



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.

March 12, 2020

STATE RESPONDS TO CORONAVIRUS (COVID-19); EMPLOYER RESOURCES

On Monday, Governor DeWine declared a state of emergency after three people tested positive for the Coronavirus (COVID-19) in Cuyahoga County. By Wednesday the state's first case of community spread was confirmed, and Ohio Department of Health Director Amy Acton indicated that COVID-19 community spread is almost certainly occurring in other parts of the state as well.

A state Coronavirus (COVID-19) [website](#) keeps a running update of the situation in Ohio. As of today, there have been five confirmed cases in state, 52 persons "under investigation," 30 people that tested negative and for whom no further follow-up is needed, and 333 individuals under "health supervision." (The website is updated daily at 2 p.m.)

Coronavirus concerns forced the cancellation of the in-person portions of the BWC Safety Congress, and most state colleges are providing instruction solely online. The Governor requested that upcoming indoor sporting events be played without spectators, and Democratic presidential candidate hopefuls Bernie Sanders and Joe Biden cancelled campaign rallies in Cleveland. Even some statehouse staff have voluntarily quarantined themselves after being exposed to someone carrying the virus at a CIPAC event. With a very light calendar this week and next due to primaries, COVID-19's impact on the legislature has yet to be seen.

Needless to say, our state government is in flux as it attempts to stem a widespread outbreak and determine the best course of action to protect Ohioans. Many employers and individuals are also trying to figure out what to do. AGC of America recently created a [resource page](#), and the Centers for Disease Control (CDC) produced [Interim Guidance for Businesses and Employers](#).

AGC of Ohio will maintain a list of COVID-19 employer resources on its webpage for companies to use as a reference. If there is a useful resource not included on the list, please send it to andrea@agcoho.com.

Centers for Disease Control (CDC): [Coronavirus webpage](#); [Interim Guidance for Businesses and Employers](#)

CDC recommended [basic protective measures](#)

- Wash your hands often with soap and water for at least 20 seconds
- If soap and water are not available, use an alcohol-based hand sanitizer
- Avoid touching your eyes, nose and mouth with unwashed hands
- Avoid close contact with people who are sick
- Stay home when you are sick
- Cover your cough or sneeze with a tissue, then throw the tissue away
- Clean and disinfect frequently touched objects and surfaces

Proven Disinfectants: [EPA’s Registered Antimicrobial Products for Use Against Novel Coronavirus SARS-CoV-2, the Cause of COVID-19](#)

Ohio Call Center, Website: Ohio Department of Health opened a call center to answer questions regarding coronavirus (COVID-19) and set up a website with state-specific information, <https://coronavirus.ohio.gov>. The call center will be open seven days a week from 9 a.m. until 8 p.m. and can be reached at 1-833-4-ASK-ODH (1-833-427-5634). Call center staff includes licensed nurses and infectious disease experts who can answer questions and provide accurate information about COVID-19, the risk to the public, and the state’s response.

OSHA: A new OSHA [alert](#) and [guidance document](#) on COVID-19 provide general practices to help prevent worker exposure to coronavirus.

AGC of America: [Coronavirus Resource Page](#)

Legal Articles of Interest from AGC-Member Law Firms:

- Thompson Hine, [Novel COVID-19 Virus, Commercial Contracts and Force Majeure](#)
- McDonald Hopkins, [Confronting the Impossibility of Performing under a Contract - Using a force majeure provision in response to the coronavirus outbreak](#)

BILL BANNING SYNTHETIC URINE PASSES OHIO SENATE; COURT HEARS ARGUMENTS ON DIRECT OBSERVATION URINE DRUG TEST

In February, [legislation](#) banning the sale of synthetic urine passed the Ohio Senate, and currently awaits its House committee assignment to begin deliberations in that chamber. [S.B. 156](#) (Gavarone, R-Bowling Green) was introduced at the request of the Construction Employers Association (CEA), which houses the Cleveland AGC, and is supported by AGC of Ohio.

In a related matter, the Ohio Supreme Court heard oral arguments late January in a case in which employees are suing a company for using direct observation for drug test urine samples ([Lunsford v Sterilite of Ohio, LLC](#)). A decision has yet to be rendered in the case.

DAS TO PROPOSE SUBSTANTIVE RULE CHANGES TO EDGE

In late 2018, an Ohio Inspector General’s Report highlighted problems and inadequacies with the Department of Administrative Services (DAS) Equal Opportunity Division’s (EOD) Encouraging Diversity and Growth Enterprise (EDGE) program. The following spring AGC of Ohio staff met with the newly appointed DAS Director Damschroeder and other key staff to discuss challenges contractors face with the program and ways it could be improved. EOD staff has held meetings with interested parties across the state to discuss EDGE and obtain feedback.

The input has been used to assist DAS in promulgating rule changes to EDGE. Among the changes expected, which were supported and recommended by AGC and members, include having aspects of the program more closely mirror the federal SBA program and ending the ten-year graduation time limit.

DAS is currently finalizing the proposed amendment to the rules, and once completed will submit it to the [Common Sense Initiative](#) (CSI). CSI reviews business-impacting rules, helps businesses navigate regulatory obstacles, and leads initiatives to improve Ohio’s regulatory climate. This will be the first opportunity for the business community to comment on the amended rules’ package and its potential impact.

AGC will keep members apprised as the proposed rule changes are released and solicit feedback for any comments the association should make on them.

DID YOU KNOW THAT... The State of Ohio has a Regulatory Reform eNotification System where you can directly receive notices about state regulatory proposals impacting your business? Click [here](#) to learn more.

COURT CASES OF INTEREST TO CONTRACTORS

- **Spearin Doctrine:** [Unanimous verdict reinforces the applicability of the Spearin Doctrine](#) (Courtesy of Hahn Loeser)
- **Article 8 Notice:** [Appellate court rejects argument that contractor waived claim by failing to comply with Article 8 notice requirements](#) (Courtesy of McDonald Hopkins)

BWC TRENCHING WEBSITE AND SAFETY GRANT

BWC recently launched a new \$2 million safety grant program to assist employers in purchasing equipment to protect their workers while working in trenching and excavating situations.

BWC's [Trench Safety Grant Program](#) provides 4-to-1 matching funds, up to \$12,000, to Ohio private and public employers covered by the State Insurance Fund who wish to purchase equipment to substantially reduce or eliminate injuries and illnesses associated with trenching and excavation. The grant funds can assist employers in purchasing safety equipment, such as trench boxes and hydraulic shoring. Along with the grant, BWC will provide training and educational materials for employers to share with their employees on basic requirements of trench safety.

Visit trenchsafetyohio.com for links to trenching safety information and tips, training, and publications.



ON THE NATIONAL FRONT...

Information courtesy of AGC of America

Learn more about AGC of America's advocacy efforts at <https://advocacy.agc.org>.

U.S. House Approves PRO Act Despite AGC Opposition; Uphill Battle in Senate

On February 6, the U.S. House of Representatives passed [224-194](#) the misleadingly-named [Protecting the Right to Organize \(PRO\) Act](#). AGC of America describes the bill as perhaps the most far-reaching attempt to change labor laws AGC has ever seen. Thank you to all the AGC of Ohio members that reached out to their U.S. Representatives in opposition!

The PRO Act is an unprecedented attempt to fundamentally change dozens of well-established labor laws to assist organized labor without regard to their detrimental impact on open-shop firms, union contractors, and the economy. If enacted, the PRO Act would completely upend decades of work to balance employee and employer rights and restrictions settled in courts, the National Labor Relations Board, and Congress.

It now faces an uphill battle in the Republican-controlled U.S. Senate.

Free AGC WebEd | Mar. 24 | 2-3 PM ET | Register: www.agc.org/events

Commonly Misunderstood Stormwater Permit Provisions

Join two construction professionals as they seek answers to commonly misunderstood provisions in stormwater permits in a discussion with the U.S. Environmental Protection Agency's Office of Wastewater Management.

Using a Q&A format, this free AGC WebEd will cover issues related to managing and updating the site's stormwater pollution prevention plan, steps to take when stabilization is complete, winter shutdown, and prohibited discharges. EPA will clarify the technical points in the federal Construction General Permit and discuss recent modifications to the permit to address responsibility for shared controls and the definition of "operator."