state infrastructure funding; more money and grants for school construction and public improvements; and some tax incentives for private projects (H.B. 62, H.B. 166, S.B. 4).

**WORKFORCE DEVELOPMENT:** Much legislation has been introduced to help a myriad of industries recruit workers, create and recognize credentials, encourage career education and pathways within schools, etc. AGC continues to educate lawmakers about the construction industry's workforce concerns and support legislative efforts to address them, while at the same time trying to ensure the proposals support the industry and does not unintentionally hinder current workforce programs and efforts.

**CONSTRUCTION INDUSTRY STANDARDS, REGULATIONS:** Several measures have been introduced that impact construction standards, licensing, and regulations. A prime example is the state's operating budget bill (H.B. 166) that passed this summer. AGC had welding standard language altered to ensure the welding responsibility/risk was appropriately assigned and to avoid an unnecessary bureaucracy that could slow the building permit process. AGC supported a provision that would allow the state's building department to share staff with local building departments to assist with plan review and inspections. Currently, AGC is working with legislators and different agency staff to address concerns with a provision added late to the bill that mandates a "2-for-1" regulatory reduction for any new rule, which could wrongly impact life-safety standards such as building and fire codes.

### Government Agencies, Administration

**CONTRACT DOCS, PROCUREMENT, OAKS-CI:** AGC of Ohio has a workgroup of members that meets with Ohio Facilities Construction Commission (OFCC) officials to discuss improvements to contract documents and procurement processes. Another group meets with OFCC to address challenges with OAKS-CI, learn more about OFCC's plans to fix the program, and recommend improvements. Some changes to the documents and OFCC processes have been made as a result, and AGC continues to advocate for more reforms.

**BUILDING CODES, REGULATIONS:** AGC of Ohio works with the Ohio Department of Commerce, Industrial Compliance and Board of Building Standards on building code and regulatory matters affecting commercial builders, including the application of new welding standards and how a recent regulatory reform law requiring agencies to remove two rules to add one will impact building and fire safety codes.

**WORKFORCE DEVELOPMENT, CONSTRUCTION CAREERS:** AGC of Ohio has collaborated with many public agencies to promote the industry and construction careers, as well as the I Build America - Ohio (IBAO) marketing campaign and website. Government entities like Jobs Ohio, Governor's Office of Workforce Transformation, Departments of Education and Higher Education, and the Apprenticeship Council have helped promote IBAOhio and participate in its Construction Appreciation Week.

**EDGE/MBE:** After the Inspector General Report highlighting the inadequacies of Ohio’s EDGE program, AGC met with the new leadership team at the Ohio Dept. of Administrative Services (DAS) to inform them about some of the challenges contractors face with the program and ways it could be improved.

**COMPETITIVE PROCUREMENT:** The Seneca County Prosecutor requested an opinion from the Attorney General (AG) about whether a public authority can avoid competitive processes for the award of contracts by characterizing the work as a shared service with other local governments. AGC, in conjunction with OCA, submitted a brief to the AG articulating the importance of applying public improvement laws. The AG’s opinion upheld public improvement laws under most circumstances unless specifically expressly stated otherwise in Ohio laws.

Along those lines, AGC also educated new DAS officials about an ongoing issue of a DAS maintenance contractor trying to obtain public improvement projects under its maintenance contract, bypassing public construction procurement laws related to the award of projects. AGC continues to monitor the situation.

## Court Cases

### STATUTE OF REPOSE

*New Riegel Local School Dist. Bd. of Edn. v. Buehrer Group Architecture & Eng., Inc., 2019-Ohio-2851*

The Ohio Supreme Court on July 17 reversed a court of appeals decision and declared that Ohio’s construction statute of repose applies to both tort and contract actions, providing much needed clarity and finality to construction defect claims against contractors in Ohio. AGC of Ohio and the Ohio Contractors Association (OCA) filed a joint “friend of the court” brief in support of the construction industry’s concern with the lower court’s decision. The Ohio Supreme Court in September denied a motion for reconsideration. The case will go back to the Third District Court of Appeals to determine whether a case can still proceed if the defect claim accrues during the statute of repose period and there is still time left to bring a claim under the statute of limitations. AGC of Ohio continues to monitor the case and support the industry’s interests in it.

### RESIDENCY REQUIREMENTS PROHIBITION ON PUBLIC IMPROVEMENTS

*City of Cleveland v. State of Ohio, Case no. 2018-0097*

In 4-3 decision, the Ohio Supreme Court on September 24 upheld the AGC of Ohio-supported law (HB 180, 2016) prohibiting local hire requirements on public improvements. The city of Cleveland sued the state over the law, claiming the state law is an unconstitutional attempt to override its home rule authority under the Ohio Constitution. The trial court in Cleveland had issued a permanent injunction to stop enforcement of the state law in January 2017, and it was upheld by the Cuyahoga County Court of Appeals. AGC of Ohio was a very ardent proponent of the legislation and filed an amicus with the Ohio Supreme Court supporting the law in conjunction with the OCA. The City of Cleveland asked the Ohio Supreme Court to reconsider its decision, and Court declined to do so.

### MUNICIPAL TAX REFORM

*Athens et al. v Ohio State Tax Commissioner et al. (case no.’s 18AP000144 & 18AP000189).*

The Ohio Supreme Court on August 6 granted jurisdiction to hear the cities’ appeals on two cases involving municipal tax reform and will decide if the laws violate the Home Rule provision of Ohio’s constitution. An appeals court had upheld the laws in April. AGC of Ohio has been a strong and vocal advocate of the municipal tax reform legislation, as well as the state’s efforts to defend the laws. AGC filed an amicus in support of the state’s position in the lower courts and Ohio Supreme Court in conjunction with other business groups.