

# 2020 ANNUAL LEGISLATIVE REPORT ON CONSTRUCTION RELATED LEGISLATION



**AGC SOUTH  
DAKOTA**  
HIGHWAY-HEAVY-UTILITIES CHAPTER  
"THE CONSTRUCTION ASSOCIATION"

## INTRODUCTION

AGC was in the Capitol each day during session and read all bills that were introduced to determine if they were of interest to the construction industry. Those bills were shared with the AGC Government Affairs Committee, which provided input on what stance AGC should take on each bill. AGC then executed that stance on each bill. Also, every Tuesday, members participated in a weekly legislative call to further discuss bills. With this team in action, AGC's interests were well represented.

With 477 bills introduced, the 2020 Legislative Session was a busy one for all involved. AGC was no exception, with 16 bills on our tracking list. Here is a synopsis of those bills:

### **Money for Road Construction:**

**HB 1284** - An Act to create a road improvement priority fund to provide for the distribution of the fund, and repeal certain sales tax exemptions. This bill proposed to repeal the sales tax exemption on advertising and use the \$33 million in revenue that repeal would generate for local roads. The sales tax exemption language was removed in committee and was replaced by a general appropriation of \$5 million from the general fund. The bill was defeated in the Joint Appropriations Committee.

**General Appropriations Bill**, or the **G Bill** - The final bill legislators voted on during the last day of session. One of the many amendments to the G Bill this year appropriated \$4 million for county and township roads. However the legislative intent was that the money would be used by SDDOT as a match for approximately \$25 million in federal funding. Counties would have to provide a \$1.9 million match of their own money to get the full match. SDDOT will develop rules for the use of these one-time funds. This money and all other money in the budget, may be scrutinized by the legislature during a special session proposed for June 2020. During this special session legislators will address state budget shortfalls caused by the Coronavirus.

### **Restraints on Business:**

**HB 1065** - An Act to revise drone surveillance protections. The bill's author wanted to protect the public from invasions of privacy as drone use increases. As written, the bill would have made it easy for law enforcement to charge businesses with invasion of privacy. AGC and other business groups successfully amended the bill to avoid this. This bill was signed by signed by Governor Noem.

**HB 1071** - An Act to revise provisions regarding surface water quality complaints. This bill would have allowed anonymous complaints for surface water discharge. AGC opposed the bill as it would increase the amount of complaints made and slow or stop projects. The bill was defeated unanimously in the House Agriculture and Natural Resources Committee.

**SB 49** - An Act to add the word “gravel” to the definition of a mineral. SB 49 would have increased the cost of gravel while not solving the problem the bill intended to fix. The problem was a contract dispute between a landowner and a mining company. At AGC’s request, the sponsor tabled the bill.

**SB 104** - An Act to limit entitlement to mechanic's liens. This bill as written, would have prohibited contractors from using mechanics liens on county and township road projects. AGC defeated this bill in Senate Tax. The bill was the revived and the language was changed. However, contractor’s lien use would have still been prohibited. The revised version passed the Senate. AGC and investor owned utilities opposed the bill and it was killed in House Local Government.

**SB 108** - An Act to revise the time period allowable for certain covenants not to compete. Contractors don’t want to invest in training employees only to have them move onto another company, so AGC opposed shortening the time frame currently allowed for these covenants in state law. The bill was tabled in committee by the bill sponsor.

**SB 122** - An Act to impose a severance tax on the quarrying of certain minerals. AGC opposed this proposal to levy a severance tax on limestone and bentonite since its passage would increase project costs. AGC, the Department of Revenue and the State Chamber of Commerce opposed this bill and it was defeated in Senate Tax.

### **Raids on the Highway Fund (state and local)**

**SB 90** – An Act to revise the distribution of motor fuel tax revenue, create a small structure and large culvert fund, provide for the use and administration of the fund, and to make an appropriation thereof. The bill was a money grab by townships, seeking \$2.4 million from the highway fund, \$500K from counties, \$130K from cities and \$135K from conservation districts. AGC and other proponents of SB 1 opposed this bill, it died on the Senate floor.

### **Business Bottom Line Proactive Legislation**

**HB 1083** - An Act to rename the postsecondary technical institutes as technical colleges. This bill was one more step in the “coming of age” for the technical institutes by changing their name to technical colleges. This bill was signed by Governor Noem and will go into effect on July 1, 2020.

**HB 1102** - An Act to make an appropriation to reimburse the aeronautics fund. This bill sought to recover \$3 million swept from airport construction budgets in 2010. AGC and the SD Municipal League supported the bill, but it died in House Appropriations.

**HB 1169** - An Act to prohibit the use of certain electronic devices while driving. AGC, business groups and insurance companies supported this attempt to make texting while driving a primary offense. The bill passed the House and Senate and has been signed by Governor Noem and will go into effect on July 1, 2020.

**SB 21** - An Act to authorize temporary variable speed limits on state highways under certain circumstances. AGC supported SDDOT's request to change speed limits on certain highways in adverse weather, since passage may give contractors similar flexibility. This bill was signed by Governor Noem.

**SB 70** - An Act to authorize other languages be used in the process of issuing certain driver licenses and permits. AGC supported this bill to allow drivers licensing prep and test materials to be available in Spanish. SB 70 has a delayed implementation date of January 1, 2021 to allow the state time to make the change. The bill has been signed by Governor Noem.

**SB 85** - An Act to establish an annual fee for certain electric motor vehicles and electric hybrid motor vehicles. AGC has been a proponent of taxing electric vehicles since 2015. Alas, this attempt failed in Senate Transportation.

**SB 135** - An Act to increase the bid limit for certain public improvements. Due to inflation, local governments sought to increase the bid limit for public improvement projects let by the State Engineer. Only about two projects let this year would fall below the \$100,000 threshold and P & P's would still be required on non-bid projects. When the bid limit was last increased in 2010, AGC monitored the bill. AGC again monitored this bid limit increase. The bill was signed by Governor Noem.

**SB 187** - An Act to revise certain provisions regarding re-employment assistance benefits in response to Coronavirus Disease 2020 and to declare an emergency. This bill was proposed by Governor Noem and passed by legislators on Veto Day. The bill was necessary so our state can accept federal unemployment stimulus money included in the federal stimulus package. The bill states that if the unemployment claim is the direct result of an employer temporarily closing or reducing staff due to Coronavirus or because the claimant has to quarantine, the resulting unemployment benefits are not charged against the employer's experience rating. The bill was passed by the legislature and signed by Governor Noem.



### **AGC Legislative Day at the Capitol 2020**

AGC Day at the 2020 Legislature was a success. Participating members were able to attend committee meetings, listen to a live legislative update from Secretary Bergquist and the AGC Lobbyist, and hear from several state officials. Attendees also enjoyed a photo with Governor Noem and a tour of the capitol building. The AGC Legislative Dinner was well attended and featured Lt. Governor Larry Rhoden as speaker.

## AGC Government Affairs is Year Round

Although the 2020 session has adjourned, that does not mean that our Government Affairs efforts stop. AGC monitors any summer studies selected by the Legislature's Executive Board. When those topics are chosen in the next few weeks we will share details of any interest to contractors. If you, or someone from your company is interested in being a part of AGC's Government Affairs committee, please email [lindsay@sdagc.org](mailto:lindsay@sdagc.org).



### CONPAC of South Dakota

It's election year in South Dakota! All 105 legislative seats are up for election. Starting with primary elections in June and ending with the general election in November, CONPAC will work to elect business-friendly legislators. CONPAC is one of the more active PACs in the state. During the last election cycle, CONPAC provided campaign contributions to 56 legislative candidates and had a success rate of 89%.

There are two ballot measures of interest to the business community on the ballot: recreational and medical marijuana. CONPAC members will discuss potential impacts of legalizing marijuana on businesses and debate whether to join one of the groups forming to fight the ballot measures. Join CONPAC as they make these decisions by emailing [toby@sdagc.org](mailto:toby@sdagc.org).

### 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](http://www.agc.org/PAC) or e-mail David Ashinoff at [ashinoff@agc.org](mailto:ashinoff@agc.org) or 202-547-3350.