ACEC Georgia Capitol Update – Week 1

The Georgia General Assembly gavelled in on Monday January 13th for the second half of the two-year session. As is usually the case, the first week of the legislative session is mostly filled with ceremonial events, such as announcing new committee assignments, the Georgia Chamber’s Annual Eggs & Issues Breakfast and the Governor’s annual State of the State Address. However, the first four days of this year’s session saw a flurry of substantive activity.

**Marketplace Facilitator Act**

Bills that were introduced last year but did not pass are still available for action and the General Assembly wasted no time bringing back to life the so called “Marketplace Facilitator” bill (HB 276). Conference Committee members were immediately appointed on Monday and the conference committee version of the bill passed both chambers on Thursday and has been sent to the Governor for his signature.

As reported earlier, this bill will force online sellers to collect and remit the applicable state and local sales taxes that apply to that type of transaction. The bill covers online platforms such as Airbnb, third-party sellers on Amazon, eBay, etc., as well as Uber and Lyft.

In a year where Governor Kemp has ordered budget cuts, passage of this bill to collect existing state and local sales taxes that these sellers had been evading will hopefully soften the hit to the budgets of state and local governments.

**New Georgia DOT Planning Commissioner Named**

Governor Kemp has tapped Jannine Miller to replace Jay Roberts as the new Georgia DOT Planning Commissioner. Jannine was a Senior Advisor to U.S. Department of Transportation Secretary Elaine Chao. Her state government experience includes having previously served as the Executive Director of the Georgia Regional Transportation Authority (GRTA) and as the head of the Georgia Department of Economic Development’s Center for Innovation and Logistics. We welcome Jannine back to Georgia and look forward to working with her on transportation, logistics and infrastructure.

**PROFESSIONAL LICENSING REFORM**

ACEC Georgia’s top legislative priority for the 2020 session will be to lead an effort to reform funding and staffing for the 41 professions within the Professional Licensing Division of the Secretary of State’s Office (PLBD), which includes the Professional Engineers and Land Surveyors (PELS) Board. Combined, these 41 professions generate approximately $30 million per year in fees, yet the annual budget for the PLBD is less than half that amount, at only around $8 million. Since last year’s session, ACEC Georgia has worked closely on these issues with Governor Kemp’s Georgians First Commission, Governor’s Office staff, and legislative leaders from the House and Senate to make the case for needed reforms.

Our goal is a solution that would achieve three simple goals (1) give each individual licensing board the ability to voluntarily “opt in” to an enhanced service level that would allow for additional, dedicated staffing and enforcement; (2) give each board the commensurate ability to increase their licensing fees by an amount that would pay for all costs associated with the enhanced service, staffing and enforcement level, and (3) create a legislative framework that would create a statutory nexus between the increased fees and an additional appropriation that would be used to deliver the intended levels of service, staffing and enforcement for each professional licensing board.

While there has long been significant dissatisfaction within the engineering community with the lack of efficiency and enforcement of engineering licensure and safety regulations, we want to be clear that those problems are not in any way a criticism of any Secretary of State, Secretary of State’s Office employees or of the individual members of the PELS Board. They are longstanding, across many different administrations, and ultimately are a result of the General Assembly’s continued failure to adequately fund the operations of the PLBD. In short, the PLBD is understaffed, overworked and spread too thin in trying to manage the diverse licensing, enforcement and regulatory functions of 41 different professional licensing boards and the more than 500,000 individual
licensees those boards represent. It is not hard to imagine the challenges of a relatively small PLBD staff trying to manage occupations ranging from nurses, engineers and architects, to barbers, cosmetologists and lactation consultants, with wildly varying types of examinations, applications, enforcement and disciplinary investigations.

Ultimately, what we are asking for is a fiscally conservative “user fee” system, where each profession could determine the administrative support structure that best meets its needs and then have the members of that profession, and ONLY the members of that profession, bear all of the costs of administering that system in the form of their own increased licensure fees. Those of you with licenses in other states already know that this is exactly how it’s done in literally every other state in the southeast and many others across the country.

Stay tuned to these ACEC Georgia Capitol Updates for updates on this issue as the session progresses.

**Structural Engineer Licensure (PE, SE)**

Last year we successfully passed legislation to allow Structural Engineers to use a “PE, SE” designation on their stamps. Unfortunately, this legislation (along with several other licensure bills) was vetoed by the Governor due to his position that all bills dealing with licensure must first be reviewed by the Georgia Occupational Regulation Review Council (GORRC) before he would sign them into law. With the assistance of members of the Professional Engineers and Land Surveyors Licensing Board, as well as members of the SEOAG Board, we successfully navigated the GORRC review process and received a unanimous recommendation of approval to reintroduce the PE, SE bill. This year we will run identical bills in both the House and the Senate in order to speed the process along, since both chambers passed the bill last year by overwhelming margins. The House PE, SE bill (HB 790) will be shepherded once again by Rep. Vance Smith (R-Pine Mountain) and our Senate bill will be carried by Sen. Tyler Harper (R-Ocilla).

**Lien-Law fix**

This summer, the Georgia Court of Appeals ruled in Landmark Electric v ALA Construction Services that the failure to file an affidavit of non-payment or file a lien within 60 days after signing a Georgia Lien Waiver Form, not only eliminated lien rights, but also eliminated all other rights to payment, including the ability to bring an action for breach of contract. This ruling has wide ranging implications in the A/E/C industry for subcontractors who are paid on a rolling basis.

ACEC Georgia is working closely with AGC Georgia to craft a legislative fix to address the court’s decision and restore parties’ contractual rights. Sen. Lindsey Tippins (R-Marietta) will be introducing a bill that will expressly clarify that the failure to file the affidavit of non-payment only eliminates lien rights and not all rights under the contract.

**Governor’s Budget**

The Governor released his budget on Thursday morning as part of his annual State of the State Address. The $28.1 billion budget proposal-set a record for state spending in FY 2021. A few of his budget proposals include adding $51 million to GDOT for roadways and $50 million in general obligation bonds to repair and replace bridges. As outlined in his State of the State address, Governor Kemp also proposes an allocation of $362.2 million to provide an additional $2,000 pay raise for teachers (which combined with the $3,000 raise implemented in last years’ budget, would make good on the Governor’s campaign promise of an across the board $5,000 raise for all teachers in Georgia) and designate approximately $2 million to increase staff resources for the GBI Taskforce to dismantle street gangs and human trafficking operations. Governor Kemp’s budget proposal also reflects his direction for most state agencies to reduce their spending for FY2020 by 4 percent and by 6 percent for FY 2021.

While the Governor sets the spending levels for state agencies, the House and Senate Appropriators will have their say on where money is allocated. This week will begin Budget Week where state agency heads will make presentations on their budgets to the joint House and Senate Appropriation Committees.

**Newly Introduced Legislation that ACEC Georgia is Following:**
SB 285 – By Sen. Bruce Thompson (R-White) is a pre-filed reciprocal licensure bill aimed at military service members and their spouses. The legislation would allow military service members and their spouses who are already hold a professional license in another state to just practice that profession in Georgia without a Georgia issued license and without any review or oversight from the corresponding licensure board for that profession. Clearly this bill is deeply flawed, and we have spoken with the sponsor who has indicated that he will be making substantial changes before dropping the bill. STATUS: Prefiled

HB 773 – By Rep. Scot Turner (R-Holly Springs) has also filed a similar reciprocal licensure bill aimed at military service members and their spouses, but his bills has some guard rails in place before allowing reciprocity that would allow licensure boards to have oversight of who is issued a license to practice a profession in Georgia. STATUS: Assigned to the House Regulated Industries Committee.

HB 790 - By Rep. Vance Smith (R-Pine Mountain) would establish a new PE, SE Structural Engineer license. This bill would alleviate a competitive disadvantage our Georgia structural engineers face when competing for bids against individuals from states that have already established the license. STATUS: Introduced on January 16, 2020.

Legislation Introduced in Last Year’s Session that ACEC Georgia is Following:

HB 1 - By Rep. Jesse Petrea (R-Savannah) would rename Georgia’s existing Georgia Special Needs Scholarship Act the “Senator Eric Johnson Scholarship Act.” Eric Johnson is a former state senator from Savannah who served as President Pro Tem of the Senate and is President of ACEC Georgia Member Firm, Hussey Gay Bell. A well-deserved honor for a great Georgian. STATUS: Assigned to House Education Committee (bill did not crossover last year).

HB 3 – By Rep. Matt Gurtler (R-Tiger) would repeal the $5 per night hotel/motel room fee for transportation that makes up a significant part of the revenue generated by the Transportation Funding Act of 2015 (HB 170). While ACEC Georgia will oppose this bill, it is unlikely to even receive a hearing. STATUS: Assigned to House Ways and Means Committee (bill did not crossover last year).

HB 36 – Rep. Bob Trammell (D-Luthersville) HOPE Grant for students enrolled at Georgia technical colleges. STATUS: Assigned to Higher Education Committee (bill did not crossover last year).

HB 184 - By Rep. Bret Harrell (R-Snellville) would allow 5G to be collocated on poles located in the city/county right of way. STATUS: Passed House. Passed Senate Regulated Industries. Companion Legislation SB 66 was passed by both House and Senate and signed into law by the Governor last year. Senate recommitted HB 184 to Senate Regulated Industries Committee on January 13, 2020.

HB 200 – By Rep. Don Hogan (R-St. Simons Island) exempts hotels operated by a 501(c)3 charitable tax-exempt organization (such as a religious denomination from charging the $5 per night hotel/motel fee, which is a significant component of the revenue generated by The Transportation Funding Act of 2015 (HB 170). STATUS: Assigned to House Ways & Means Committee (bill did not crossover last year).

HB 294 – By Bonnie Rich (R-Suwanee) would protect competitively awarded bids that were entered into prior to a Special District Sales and Use Tax vote from the burden of an additional sales tax that was approved by voters after the bid was signed. STATUS: Heard in House Ways & Means Committee (bill did not crossover last year).

HB 422 - By Rep. Tim Barr (R-Lawrenceville) Amended Version would allow non-Local Issuing Authorities (LIA) two new options for soil and erosion plan review. Currently, a non-LIA government must use EPD for soil and erosion plan review. This bill would allow a non-LIA government to contract with an LIA government within their water district for plan review or allow a non-LIA to employ or contract with an individual with Level 2 Design status for in house plan review. STATUS: Attached to HB 493 in Regulated Industries last year and passed the House 142-20. HB 422 language was stripped out of the version of HB 493 that was signed into law by the Governor. Assigned to House Natural Resources and Environment Committee (bill did not crossover last year).
HB 428 – By Rep. Bill Werkheiser (R-Glennville) the “Georgia Communications Tax Act” originally proposed a tax on streaming services (the so-called “Netflix tax”) to create a revenue stream to support broadband expansion in rural Georgia. **STATUS:** Assigned to House Ways & Means Committee.

HB 447 - By Rep. Dominic LaRiccia (R-Douglas) merged with SB 131, the Hartsfield Jackson Airport Takeover bill in Senate Finance. This amended bill also increased the excise tax from $.005 to $.01. The Governor's floor leader objected to the amendment but the bill passed out of Senate Finance 5-4. **STATUS:** Recommitted to Senate Finance Committee on January 13, 2020.

HB 448 – By Matt Dollar (R-East Cobb) would expand the $5 hotel/motel fee established in The Transportation Funding Act of 2015 (HB 170) to cover AirBnB rentals that make $100,000/yr. **STATUS:** recommitted to House Ways & Means Committee (bill did not crossover last year).

HB 508 – By Rep. Brett Harrell (R-Snellville) would establish a direct nexus between fees generated by the Professional Licensing Boards Division (PLBD) and expenditures back to the PLBD. **STATUS:** Assigned to House Regulated Industries Committee (bill did not crossover last year).

HB 511 - By Rep. Kevin Tanner (R-Dawsonville) the original bill was a statewide transit mobility bill that sought to establish a permanent funding source for rural transit. Ultimately became the “Frankenbill” that had numerous other transportation related legislation attached to it, like the parts of Frankenstein’s monster. Chairman Tanner has been working with the various stakeholders to introduce a new, clean version of the bill later this session. **STATUS:** Pending in Senate Transportation Committee.

HR 38 – By Rep. Dar'shun Kendrick (D-Lithonia) would create a House Study Committee on Historically Black Colleges and Universities and Science, Technology, Engineering, and Mathematics (STEM) Fields. **STATUS:** Assigned to House Special Rules Committee.

HR 164 - By Rep. Jay Powell (R-Camilla) Constitutional Amendment that would allow revenues derived from fees or taxes to be dedicated to the public purpose for which such fees or taxes were imposed. The House passed an identical bill last year by a vote of 166-1 and now Lt. Governor Geoff Duncan was a cosponsor of the bill. It did not receive a hearing in the Senate last year. **STATUS:** Passed House 169-1. A substitute version that gutted the original intent of the bill passed the Senate 52-0. Awaiting action by the House.

SB 131 - By Sen. Burt Jones (R-Jackson) "Georgia Major Airport Act" would allow the State to create an Authority to run Hartsfield Jackson Airport. Amended in House Rules to create an oversight committee instead of a State take-over. House Rules also attached HB 511 and HB 447. **STATUS:** Passed Senate Transportation Committee. Passed Senate 34-22. Amended in House Rules. Passed House (creating only an oversight committee) and is awaiting further action by the Senate.

SB 200 - By Sen. Steve Gooch would require GDOT to establish an appeals process for bid rejection. **STATUS:** Passed Transportation. Passed Senate 54-0. Passed House Transportation Committee. Bill was assigned to Conference Committee.