

A Report to our Members: THE END OF THE 2020 SHORT SESSION

March 17, 2020

On March 5th, House Speaker Tina Kotek and Senate President Peter Courtney abruptly adjourned the 2020 Legislative Session, and in the words of the Senate president, ended “*a failed session.*” As a result, only three bills passed, leaving dozens of budget and policy bills, including the deeply divisive cap and trade legislation, to be considered in future legislative sessions. It was only when the Democrat-controlled legislature refused to send the cap and trade proposal directly to the voters, to say yay or nay, that the House and Senate Republicans left the building in protest. At the heart of the short session’s failure was the Democratic majority’s rejection of Republican lawmakers’ offer to return to the capitol, after a nearly 10-day walkout, for a single day to complete the state’s necessary business.

CAP AND TRADE DEFEAT LEADS TO GOVERNOR'S EXECUTIVE ORDER

Even Democratic legislators were divided over the fate of the cap and trade legislation, [Senate Bill 1530](#). One high-ranking Democratic state senator declared, in a January press conference, “...*with something this complex, I don't think we can ask the voters to go through all the process that we've gone through to make an educated decision.*” In February, a senior Democratic member of the Oregon House publicly called for the legislature to “...*respect our colleagues, our Republican colleagues, and the voters, and refer what we're calling the carbon bill to the voters, and let the voters decide. Let's not ram this through just because we can do it.*” In a joint press release dated February 18, Senator Betsy Johnson and Representative Brad Witt stated the following, “*The politics surrounding SB 1530 are deeply*

disappointing. The proponents are desperate to pass a bill that will result in no significant environmental gains but will greatly burden the pocket books of our constituents.”



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On the same day the 2020 Legislative Session was declared over, Senate and House Democratic leadership called on the governor to convene a special session within 30 days to pursue greenhouse gas emission reduction actions.

Four days later, on March 9th, Oregon's Joint Emergency Board approved \$5 million to support the governor's executive actions against climate change. One day later, Governor Brown unveiled the [14-page executive order](#) declaring the reduction of greenhouse gas emissions “*a scientific, economic, and moral imperative.*” The executive order directs all state commissions and agencies (19 in total) to “exercise any and all authority and discretion vested in them by law” to achieve the ambitious greenhouse gas emissions reductions.

Governor Brown’s executive order also directs the Oregon Environmental Quality Commission (EQC) and Oregon Department of Environmental Quality (DEQ) to adopt administrative rules mandating a dramatic decline in carbon emissions to 1) at least 45 percent below 1990 emissions levels by 2035; and 2) at least 80 percent below 1990 emissions levels by 2050. Three specific sectors are targeted: manufacturing, energy, and transportation. They include large stationary sources (manufacturing facilities), mobile sources (transportation fuels e.g. gas and diesel) and reducing emissions from all other energy and natural gas sources.

Legal Battle Ahead?

Opponents of cap and trade/the governor's greenhouse gas emission executive order now likely face an extended legal battle, not unlike the four-year long battle in the state of Washington. After almost four years, Washington's Supreme Court struck down Governor Jay Inslee's similar executive order. The court narrowed the cap of greenhouse gases to stationary sources and said natural gas suppliers as well as fuel importers, sellers, and distributors were not subject to the order.

BILLS IMPACTING THE CONSTRUCTION INDUSTRY CONSIDERED IN 2020

|| Corporate Activity Tax bill limited to technical fixes; relief for previously-signed construction contracts rejected | [House Bill 4009](#) contained minimal technical adjustments to the corporate activity tax (gross receipts tax) that was passed by the 2019 legislature. AGC met with the House Revenue Committee chair to request the addition of a hold-harmless provision in the bill for contracts signed before the tax went into effect on January 1, 2020. The Department of Revenue's inability to calculate the potential revenue loss involved with this change prevented this fix from being considered. HB 4009 did not receive a vote on the House floor before the session abruptly adjourned.

|| Compromise enterprise zone changes bill focused on notice/data collection requirements | [Senate Bill 1525](#) was a product of a yearlong work group including opponents and supporters of defeated prevailing wage expansion bills in the 2019 Legislative Session. Unlike previous bills imposing prevailing wage requirements on private construction projects, this bill required additional data collection and notice requirements for private construction projects receiving property tax abatement incentives. It would have established new requirements for a business firm receiving an abatement to advertise construction projects and notify local governments if the business or contractor entered into a project labor agreement. This compromise bill received bipartisan support in the Senate and through the House committee, but did not receive a vote on the House floor before the session abruptly adjourned.

|| Oregon's response to new federally proposed industry recognized apprenticeship program definitions | [House Bill 4143](#) would have prohibited spending state money on federally proposed, industry-recognized apprenticeship programs. AGC worked closely with the bill's sponsor to educate the legislator on the importance of the development and expansion of apprenticeship programs to meet the construction industry's ongoing workforce demands. The bill received a hearing, but did not move out of the House committee before the session abruptly adjourned.

|| Funding BOLI technical assistance and wage security fund use changes | As introduced, [House Bill 4087](#) directed a limited portion of civil penalties collected from employers for the Bureau of Labor and Industries to provide employer technical assistance. In addition, the bill would have authorized a new use of the Wage Security Fund to pay outstanding owed wages to an employee after BOLI claims issued in a final order. An [amendment](#) to the original bill would have capped the amount of civil penalties available to BOLI at \$290,000 per year. The bill did not receive a vote on the House floor before the session abruptly adjourned.

✗ Changes to licensure and independent contractor laws in the construction industry | [House Bill 4022](#) required sole proprietor construction contractors to obtain workers' compensation insurance. It would also have expanded the Construction Contractors Board's authority to revoke, suspend, or refuse to issue a license when a contractor hired an unlicensed contractor, or when the number of licensed contractors exceeds the specific number of contractors allowed when working together on the same scope of work on the same project. The bill was tabled for further discussion in advance of the next session after AGC and the Oregon Home Builders Association raised questions regarding the unintended consequences of the bill.

✗ Public contracting bid preference for emergency preparedness training | [House Bill 4042](#) created a preference for bidders who are certified by the Office of Emergency Management as emergency preparedness partners. The bill would have directed the Office of Emergency Management to establish a program (currently not in existence) for certification of business organizations as emergency preparedness partners. AGC worked with a small coalition of public entities and interested associations to put this bill on hold for future discussions before it received a vote in its committee.

✗ Expansion of prevailing wage to private construction receiving tax abatements | [House Bill 4045](#) was a sweeping bill that would have expanded the definition of "public works" to include all private construction projects above \$25 million or more, benefiting from any property tax abatements available, to incentivize private sector investment in Oregon. AGC successfully worked in tandem with a broad-based coalition to successfully defeat this bill before it received a hearing in the House Committee.

|| Bill on pause, expected to return in 2021 Legislative Session

✗ AGC successfully defeated before walkout

> AGC's core policies, guiding our legislative activities, are developed at our annual Legislative Forum, chaired by Dee Burch and Tom Gerding, and is open to all members. If you're interested in participating in the annual meeting, please contact Kirsten Adams, kirstena@agc-oregon.org.

WHAT COMES NEXT:

> AGC and its Public Affairs team remain engaged in all issues contained in this report. 2020 will be one of the most divisive election years in recent Oregon history – in light of the hardening political divisions and far-reaching policies (like cap and trade) – with the potential to reshape our state and our industry.

> Discussions between Oregon's Democrat and Republican caucuses are ongoing regarding the governor convening a special session in the coming weeks.



PHOTO CREDIT: UNKNOWN

session by the numbers:

258

total bills introduced in the 2020 legislative session

63

bills AGC actively tracked for the duration of the session

3

bills passed in the 2020 legislative session

this report prepared by:

John Rakowitz, 503-317-1781

Kirsten Adams, 503-990-2262

Lauren Kuenzi, 971-412-1063

questions?
please contact us

AGC Oregon
Columbia
Chapter
ASSOCIATED GENERAL CONTRACTORS