

2015 ANNUAL LEGISLATIVE REPORT ON CONSTRUCTION RELATED LEGISLATION



INTRODUCTION

2015 Annual AGC Legislative Report

The Associated General Contractors of South Dakota, Inc., Highway-Heavy-Utilities Chapter and Building Chapter (AGC) again had a full-time presence at the state capitol for the 2015 Legislative Session. AGC lobbyist Deb Mortenson read each of the 519 bills, commemorations and resolutions introduced this session. Bills of interest to the construction industry were referred to the HHU Government Affairs Committee and the Building Chapter Legislative Committee with the pros and cons of the bill summarized, and a link to the full bill included. Bills were also discussed during the weekly legislative telephone calls with each chapter. Input from members helped shape AGC's stance on each piece of legislation of interest to the construction industry. AGC's lobbying is truly a team effort. Be assured that the legislative session is covered thoroughly for the construction industry.

After all bills were introduced during 90th annual session, AGC had a busy year with 17 bills on the bill tracker that covered topics including highway funding, technical institutes, economic development and business protection.

Overall, the legislative session went well for the construction industry. Most bills that AGC supported passed, and most that AGC opposed were defeated. One area where AGC had a big win was in highway funding.

Highway Funding

The passage of Senate Bill 1 will increase state and local highway funding by more than \$85 million. Passage of this bill was the result of work on many levels. It began years ago when AGC made passage of meaningful highway funding a legislative priority. The work AGC did with the South Dakota Roads are Vital Coalition (SDRAV), plus the impressive work product of the 2014 Highway Needs and Financing Summer Study Committee convinced Governor Dennis Daugaard that 2015 was the year to pass highway funding legislation. The crew at the capitol that worked the highway funding issue was composed of AGC, SDRAV Coalition members, two SDRAV lobbyists, members from the Governor's staff and legislators who had absolute buy-in to the need for more funding. The process to passage was convoluted and went down to the final hours of the 2015 Legislative Session. But Senate Bill 1 passed with an emergency clause and goes into effect April 1, 2015. Please refer to page 6 for a full explanation of the bill.

SB 1 – Was the bill submitted by the Highway Needs and Financing Summer Study Committee. SB 1 was hog housed with the language from HB 1131, the Governor’s highway funding legislation, and substantially amended through the process. As predicted, SB 1 ended up in an end-of-session conference committee to iron out differences between House and Senate amendments. After contentious floor debate on the last day of the main run of session, the Senate concurred with the conference committee report and sent the bill to the House. The House also agreed overwhelmingly to adopt the conference committee report. Governor Daugaard signed the bill and it becomes law April 1, 2015. A chart explaining the provisions of the bill is attached.

HB 1131 – The highway funding bill introduced by Governor Daugaard. After it was amended in House Transportation committee, it was sent to the 41st Legislative Day by House State Affairs committee so they could take the time to focus on SB 1.

Numerous Place Holder Bills – Nine bills were introduced as placeholders, a term which means that a bill would be ready to amend with highway funding language if SB 1 or HB 1131 were both killed. AGC kept an eye on them all until they were killed by their sponsors.

SB 41 –The bill was needed to comply with federal Commercial Driver’s License Testing and Commercial Learner’s Permit Standards Final Rules. Failure to adopt this language would result in the loss of federal motor carrier inspection funding and federal highway funding. SB 41 has been signed by the Governor.

Technical Institutes

In addition to efforts made by Governor Daugaard to enhance workforce development through funding technical institutes and providing scholarships, several steps were attempted by the legislature to enhance technical institutes as well. AGC lobbied in support of the following:

HB 1072 – This bill asked that technical institutes be given access to names and mailing addresses of high school students so that they can send them information about their programs. The Board of Regents has long had access to these lists. Governor Daugaard has signed the bill.

HB 1118 - Provided further fine-tuning to a law passed last session that outlines how technical institutes can govern themselves. HB 1118 has been signed by the Governor.

HJR 1003 - Will place on the November 2016 ballot language that clarifies that the Board of Regents governs state universities and that technical institutes may govern themselves. This is part of the “coming of age” process for technical institutes led by Representative Mark Mickelson. It was approved by both chambers and delivered to the Secretary of State.

SB 106 – With the push to self-govern, the technical institutes will need money to care for brick and mortar. SB 106 was an attempt to get money from the general fund to care for technical institute buildings. Due to a \$10 million shortfall in state revenues this fiscal year, this and several other bills were not funded this session. SB 106 was deferred to the 41st legislative day.

Amendment to the state’s general budget – There was an amendment crafted for inclusion in the state’s general budget seeking \$1 million for brick and mortar at technical institutes who choose to self-govern. The joint appropriations committee did not adopt this, or many other proposed amendments to the budget due to state revenue shortfalls.

Economic Development

SB 135 – Sought an extra city penny sales tax. AGC supported this bill, and has supported similar bills in the past as they would increase construction spending if passed. SB 135 would have allowed each city to adopt a one cent sales tax increase by ordinance for a specified period of time. Money raised would go to capital expenditures including construction of projects, facilities, utilities, streets, etc. SB 135 made it through the Senate but died in the House State Affairs committee by one vote. An attempt to smoke the bill out on the House floor failed.

Business Protection

HB 1103 - Brought by the SD Trial Lawyers Association, this bill sought to shift the measure of negligence from “slight” to “greater than.” If the bill passed, the plaintiff would only be barred from recovery if their negligence was greater than the defendant. Passage could lead to increased litigation, more money paid by jury verdicts and through settlements and lead to an increase in insurance premiums.

Contributory negligence is a defense to a claim based on negligence, relevant to the determination of liability. It is applicable when claimants/plaintiffs have, through their own negligence, contributed to the harm they suffer by actively ignoring warnings or failing to take reasonable steps for their own safety. An example would be a person ignoring warning signs posted at a construction zone that causes an accident due to speed. The defense of contributory negligence provides protection for business owners because of the “slight” standard used in South Dakota to measure negligence.

HB 1103 made it through the House and a Senate committee. AGC and other business and insurance groups worked hard and succeeded in killing the bill on the Senate floor.

HB 1105 – Sought to allow an independent subcontractor who does not purchase work comp insurance to sign an affidavit of exempt status, creating a "rebuttable presumption" that the affiant is not an employee for the purpose of SD workers comp law. The bill sponsors were trying to protect small subcontractors who cannot afford insurance by allowing them to provide an affidavit in lieu of a certificate of work comp insurance. But who would ensure that his subcontractors would sign the affidavit? The bill was messy and potentially dangerous for the general contractor.

AGC, the Sioux Falls Homebuilders Association and the South Dakota Retailers Association worked out an amendment with the bill sponsors, who are in legislative leadership, to allow use of the affidavits to be optional. We told them that AGC would continue with best practices of requiring a certificate of workers compensation coverage. It's a good compromise; general contractors do not have to accept the affidavits, and legislative leadership is pleased that we did not try to kill their bill.

HB 1207 – Sought to limit capital outlay revenue growth to 3% or inflation whichever is higher, plus new growth in a school district. The bill was a reaction to property tax growth after the productivity method was introduced several years ago. AGC opposed this bill as introduced, since it would have curtailed how schools could use their capital outlay programs. It was amended in committee by adding a sunset and step down for use of capital outlay for general fund uses. After these amendments were added, AGC monitored the bill. The bill was sent to the 41st legislative Day. Despite persistent rumors of a smoke out attempt, the bill stayed dead, but watch for it to return in subsequent sessions.

SB 59 – This was an attempt to establish a state debt collection office. The original bill called for employers to collect state debt from their employees without a court order and for the sum of \$15 per collection. In addition, the original bill said that those who owed the state could not get a driver's license, professional license or hunting and fishing license until the debt was paid. AGC and other business groups met with the Department of Revenue and expressed opposition to the bill as written. Several redrafts later, the bill created an office of debt collection and did not rely on employers to act as their collection agency. The loss of professional licensure was also removed, but the nonrenewal of drivers licenses remained. SB 59 has been signed by the Governor.



SB 72 – Introduced on behalf of utility companies who wanted to excavate without waiting for other utilities to mark during emergencies. This would have bypassed One Call provisions and exposed contractors to liability. AGC and others opposed this bill and the bill sponsor withdrew it.

SB 156 – This bill would have dictated how employers allocated paid sick leave for their employees. AGC and all business groups testified in opposition to this bill, and it was deferred to the 41st Legislative Day.

For a complete list of the bill tracker – log on to: www.sdagc.org

CONPAC of South Dakota



The Contractors Political Action Committee, or CONPAC, is gearing up for the 2016 election cycle. **Remember that you can either contribute to CONPAC individually or through a corporation.** We hope that you enjoy the flexibility in giving and contribute generously to CONPAC on an annual basis. Please remember that when you contribute to CONPAC, you are also a member of CONPAC. When you are a CONPAC member, your voice is heard when decisions need to be made about contributions, bylaws, or policies.

Here's how it works: CONPAC assess all candidates for statewide office in South Dakota after the June primary. CONPAC uses input from members on new candidates and voting percentages on incumbent legislators to determine campaign contributions. Contribution checks are delivered by members to candidates in July. Make sure you have made a contribution to CONPAC so you can participate in the process of electing our leaders.

The South Dakota Contractors PAC was very active during the 2014 election cycle. CONPAC awarded more than \$20,000 to 64 candidates from two state-wide offices and most legislative races. Governor Dennis Daugaard, Secretary of State Shantel Krebs and most candidates to whom CONPAC contributed won their election. For decades, CONPAC has been the voice of the construction industry and has worked to elect business friendly legislators and influence ballot measures that impact the industry.

AGC of America Political Action Committee

The AGC of America Political Action Committee was established in 1977. AGC PAC is the non-partisan, federal political action committee of the Associated General Contractors of America. Its mission is to build a better Congress for AGC members. AGC PAC works to accomplish this through electing candidates for federal office who support the national legislative priorities of AGC.



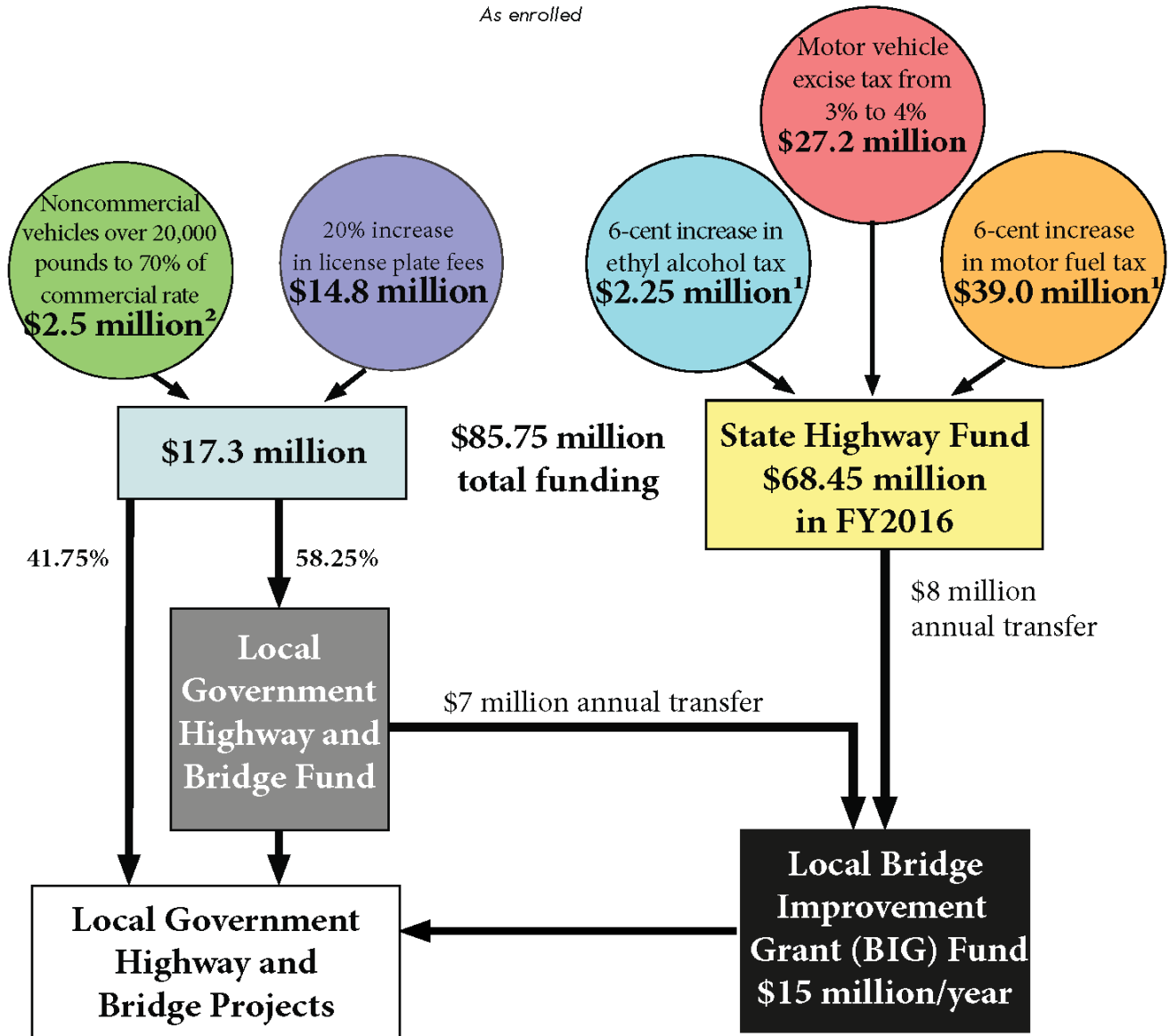
Through its efforts, AGC PAC encourages the political engagement of all AGC contractors to help shape a construction-friendly, federal legislative and regulatory environment.

Your contribution to the AGC PAC will ensure our message to Congress to **Make Transportation Job #1** and invest in our communities, our people and our transportation infrastructure.

For information on contributing to AGC PAC, log onto www.agc.org/PAC or e-mail Jeff Shoaf at shoafj@agc.org or 202-547-3350.

SB1 Road & Bridge Funding Legislation

As enrolled



Amendments

1. 6 cents/gal. motor fuel and ethyl alcohol tax increase, effective April 1, 2015.
2. License plate fees for non-commercial vehicles over 20,000 pounds will increase from 60% to 70% of commercial rates on July 1, 2015, and from 70% to 80% on July 1, 2016.
3. Counties have authority to assess up to \$5 a wheel on vehicles up to a maximum of 12 wheels.

Additional details:

- A new Local Bridge Improvement Grant (BIG) Fund would be created.
- The SDDOT will swap state road funds for federal road funds for local governments. Federal funds have numerous requirements that make local projects significantly more expensive and are restricted to federal-aid eligible routes. The state funds that local governments receive can be used in a more flexible manner to help address local road needs.
- Counties allowed to assess between \$0.60 and \$1.20 per \$1,000 of taxable property valuation for road needs, depending on each county's total taxable valuation.
- Townships allowed to assess up to \$0.50 per \$1,000 for road needs.

OUR WORKERS NEED A HIGHWAY BILL

Tens of thousands of construction workers rely on federal transportation funding to keep working. Although, Congress acted to prevent the Highway Trust Fund from going broke this summer – they failed to provide the funding necessary for a multi-year transportation bill. Without Congressional action in the coming months, the Highway Trust Fund will run out money in the spring of 2015. We need to continue to press Congress to find a long-term solution to the funding problems our transportation infrastructure faces.



MAKE SURE YOUR MEMBERS OF CONGRESS KNOW HOW MANY JOBS AT YOUR FIRM ARE AT RISK! Please encourage your Employees to also send an E-Hardhat message to their Senators and Representatives at:

www.hardhatsforhighways.org

Thank You for Your Support of SD Roads Are Vital!!



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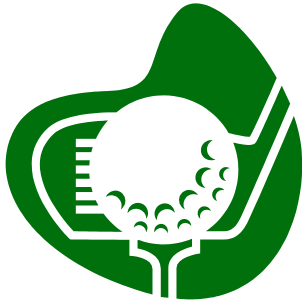
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Mark Your Calendars! HHU & Building Chapter - Summer Fun Events!!



Fishing Tournament
June 11 & 12, 2015
Pierre, SD

East River Golf Tournament
July 14, 2015
Willow Run Golf Course
Sioux Falls, SD



West River Golf Tournament
July 30, 2015
Red Rocks
Rapid City, SD

