

**President's Report**

Greetings to all our contractor and associate members of NUCA of the Carolinas. We are looking forward to our Fall Conference in Asheville, NC in October. I am excited about the schedule of events and hope each of you attending will make it a priority to participate in these sessions. It is always a pleasure for us to gather together during the fall season and enjoy the time together while networking and growing this great industry.

Thank you to all our committees for all the work you have put in this year for Safety & Risk Management, Membership, Conference Planning, Educational Foundation, and our legislative initiatives. Also, a huge thanks to Linda Goslee for all you do each week and for all your hard work with the upcoming Fall Conference. It's going to be fun, GO NUCA of the Carolinas!!

Steve Brown

**POSITIVE SHORING  
SEMINAR**

Thursday, November 21, 2013  
Charlotte Dept. of Transportation  
4411 Northpointe Industrial Blvd.  
Charlotte, N.C.

**SPEAKER**

Dewayne Sykes—NCDOT

LUNCH PROVIDED

More Information—See Flyer at  
[www.nucacarolinas.org](http://www.nucacarolinas.org)

**Safety & Risk Management**

**NEXT MEETING**

November 12, 2013—11:00 –1:00

Sponsored By:

Sanders Construction Co. @  
Sports Page Food & Spirits  
Charlotte, N.C.



**E-VERIFY HB786**

Effective September 4, 2013, the State of NC passed H786/Session Law 2013-418, that is to clarify which employers are subject to the NC's E-Verify laws and imposes E-Verify requirements on most public (government) contracts. It applies to all city and county contracts regardless of type or cost.

Legislative Update by Brad Barringer

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# LEGISLATIVE NEWS

Hopefully everyone knows by now that North Carolina has a new Underground Utility Safety and Damage Prevention Act - HB 476. Maybe not so well known is that Legislation that aids the designers and surveyors in getting locates on tracts of land during the pre-construction phase of a project was also enacted - SB 9.

HB 476 becomes effective on October 1, 2014 with certain provisions being phased in over the next two years. HB 476 would have eventually covered the requirements of SB 9 but the surveyors felt their issues were too important to delay. SB 9 became effective July 15, 2013.

HB 476 reserves certain rights to regulate underground utility safety and damage prevention issues to the state thereby prohibiting cities and counties from implementing a hodge-podge of local laws and regulations. One of these provisions prohibit cities and counties from specifying the type paint or markers used to identify facilities. Another provision prohibits them from requiring the removal of marks. Removal of marks shall be the responsibility of the city or county.

In general, and with some exemptions, all facility operators must become members of the Notification Center with the final phase-in by October 1, 2016. Railroads are exempt. Gravity sewers and storm water facilities installed prior to October 1, 2014 are exempt however an operator who fails to become a member of the Notification Center can not recover for damages if the excavator has "exercised reasonable care".

The new time line for making a locate request for underground facilities (underwater is different) is 3 to 12 full working days. That adds some up front time to the locate but clears up the ambiguous rules imposed by the Notification Center as a matter of policy.

HB 476 requires the Notification Center to establish a positive response system, requires the facility operator to respond to that system with the status of the locate and requires the excavator to check the status of the locate before proceeding with the excavation. It does not require the excavator to delay the excavation if the operator has failed to respond or has given any response other than claiming "Extraordinary Circumstances" which are well defined in the law.

HB 476 establishes a totally new system for dealing with violations of the law regardless of the occurrence of a damage. For instance, we think it would be a violation of the law deserving a penalty if an operator claimed extraordinary circumstances for reasons not covered by the law.

The tolerance zone changes from 30" to 24" with some new requirements on the operator to supply the size or width of the facility. For facilities under water the requirements are different.

I have only opened the cover of this book with what I have covered in this article. The law is available on line and will be discussed at nearly every UCC, NCCGARP , construction trades meetings and city and town councils until it is fully implemented and in common use. Please, in order to fully protect yourself, learn as much as you can about this law and how to comply. Making the call is a lot easier than locating the facility. Excavators have nothing to fear and lots to gain as this law takes effect.

Brad