



March 2022

**Oregon's Legislative Session:
Report to our
Members**





2022 Legislative Session: Summary

Once again, the Oregon State Legislature overreached what voters had in mind when approving annual legislative sessions in 2010. Originally created to make technical fixes and budgetary adjustments, legislative short sessions have ballooned into condensed long sessions, with legislators proposing complex policy bills. The 2022 Short Session was also marked by new leadership and changes of the guard, including a new Speaker of the House, and new Republican leaders in both the House and Senate. This session also featured an unprecedented number of Republicans and Democrats announcing their retirements, ensuring once in a generation turnover in the Oregon State Legislature in 2023.

Broadly speaking, AGC, in concert with our allies, was able to either defeat or, more often, substantially amend most bills we faced that would significantly impact the construction industry.

Good news: Under AGC's leadership of the workers' compensation coalition, this session's workers' compensation bills were changed in a manner that led the Management Labor Advisory Committee (MLAC - the longstanding policy advisory committee) and SAIF to support the three bills that passed. The fact that key legislators from both parties publicly recognized the work and value of MLAC bodes well when future attacks to undermine Oregon's strong workers' compensation system likely come from the trial lawyers and unions.

One big surprise was that [House Bill 4141](#), which proposed outlawing the sale of petroleum diesel starting in three years in the metro area, got legs. It took a serious effort by a small group of business interests, including AGC, to reshape the legislation into a taskforce and study bill before it passed out of committee. In the end, the bill died and in its place a budget note was attached to a budget bill directing Oregon Department of Transportation and Department of Environmental Quality to report back to the legislature with an analysis of incentives supporting the transition to zero emission medium and heavy-duty transportation fleets.

Perhaps the biggest disappointment was that the governor's approved \$200 million workforce development package (Senate Bill 1545) was amended to exclude construction from a dedicated apprenticeship fund, at the request of the Building Trades. Despite that disappointment, AGC is well positioned to benefit from new funding for local workforce development board resources.

The biggest drama occurred in the Washington State Legislature when the majority party included a six cent export fuels tax in a much larger transportation funding package. The AGC Oregon-Columbia Chapter was one of four Oregon organizations that signed on to a public letter urging Washington to abandon the idea, and Oregon's elected officials to loudly oppose it. The Washington legislature ultimately removed that provision from the transportation package before passing it earlier this month.



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Finally, Oregon's legislature spent a reported additional \$2.7 billion of new revenues not anticipated at the beginning of the two-year budget cycle in July of 2021. This additional spending may, in the future, lead to an increased appetite for more taxes on business to sustain the spending beyond this year.

In the end, we did not face some of the most dangerous threats we feared such as broad project labor agreement mandates and we avoided the kind of devastating impacts that other sectors (i.e., the agricultural industry) are now experiencing.

Below is a rundown of the bills our industry faced at the beginning of the 2022 Legislative Session and how they developed. As always, if you have any questions, please reach out to any member of our team.

Workers' Compensation Changes

Amended and Passed: HB 4138 - Workers' Compensation Time Loss. In the past several years, there have been bills and workgroups at the Management Labor Advisory Committee (MLAC) related to time loss. House Bill 4138, as introduced, was better than previous versions proposed by the Oregon Trial Lawyers Association. MLAC encouraged stakeholders to continue to negotiate; SAIF's attorneys negotiated aggressively and came to a compromise. The compromise language included notice requirements for ending temporary disability compensation, and provisions around retroactive authorization or declaration. A critical part of the agreement was that MLAC would engage in a comprehensive conversation around time loss and continued care issues, leading AGC to be neutral on the bill. In the coming months, these conversations will continue at MLAC, where John McKenzie with JE Dunn has been actively engaged for the construction industry.

Passed: HB 4086 - Retaliation and Death Benefits. Prior to session, the concept behind House Bill 4086 was problematic and created serious potential liability for employers. After negotiations with AFL-CIO, the bill did not create significant liability issues. The bill connected the definition of death beneficiaries to family law definitions, as those are updated more frequently. Additionally, it changed the retaliation statute for workers' compensation to include that retaliation against an employee who inquires about, or files, a worker's compensation claim will be prohibited for all employers. Since the bill passed through MLAC with full support and had the support of SAIF, we remained neutral.

Employment Laws

Amended and Passed: SB 1586 - Nondisclosure Agreements. As introduced, Senate Bill 1586 would have created an unlawful employment practice for an employer to ask an employee to enter into a settlement agreement that required nondisclosure. In addition, it would have eliminated confidentiality from mediation and guaranteed \$5,000 in damages, even when the employee failed to show damages. The final bill removed the damages and the mediation portion, provided flexibility for negotiations, and only applied in instances of discrimination. While the bill was much improved, we continued to oppose it.



Environmental Regulation

Amended and Passed: SB 1518 - Reach Code. Senate Bill 1518 began as a bill to direct the Building Codes Division to create the reach code as an alternative code, allowing local jurisdictions to adopt it as their base code. AGC opposed this bill, due to our core policy supporting the statewide building code. The bill that passed was significantly amended to create a task force to look at resiliency and energy efficiency in the built environment. AGC is working to ensure contractors are sufficiently represented on the task force as they discuss policies related to energy efficiency and lifecycle emissions.

Amended and Passed: HB 4059 - Changes to House Bill 2021. When House Bill 2021 passed in the 2021 Legislative Session (requiring investor owned utilities to produce 100% renewable power), AGC advocated the prevailing wage and apprenticeship requirements apply only to projects of 10 megawatts and larger. House Bill 4059 would have required all contractors associated with these facilities to meet apprenticeship requirements for projects two megawatts and larger. AGC opposed this change and the bill was amended back to the 10 megawatt threshold for apprenticeship requirements. Additionally, a good faith exemption for contractors unable to meet the apprenticeship requirement for 10 megawatts and larger is now part of the law.

Transportation & Public Contracting

Defeated: SJR 204 - Constitutional Tolling Prohibition. Senate Joint Resolution 204 proposed an amendment to the Oregon Constitution prohibiting tolling, unless the toll was approved by a majority vote in counties within a 15 mile radius of the section of highway where the tolling was to occur. Fortunately, the bill died without receiving a committee hearing.

Amended and Passed: HB 4139 - ODOT Environmental Product Declarations. House Bill 4139 requires ODOT to establish a program to reduce greenhouse gas emissions by the end of 2025. The program will assess the emissions related to materials (concrete, asphalt, and steel) used in construction and maintenance of the state's transportation system utilizing environmental product declarations. AGC worked closely with OCAPA to ensure regional variability considerations ensuring different strategies for each of the five transportation regions. In addition, ODOT will allow contractors to submit EPDs no later than the date they have completed the performance of the public contract. There will be a grant program and a technical advisory committee that is required to report to the Oregon Transportation Commission and Legislative Assembly annually.

Did Not Pass: HB 4130 - Wildlife Corridor Funding. House Bill 4130 originally proposed utilizing Highway Trust Fund resources for the construction of wildlife corridors. AGC opposed the bill in keeping with our longstanding opposition to the use of HTF dollars beyond traditional uses. The amended bill proposed using general fund dollars but failed to pass out of Ways & Means.

Workforce Investment Funding

Amended and Passed: SB 1545 - The Governor's Future Ready Oregon Package. As introduced, Senate Bill 1545 included three targeted industries for investments: construction, manufacturing, and healthcare. In the bill's first hearing, the governor's office introduced an amendment removing construction as a targeted industry, at the request of the Building Trades. Ultimately, AGC and the construction industry have opportunities to partner with local workforce boards and other organizations eligible for funding contained in SB 1545.



WHAT COMES NEXT

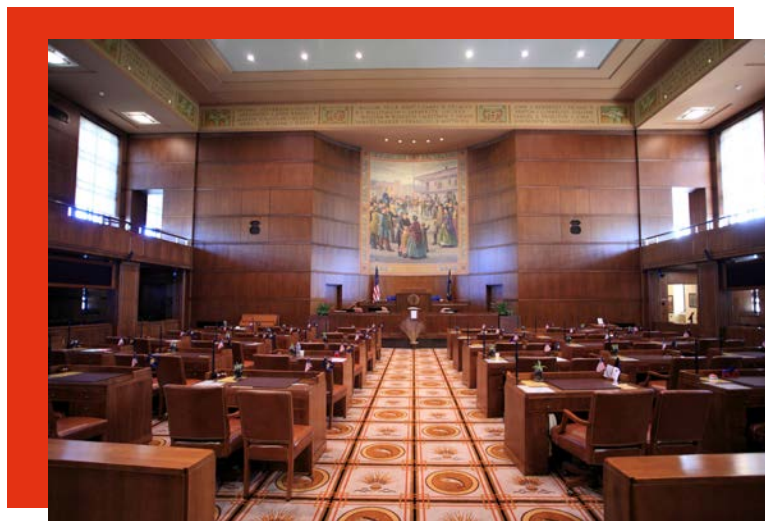
Although the 2022 Legislative Session is now behind us, AGC will continue to engage in multiple task forces and rulemakings.

That work includes previous legislative action and activity at OSHA and ODOT. MLAC will also continue discussing potential changes to the workers' compensation system strengthening it for employers and workers.

On the political side, we're gearing up for an intense election year with unprecedented legislative turnover and the race to be Oregon's next governor.

If you're interested in learning more about anything discussed above, please reach out to any member of our public affairs team.

AGC'S CORE POLICIES, GUIDING OUR LEGISLATIVE ACTIVITIES, ARE DEVELOPED AT OUR ANNUAL LEGISLATIVE FORUM, CHAIRED BY DEE BURCH AND TOM GERDING, AND OPEN TO ALL MEMBERS. IF YOU'RE INTERESTED IN PARTICIPATING IN THE ANNUAL MEETING, PLEASE CONTACT KIRSTEN ADAMS, [KIRSTENA@AGC-OREGON.ORG](mailto:kirstena@agc-oregon.org).



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