The Beginning of the End for Independent Contractors? What’s Next After AB 5?

Mike McManus, Director of Engineering Construction & Industry Relations

Assembly Bill 5 (AB 5), authored by our own Lorena Gonzalez, has been signed into law by Governor Newsom after a summer of morphing into its present state. In his signing statement, the Governor made some interesting comments. In particular, he noted that while AB 5 was an important step, “a next step is creating pathways for more workers to form a union.” So the handwriting is on the wall.

Assembly Member Gonzalez wrote a letter on September 13 to the Clerk of the Assembly clarifying the intent of AB 5. She is signaling that there will be additional legislation that "further clarifies" the law. We can expect this topic to be part of the conversation for years to come.

What does this new law mean for the construction industry? For now, it seems as if we have come out of this relatively unscathed. The law seems to carve out and maintain the status quo for the usual contractor to subcontractor relationships in the construction industry, except for trucking and trucking services. There also is some question about how the law impacts some business-to-business professional services.

It appears that the present state government intends to eventually make independent owner-operator truckers a thing of the past in favor of all truckers being wage earning employees with benefits who can be organized into a union. AB 5 takes the first step, and on January 1, 2020, independent owner-operator truckers are a
thing of the past in all industries except the construction industry. This carve-out for the construction industry will sunset on January 1, 2022. Again, the handwriting is on the wall.

The law on January 1, 2020 will require independent owner-operators for construction projects to be individually under a subcontract with a licensed contractor, and they must be registered with the Department of Industrial Relations as a public works subcontractor, "regardless of whether the subcontract involves public work." The law maintains the status quo for trucking companies that provide trucking services to contractors with employee truckers. However, it seems to put trucking brokers out of business as they presently do business. It has been suggested that brokers could shift to a business model like a fee-based referral service, but that remains to be seen.

For professional services, AB 5 seems to maintain much of the status quo. However, we will need to clarify the law's impact on a few services that may be impacted and need further clarification, such as quality control and quality assurance inspection services.

In the meantime, we will be consulting with legal experts to sort out how the construction industry can implement and comply with the provisions of AB 5. AGC San Diego will be scheduling a seminar in the upcoming weeks to educate members and public agencies on the implementation of AB 5.

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As Expected, Vista Unified Votes for Costly and Ill-Advised Project Labor Agreement!

Brad Barnum, Executive Vice President

Within a span of four months, union-friendly Board Members of the Vista Unified School District schemed their way towards a Project Labor Agreement (PLA) on the District's $247 million Measure LL bond program. It started on May 9 when Board Member Alvarado, who was elected last November with the help of the Building Trades, brought the issue up at a Board meeting. It ended on September 12, when she and three of her cohorts voted for the PLA. Only one Board Member got it right, Rich Alderson, and he voted no!

Of course, the 4-1 vote for a PLA is not good for the construction industry, and 815 AGC apprentices who will be shut out of work (seven from the City of Vista; seven from San Marcos, and two from Carlsbad). It also is a blow to the 62% of voters who supported Measure LL and the promise for fair and open competition. Board Members Alderson, Smithfield, and Vargas made that commitment to voters when they put this on the ballot last year.
The biggest blow of the PLA will hit parents and students, who won't see the completion of all of the promised projects. A number of parents did show up at the September Board meeting and expressed doubt that the final Phase 5 projects would ever be completed. With the increased costs of a PLA at about 20% that is a likely outcome, and one that will jeopardize the facility improvements that enable students to obtain a quality education.

It's unfortunate that the Vista Unified School District went back on their word to the voters for fair and open competition. It is unfair, closed, and will be costly for taxpayers, parents, and students.

Vista Governing Board Members, you have been forewarned!

AGC San Diego’s EDUCATION PROGRAM has Jumped to Another Level!!!

The ACCE (American Council for Construction Education), which provides accreditation for 75+ colleges across the country (i.e. Arizona State, Auburn, Boise State, Purdue, Ohio State, Oregon State, Nebraska, Oklahoma, Washington, to name a few), and recognized (non-degree) providers/programs (i.e. American Society of Professional Estimators, National Association of Home Builders, and NAWIC Education Foundation), has now officially recognized AGC San Diego Chapter’s “Prevailing Wage Specialist Certification Course.”

AGC San Diego Chapter’s Prevailing Wage Specialist Certification Course has met the standards established by ACCE, and is currently recognized for its contributions to the construction industry.

AGCSD’s "Prevailing Wage Specialist" (PWS) Certification Program teaches General Contractor and Subcontractor administrative and compliance personnel, the what, how, and why of prevailing wage compliance standards.

Now, in its second year, the 20-week program, developed by the AGC San Diego Education Department and Power Summit, provides prevailing wage contractors with more in-depth continuing education...educating construction professionals and/or entry-level participants with comprehensive, hands-on examination of the principles and applications of a construction office environment, including a thorough knowledge of relevant federal, state, and local payroll and prevailing wage requirements, including the Davis Bacon Act.

The primary goal of ACCE is to promote and improve construction education in colleges and universities. By working together through
ACCE, the construction community and the public at large, construction educators, and contractors, establish and maintain standards and criteria for accreditation, providing guidance to those programs seeking to achieve accredited status, and to carry out the accreditation process.

In response to the concept of quality education in construction, ACCE has created a recognition program for non-degree, career related education programs. This effort to recognize the providers and programs which have a quality process and content is aimed at providing education other than skills training.

Specifically, accreditation of a construction education program by ACCE assures:

- students and prospective employers that the program has met stringent industry standards of content and quality.
- program graduates have been provided a quality education enabling them to perform a broad range of professional responsibilities.
- the construction industry and students that the program performs periodic self-evaluations to keep current with emerging technologies and requirements of the construction industry.

Special thanks to the following for helping make this happen:

Paul Stout - Power Summit
Carmen Whiting - Total Packager Professional Services
Lyndsi Summers - EC Constructors, Inc
Maria Cruz - Sundt Construction, Inc.
Glen Schaffer - Schaffer Enterprises
Becca Schaffer - Schaffer Enterprises

Applications Due Next Monday, September 30 for the 2020 AGC Project Management Certificate Course Scholarship!

The AGC San Diego Chapter will be offering five (5) full scholarships for the 2020-2021 AGC San Diego Construction Project Management Certificate Program. The course is a 26-week program that helps attendees develop the essential skills for managing all elements of a construction project. Course components include Pre-construction Planning/ Partnering, Construction Contracts, Conflict Resolution, Time Management, Technology and more.

Who is eligible to apply?
Any individual candidate looking to continue their education and/or advance their career by demonstrating the desire to provide current employer added value. **Requirement:** Be employed by an AGC San Diego member company in good standing.

**DOWNLOAD APPLICATION**

**APPLICATION DEADLINE** - September 30, 2019

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**SAVE THE DATE - TECH TALK Luncheon October 15 at AGC**

Learn about "Emerging Construction Site Technology" this October 15, 2019 at AGC San Diego TECH TALK Luncheon hosted by the Construction Technology committee.

More details and registration to open later this week.

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**Help the SDSU Reno Competition Teams Prepare!**

Kellie Korhonen, AGC Digital Communications and Technology Manager

Join us Tuesday, October 8, 2019 at 4:30 P.M. for Mock Problem Presentations

SDSU Construction Engineering & Management (CEM) students have assembled their teams, and are training for the annual Associated Schools of Construction (ASC) "Reno Competition" in February 2020. The teams met up for a team-building session at AGC San Diego in September, and are ready to apply what they've learned at the first mock problem day. Thanks to **Paul Stout** of
AGC's Construction Leadership Council (CLC) is hosting the first mock problem presentations for the students Tuesday, October 8 at the AGC San Diego Chapter.

Help us help the students by sharing your industry knowledge - the return on investment is preparing these bright young people to be great construction industry professionals.

Please join the CLC on October 8 as spectators. We will be serving beer/wine and food starting at 4:30 P.M.

We promise you will be impressed!

EVENT INFORMATION
4:30 P.M. to 8:00 P.M.
at AGC San Diego Chapter Facility
6212 Ferris Square, San Diego, CA 92121
Please RSVP to Kellie Korhonen.

Learn more about the ASC Reno Competition by watching a recap of the 2016 competition experience.
"Best of the Best" Construction Projects to be Honored November 5 at the Build San Diego Luncheon

Rae Krushensky, Director of Meetings & Events, Membership Services

It's that time again to recognize the contractors that build outstanding buildings and supporting infrastructure that help make San Diego County a thriving region!

AGC's 2019 Build San Diego Awards luncheon will be held on Tuesday, November 5 at the Hilton San Diego Bayfront Hotel. Over 300 guests are expected, including key public officials and owners.

We are proud to acknowledge our returning "Title Sponsors," whose support is vital to the success of this program:

![Hawthorne CAT](image1)

![Torrey Pines Bank](image2)

The judges have reviewed 34 impressive projects, which are an integral part of the region's economy. The projects are in eight categories, and they represent the hard work of architects, engineers, and construction firms.

**Award categories:**
- Building Construction - Public Work
- Building Construction - Private Work
- Heavy/Highway Construction
- Underground/Utility Construction
- Unique Small Project - Public Work
- Unique Small Project - Private Work
- Unique Special Project
- Best Sustainable Project

This event gives AGC an opportunity to showcase the industry, and to feature the amazing construction projects that our members complete. Public and private owners, elected officials, and the media recognize the importance of receiving one of these prestigious awards.

AGC members are encouraged to attend and support this awards ceremony, which reflects the industry's pride in building San Diego.

[Click here](#) to register to attend the luncheon.
Four Foursomes Still Available

Rae Krushensky, Director of Membership Services, Meetings & Events

The last AGC golf tournament of the year will be played on the private course of the Country Club of Rancho Bernardo. The Fall Golf Classic is scheduled for October 7, and unless you're a member of the Club, or a guest of a member, there are not a lot of opportunities to play there.

Special thanks to our Title Sponsors:

Casper Compa

And our Major Sponsor:

FINCH & THORNTON & BAIRD LLP
ATTORNEYS AT LAW

Your registration fee includes the following:

- Golf
- Taco bar for lunch
- Cold beverages
- Exhibitors
- Prime rib dinner

REGISTER

Additional sponsorships are still available, including a limited number of exhibitor spots!

Contact Rae Krushensky at raek@agcsd.org with any questions.
The AGC Room Block is open to make your Room Reservations for the December 7, 2019 Holiday Dinner Dance at Hotel Del Coronado.

Deadline for Room Reservations is November 15.

We invite members to make plans early to attend the AGC Holiday Dinner Dance this year, and to book your room reservations with the Hotel Del Coronado. When making your room reservations below, please know that this does not register you for the AGC event. You will also need to complete the registration information on the invitation.

You may use the phone number or our personal reservation link below to reserve your rooms: 1-619-435-6611

https://book.passkey.com/e/49840029

Rates are as follows:

- **Resort Room** - $280

Add 11.56% Occupancy Tax & Tourism Fee.

Rooms are available on a first-come, first-served basis.

The following additional room type upgrades are based on availability at the time of booking:

- Coastal View Guestroom - $340
- Ocean View Guestroom - $452
- Junior Suite (non-view) - $360
- Junior Suite (ocean-view) - $554
- Resort Suite with ocean view - $900
- Ocean Front Cottage Jr. Suite - $1,189
- Ocean Front Cottage Suite - $1,599

In addition, daily valet parking rates are discounted at $20, and $30 for overnight valet parking.

The normal resort fee of $35 has also been waived for our group.

In the event that the room block becomes full, members can also book rooms at the Glorietta Bay Inn, directly across the street from the Del, or at the Loews Coronado Resort. **Note that there are no room blocks at these locations.**

Please contact Rae Krushensky at the AGC with any questions at raek@agcsd.org.
CALL FOR VOLUNTEERS
AGC Volunteer Day @ Ronald McDonald House

Friday, October 11, 2019
2 hours - 10 a.m. - 12:00 p.m.

AGC is partnering, again, with Ronald McDonald House to help with some odd jobs around the facility.

Several of the Build & Serve Committee members have already signed up to volunteer. We are asking for some additional members to fill the remaining spots.

VOLUNTEERS NEEDED (first come basis):

- POWER WASHERS - 3 volunteers
- GARDENING - 7 volunteers
- TOYS ORGANIZATION - 1 volunteer
- RECYCLING - 3 volunteers

Please contact Marcy Knopman at marcy@agcsd.org if you are interested in volunteering on October 11 from 10 a.m. - 12:00 p.m.

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CLASSES

September Classes

- Sept. 24  Construction Law
- Sept. 24  Beginning Microsoft Project
- Sept. 25  Advanced Microsoft Project
- Sept. 25  Blueprint Reading for Construction
- Sept. 26  Preventing Sexual & Other Unlawful Harassment

October Classes
### October Meetings

| Oct. 2 | 7:00 a.m. | Safety |
| Oct. 3 | 1:30 p.m. | County of San Diego Meeting @ County |
| Oct. 16 | 7:00 a.m. | Public Building |
| Oct. 18 | 7:30 a.m. | Caltrans @ Caltrans |
| Oct. 22 | 1:00 p.m. | Water Authority Meeting |
| Oct. 22 | 4:00 p.m. | Construction Leadership Council (CLC) |
AGC San Diego Chapter's Monday Morning Quarterback is a “hot off the press” and to the point Monday morning briefing on the important issues facing San Diego's construction industry. It is prepared by AGC Chief Executive Officer, Eddie Sprecco, and Executive Vice President, Brad Barnum.

Please contact Eddie Sprecco or Brad Barnum with your comments, or with information that should be conveyed to the industry through this service. Well over 3,000 individuals employed by AGC member firms are part of this system.