

## 2018 Virginia Legislative Session update

The 2018 Legislative Session is complete – except for the budget details which will be hammered out between now and mid-April. A special thanks to all the members of the AGC Legislative Committee who worked on issues this summer, fall and then met weekly during the Legislative Session to provide subject matter expertise and research.

### By the numbers 2018:

**3,722** Bills were introduced, **296** were approved. 7.9 % passed\*.  
(\*More will be approved by the Governor prior to the Veto Session).  
AGC supported **8** key bills of which **7** passed. 87% passed.  
AGC opposed **16** bills of which all **16** failed. 100% failed.  
AGC monitored **30** bills related to public procurement.  
House General Laws Committee will look at many of these bills later this summer.

### 2017 “Short” Session

**2,959** Bills introduced – **1,722** Approved -58% passed  
AGC supported **15** Bills & **10** Passed. – 66% passed.  
AGC opposed **6** Bills & **5** Failed. – 83 % failed.  
AGC monitored **16** bills related to public procurement.

Most bills are in solid shape, like AGC’s Mechanics Lien bill (SB 319), which ensures Contractors are not forced to waive mechanics lien prior to beginning work, have already been approved and signed by the Governor. This bill which was controversial a few short years ago, passed with no opposition thanks to efforts during the summer and fall, pre-work and running the necessary legislative traps by the AGC legislative committee members and staff to clearly define the issues and address any opposition well ahead of the Session. A special thanks to State Senator Frank Ruff (General Laws Chairman) and Delegate Barry Knight for carrying this legislation through.

Another bill (HB 1084), sought to reduce public Universities Sovereign Immunity on Statue of Limitations on Construction work, started off strong in subcommittee, but once the Governor’s Office heard it passed unanimously out of subcommittee, his office immediately called us with concerns. Then some universities piled on the legislator, who under the pressure from the Governor and Universities chose to strike his own bill. Fortunately, our team acted quickly to ensure the legislature study the merits of the bill later this summer. This is a significant issue and one we will not let up on until fairness is secured. We appreciate Delegate Dave Yancey’s effort to pass this bill and Delegate Greg Habeeb for his assistance in the House Courts Committee.

(HB 1568), Sponsored by Delegate Steve Landes, attempted to dismantle the VA Department of Small Business and Supplier Diversity. It appears some legislators are very concerned with the lack of confidence and focus from this agency and the recognition that other agencies can do the work more efficiently. Ultimately, very little changed, other than establishing some metrics.

Apprenticeship ratio – (HB 1233) Sponsored by Delegate Tim Hugo attempted to change the 1-to-1 ratio of apprentice to journeyman to a 2-to-1 in an attempt to alleviate the pent up demand for more workers. The bill passed along party lines in the House (Republicans for and Democrats against) and then failed to report out of the Senate Committee.

Building Inspectors – Delegate Chris Peace (Chair of General Laws) led (HB 859) to allow localities to enter into agreements with each other to provide technical assistance with

administration and enforcement of the Building Code. The intent is to reduce the waiting time it takes for inspections.

Drones – *State Senator Mark Obenshain* introduced ([SB 526](#)), makes permanent the prohibition on a local government's ability to regulate UAS.

Construction Trust Act – Introduced by *Senator Chap Peterson*, ([SB 727](#)), would have mandated General Contractors & Subcontractors must hold construction funds in trust by the contractor or subcontractor, as trustee, for those subcontractors who did work or furnished materials, for purposes of paying those subcontractors. While we understood the intent, the concern was the broadness of the bill and mandating a contractor or subcontractor must be a fiduciary. AGC will work on this issue during the summer to make it target bad actors.

#### Public Procurement Bills:

- Agreements with labor unions – failed
- Competitive Negotiation – failed
- Bid match preference to Virginia businesses – failed
- Definition of responsible bidder – failed
- Preference for participating in state apprentice program – failed
- Using best value contracting – failed
- Public works apprenticeship requirement – failed
- Metrics & Penalties for high risk contracts – failed
- Competitive sealed bidding – failed
- Prompt payment – failed
- Small business & microbusiness enhancement program – failed
- Construction Management threshold – failed
- Cooperative Procurement – failed
- Statute of limitations on Contracts – failed
- Construction Management & Transportation – failed
- Allow single term contracts on services – Passed
- Sunset waiver of bonds on small bid performance – Passed
- Cooperative Procurement on stream restoration & storm water management – Passed (moved out of Cooperative Procurement for construction).
- State agency goals for participation by service disabled veterans - passed

Workforce Bills – While there is a lot of talk about workforce development efforts, Virginia will continue on its same path.

[HB 1552](#) - Directs the Virginia Board of Workforce Development to recommend strategies to identify and engage discouraged workers and unemployed individuals not currently served by the workforce system and measurably improve the performance of federal Workforce Innovation and Opportunity Act. A special thanks to *Delegate Matthew James* for leading this.

[HB 544](#) - Permits each local school board to (i) establish High School to Work

Partnerships between public high schools and local businesses to create opportunities for high school students to (a) participate in an apprenticeship, internship, or job shadow program in a variety of trades and skilled labor positions or (b) tour local businesses and meet with owners and employees. Thanks to *Delegate Nick Freitas* for sponsoring.

#### General Employment Issues:

AGC joined in a coalition of trade associations, led by NFIB, to fight against an increased number of labor and employment legislation introduced this Session. The last full week of Session, over 17 bills considered harmful to running a business were opposed and would have increased employment taxes or created more regulations for businesses. Here are examples of some of the proposals.

[HB 40](#) - Would have created the *Family and Medical Leave Insurance Program*, where an estimate of \$744 million in employer and employee taxes would be collected to fund the new leave benefits for employees.

[HB 240](#) would have prohibited employers from asking an applicant's salary history.

[HB 1569](#) would have established the policy known as "predictive scheduling" where employers are mandated to give certain employees, prior to the first day of work, a good faith estimate of the employee's expected minimum shifts per month and the days and hours of those shifts. The measure also required employers to provide each employee on a biweekly basis with at least two weeks' prior notice of the employee's expected work schedule over the ensuing two-week period. Violations are subject to civil penalties.

Next Steps: Our Legislative Committee will have several issues to work on for the 2019 Session. AGC will work with Universities and DGS to address the Statue of Limitations Bill. Address the Contractors Trust Act and seek better ways to target Workforce solutions.

Public Procurement issues will always be on the horizon. As an association, we are going to work to position our members to be in the best position and ensure public agencies are continuing to improve their efforts to be more transparent.

Finally, a special thanks to the following AGC members who provided hours of research, review and debate on key industry issues and thank you to *Katie Payne of Williams Mullen* who is a constant resource to AGC, State Legislators and the Governor's Office on all things Construction.

Dick Abidin	RE Lee
Mike Cagle	MB Contractors
Bill Goggins	Clancy & Theys
Herschel Keller	Gentry Locke
David Turner	Kjellstrom & Lee

Brad Heath	English Construction
Chuck McCarthy	WM Jordan
Phil Kirby	Construction Management
Kerry Wortzel	Travelers Bond & Specialty
Bill Paulette	KBS Inc.
Ruddy Middleton	E. G. Middleton
Chris Weaver	Lantz Construction
Scott Rooney	Marsh McLennan
Jim Harvey	Vandeventer Black
Spencer Wiegard	Gentry Locke
Gordon Dixon	AGC Staff
Katie Payne – Lobbyist with Williams & Mullen	

If you have questions on any bill or suggestions on issue coming up, please contact: Gordon Dixon at [gordon@agcva.org](mailto:gordon@agcva.org).

### **Federal Update:**

#### Trump's proposed steel and aluminum tariff | What you can do

Last week, President Trump signed two proclamations imposing a 25% tariff on steel imports and 10% tariff on aluminum imports, with limited exceptions. The tariffs are slated to go into effect on or about March 23.

In an effort to prepare and inform our members about impending steel and aluminum price increases, please see the following documents:

1. [AGC of America's Tariff Letter to President Trump](#)
2. [An AGC Tariff Memo for Private Construction Contractors](#)
3. [An AGC Tariff Memo for Direct Federal and Federally-Assisted Contractors](#)

In addition, an [action alert](#) is available for members to call on the president and their congressional officials to stop the tariffs.

###