



AGC of America  
THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA  
Quality People. Quality Projects.



# Policy Update

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Quality People.  
Quality Projects.



# OVERVIEW

- Election results
- Review of AGC victories
- AGC agenda for 114<sup>th</sup> Congress and prognosis for 2015
- The regulatory battle continues

# 2014 Election Results

# Complexion of the New Congress

- Senate (13 New Senators)
  - 54 GOP (defeated 5 Dem incumbents: NC, AR, AK, CO, LA) (+9)
- House (53 new House members)
  - 246 GOP (+13)
  - 188 DEM
  - Still testing their agenda

# AGC PAC Effectiveness

- Supported 191 candidates
- 179 won (94%)
- Supported all GOP Senate winners
- Contributed \$950,000
- Contributed \$50K to American Crossroads (from CAF)
- Contributed \$25K to Congressional Leadership Fund

# North Carolina

## House (D-42%, R-83%)

- 1 Butterfield (D) 43%--Energy and Commerce
- 2 **Ellmers (R) 89%--Energy and Commerce**
- 3 Walter Jones (R) 81%--Armed Services
- 4 David Price (D) 43%--Approps
- 5 **Virginai Foxx (R) 69%--Rules, ED and Workforce**
- 6 Mark Walker (R) Gov Reform
- 7 **David Rouzer (R) Transportation**
- 8 **Richard Hudson (R) 88%--ED and Workforce**
- 9 Robert Pittenger (R) 94%--Financial Services
- 10 **Patrick McHenry (R) 73%--Financial Services, Gov Reform, Deputy Whip**
- 10 Mark Meadows(R) 75%--Gov Reform, T & I
- 11 Alma Adams (D) --ED and Workforce
- 12 George Holding (R) 88%--Judiciary

## Senators (76/56)

- **Richard Burr (R) 82% —HELP, Finance,**
- **Thom Tillis (R)—Armed Services, Judiciary, Veterans**

# Votes we Scored 113th

- Sandy Relief
- NLRB (recess appointments)
- Comp Time
- Keystone Pipeline
- Employer Mandate Delay
- Individual Mandate Delay
- Fly Ash
- Ending Govt Shut Down
- WRDA
- Blacklisting (opposition to)
- Workforce Investment Act
- Highway Extension
- Block Waters of the US
- Fund Government for FY15

# South Carolina

## House (D-42%, R-83%)

- 1 Mark Sanford (R) 71%--T&I, Budget
- 2 Joe Wilson (R) 77%--ED and Workforce, Armed Services**
- 3 Jeff Duncan (R) 75%
- 4 Trey Gowdy (R) 75%--Gov Reform, Judiciary
- 5 Mick Mulvaney (R) 70%--Gov Reform, Financial Services
- 6 James Clyburn (D) 39%--Assistant Leader
- 7 Tom Rice, Jr. (D) 81%--Budget, T&I, Sm. Business**

## Senators (76/56)

- **Lindsey Graham (R) 80%--Armed Services, Approps, Judiciary, Budget**
- **Tim Scott (R) 62%—Finance, HELP, Sm Business**



# AGC Victories in 2014

# Infrastructure

- WRDA
  - overwhelming bipartisan support (412 H/ 91 S)
  - spends down Harbor Maintenance Trust Fund
  - Project streamlining/contracts study process
  - Creates new project authorization system
- Congress passes increase in fuel tax!
  - Inland Waterway tax: from 20 cents to 29 cents
  - Contained in tax extenders
  - Small universe of shippers impacted allowed supporters to obtain near universal support from most affected

# Infrastructure

- Highway/transit reauthorization (367 H/81 S)
  - Expires 5/31/15
  - Even extensions are getting difficult to pass
  - 13,800 Hardhats for Highways messages/486 offices
- Clean Water programs
  - CW SRF: \$1.45B
  - DW SRF: \$907 M
  - 2 straight years w/out cuts

# Procurement

- Defense Reauthorization
  - Prohibits single bidder/bid reverse auction
  - Prohibits reverse auctions on D-B milcon projects
  - Limits 2<sup>nd</sup> phase D-B to 3-5 finalists
- VA construction: panel on hospital construction
  - AGC seeking to place rep

# Workforce Development

- Workforce Investment Act (415H/95S)
  - Provides flexibility to states to fund in demand skills
  - Allows for remedial education
  - Gives priority to industry recognized credentials
    - NCCER
    - Union apprenticeship programs

# 114<sup>th</sup> Congress

## First Few Weeks

- House passed more than 27 pieces of legislation
- Senate voted on more than twice as many amendments as they did in all of 2014
- Senate passed KXL
- White House issued more veto threats in the first month of a congress than ever in history
- This week the Senate moved to immigration and funding for DHS (\$ runs out 2/28).

# President's Budget

- Groundhog's Day
- Total spending for construction--+\$22.2B
  - Including big plus ups in highways (\$9.8b), transit (\$4.4b), Milcon (\$1.8b), GSA (\$1.4b), Amtrak (\$1.3b) and conservation (\$600m)
  - Subtracted from TIFIA, Corps and SRFs
- Transportation—GROW Act Grew, No LT Fix
- Tax policy—(+\$2.1t)(-\$1.4t)—"Fair Share Tax," 28% cap gains, no step up in basis, limits on deductions, carried interest, LKE, keep 179, no bonus, 28% corp rate



# GOP Burden

- First full congressional majority in 8 years
- Control of congress during last two years of president's career
- No broad GOP mandate: "you may not be as bad as the other guy and you get a short leash"
- Chance to prove they have a governing philosophy
- Democrats are united opposition and president eager to use leverage
- GOP must decide between ideology and least worst option



# Votes to Watch

**Politically Endangered** – more GOP seats held in 2016 that Obama won - Ayotte (NH), Portman (OH) Johnson (WI), Kirk (IL), Toomey (PA), Coats (IN), Burr (NC)

**Ideologically Endangered** – right-wing challengers for remaining 2016 incumbents - e.g. Rubio (FL), Murkowski (AK), Moran (KS)

**Allies to get 60** – Manchin (WV), Heitkamp (ND), Donnelly (IN), King (ME), McCaskill (MO), Casey (PA), Warner (VA)

**Moderates** –

- 6 Republican Senators up in '16 and 6 Democrats in fickle 2018 seats
- Of the 16 House Republicans who picked up seats, 11 of them represent districts President Obama carried in 2012.

**Conservative stalwarts:** Cotton (AR), Ernst (IA), Sasse (NE), Sullivan (AK)

**2016'ers** – Paul (KY), Cruz (TX), Rubio (FL)

# Policy Agenda

- Impact on industry, timeliness, achievability
- Heavy on infrastructure & unfinished business,
  - Terrorism risk, pension reform, highway reauthorization and HTF solvency
  - Workforce development, ACA and Immigration
- Replicate past successes fighting impractical rules
  - Regulatory reform and fighting individual rules
- Stability in key drivers like tax and spending policies
  - Tax reform, federal spending programs, debt
- Fair and efficient contracting rules
  - PLAs, procurement reform, contractors' rights

# 114<sup>th</sup> Congress Prognosis

# Tax Reform

- Obama, DEMs and GOP agree but 2 major fault lines
  - Revenue neutral (Dems want \$900 B more)
  - “C” Corps. vs. “S” Corps.
- Vehicle for infrastructure funding
  - Gas tax?
  - Repatriation of foreign profits?
  - Royalty on energy extracted from federal land?
- Protect tax free munis

# Transportation

- Highway and Transit Reauthorization
  - Infrastructure frequently mentioned by Obama & McConnell as opportunity for bipartisan solution
  - AGC coordinated mtgs w/DOT
  - Expanding message/coalition
    - Study on job benefits outside construction
    - Increased participation by manufacturing/hospitality

# Immigration Reform

- Obama executive order
  - DACA extension
  - Provides legal status for workers
  - AGC prefers certainty of legislation
- GOP may unite behind border security/enforcement measures and visas for high tech
- Highlights strains w/in GOP

# Health Care Replace/Reform

- Congress will fail to repeal
- Reestablish 40 hour work week
- Repeal medical device tax on revenue
- Reduce ER reporting requirements
- Supreme Court to decide whether plain language of ACA limiting individual subsidies to state exchanges includes federal exchange



# The Regulatory Battle Continues

## Environment

- EPA definition of “waters of U.S.”
  - Expansive definition will generate more permits/limits on development/enforcement
  - AGC working w/ broad business coalition
  - Provided template comments for members/chapters
  - 44 House DEMs on letter to EPA
- AGC testimony on 404 permit modifications

# Safety

- OSHA silica rule
  - AGC formed broad construction coalition
  - Halves exposure limit (100 mg/m<sup>3</sup> to 50)
  - Increased training requirements/med surveillance/engineering controls
    - None of which get you to limit w/out respirator
  - Estimated cost: \$3.9B/yr (8X OSHA estimate)

## NLRB CASES

- “Quicke Election” rule
  - Disadvantages employer ability to make case
  - More likely to hit union employers in prehire cases
- “Joint Employer” doctrine
  - 2 cases: franchise and controlling contractor
  - Browning-Ferris is controlling contractor case
    - B-F used a labor supplier at a facility
    - Teamsters argued B-F hired, fired, controlled, supervised directly and *indirectly*
    - AGC supported amicus brief

# Fly Ash as a Construction Material

- EPA announced 12/19 that fly ash not hazardous material
- AGC made case for 5 years
  - Science didn't support "hazardous" designation
  - Economic/environmental benefit as fill material
  - Potential liability for previous use

# We Need Your Help

- **Sign up**—For Construction Legislative Week in Review and Legislative Alerts
- **Speak up**—When we need grassroots help (letters, calls and visits) and when we need company specific impact of laws and regulations
- **Keep up**—Look at how the delegation votes on issues that are important to the industry

