

JULY 2023

END OF SESSION REPORT



PREPARED AND PRESENTED BY

DIRECTOR AND COUNSEL OF POLICY & PUBLIC AFFAIRS – KIRSTEN ADAMS
PUBLIC AFFAIRS ASSOCIATE – MAGGIE GERLICHER
STRATEGIC AFFAIRS MANAGER – TANNER LLOYD

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MESSAGE FROM CHAPTER PRESIDENT STEVE MALANY

From my perspective as the 2023 chapter president, teamwork within our Public Affairs Department and with many outside organizations was the key to all successes that AGC had in the 2023 Oregon Legislative Session.

This year the AGC legislative team turned a page, and we focused on bringing the next generation into the fold and increasing their roles in our organization. Kirsten Adams successfully stepped into the role of director while new managers Maggie Gerlicher and Tanner Lloyd joined the team and showed tireless work, strong engagement, and brought fresh new ideas. John Rakowitz continued to offer the group the benefit of his years of experience and relationships, valuable mentorship, and shared his expertise in highway funding and transportation. It's exciting to see the next generation moving into these roles and representing AGC and our industry effectively in Oregon's Capitol.

In the policy arena, the AGC lobby team quickly knew that working together with other organizations was the best path for success in a capitol building that is increasingly more divided and partisan. We worked closely with a large array of other organizations, associations, private businesses, unions, and public entities to support and/or oppose bills and to properly shape potential laws that could impact the construction industry.

Specifically:

- We worked closely with National Association of Minority Contractors (NAMC) and LatinoBuilt on a variety of bills, explaining to legislators the impact the new policies would have on smaller contractors, and in particular smaller minority contractors.
- Oregon Concrete Aggregate Producers Association (OCAPA), Oregon Business and Industry (OBI), and Asphalt Paving Association of Oregon (APA0) were strong allies in all issues that impact our joint members, including project labor agreements and diesel legislation.
- AGC also paired with construction unions to amend climate bills that would have threatened Oregon's statewide building code, and in support of legislation that would change Oregon's retainage laws in a way that benefits the entire industry.
- We teamed up with local government associations and the Oregon School Boards Association (OSBA) in opposition to public contracting mandates that would increase the cost of construction while decreasing the ability of local contractors to bid on local projects.



2023 Chapter President Steve
Malany, P&C Construction Company



I'd also like to recognize past AGC chapter presidents Tom Gerding, Dee Burch, and Larry Gescher for their continued time and efforts in supporting our legislative work. Tom, Dee, and Larry spent countless hours guiding the PA team and offering feedback and guidance, insight into our industry, and a willingness to be available whenever our team called them. We can't thank them enough for all of their contributions.

As the 2023 Oregon Legislative Session comes to a close and we move into the interim period, I look forward to continuing to work with our entire Public Affairs team as we represent the construction industry in the rulemakings, policy discussions, and other legislative activities to come.

LEGISLATIVE SESSION OVERVIEW

The 2023 Oregon Legislative Session marked a partial return to normal, as committee rooms reopened and in-person meetings resumed following several years of virtual meetings and exclusion from the building due to COVID. This return came at a critical time, as we relied more than ever on coalition work and our legislator allies this session. AGC tracked more 550 bills, and led multiple coalitions to pass, modify, or kill a variety of bills. While there were multiple attacks on the construction industry, AGC was able to stop or mitigate most of these attacks through collaboration with our coalition partners.

This session was largely characterized by new leadership in both chambers and parties, which led to challenges as the new leaders developed into their roles and navigated new dynamics in their caucuses. Leading caucuses is challenging, with a variety of perspectives and ultimate goals that often differ. Some of the issues we faced this session were a direct result of leaders learning how to guide their caucuses and keep operations in line with precedent from past sessions.

The Senate Republican walkout will likely be what historically marks this session. Following the passage of Ballot Measure 113 in November 2022, legislators cannot be seated as senators or representatives if they have 10 or more unexcused absences during a session in their previous term. As a result, there are 10 legislators who will need to challenge the law in order to be seated to represent their district again at the end of their current terms. The walkout ended with agreements on changes primarily to two pieces of legislation, one on abortion and one on gun regulations. The 43-day walkout slowed progress in the session, but ultimately did not stop much legislation from eventually passing.

From months before session officially began, to the final hours of the last day, AGC's Public Affairs team strove to protect the construction industry from harmful policies. As we enter the interim period before the 2024 short session, the team will continue to fight for the construction industry in rulemakings, committees, and other policy discussions.

As always, if you have any questions or comments, please feel free to reach out to AGC's Policy and Public Affairs Director Kirsten Adams.



No Republicans showed up to a Senate floor session on Monday, May 15. On the walkout's tenth official day, three senators accrued enough absences to be blocked from running for reelection.

Dirk VanderHart / OPB

43
DAYS OF SENATE
REPUBLICAN
WALKOUT

160
DAYS OF
SESSION

4:25 PM
**ADJOURNED SINE DIE
SUNDAY, JUNE 25, 2021**

WINS & LOSSES

PUBLIC CONTRACTING MANDATES & PREVAILING WAGE LAWS

DEFEATED PLAs ON ALL PUBLIC PROJECTS OVER \$1M – SB 850

Background: SB 850 would have required project labor agreements (PLAs) on all public contracts for \$1M or more, with \$750,000 in public funds, meaning that most public projects throughout the state would require PLAs. AGC's leadership (both union and open) testified that mandated PLAs are detrimental to the industry as a whole, effectively excluding open shop contractors and making it more difficult for union contractors to find subcontractors. The testimony also emphasized that choosing union versus open shop is a business decision that contractors make, and the government shouldn't be interfering in those decisions.

After hearing opposition from AGC and our coalition, the bill was amended to give the option of a mandated PLA or meet a variety of labor standards. The standards were unfeasible, so the amendment did not solve the issues that AGC and our coalition had with the bill. AGC used its new Voter Voice function to engage members in sending messages to legislators on the Senate committee, to make it clear how significant and widespread the impact of this bill would be.

Result: AGC defeated this bill by leading a strong coalition that included League of Cities (LOC), OSBA, OCAPA, APAO, NAMC, LatinoBuilt, and OBI. The bill was also opposed by housing advocates who saw the negative impact that mandated PLAs would have had on affordable housing. The bill had an unprecedented number of cancelled and rescheduled hearings while the committee tried to decide what to do with the bill, as it became clear that there was substantial opposition and there were no amendments that would bring our coalition in support of the bill. Our coalition was ultimately successful in keeping the bill from moving out of Senate committee. While this bill did not pass this session, we are remaining vigilant for other areas where mandated PLAs could arise in the future.

DEFEATED APPRENTICESHIP MANDATES ON EDUCATION PROJECTS – SB 518

Background: SB 518 would add apprenticeship utilization requirements to all K-12 and higher education projects (including community college projects). It would also lower the threshold for these requirements from the current \$8M threshold for certain higher ed projects to \$200,000 for all education projects. The contractor and subcontractors would be required to be training agents. The bill would also require 15% apprenticeship utilization for these projects, as well as add a requirement that contractors provide health insurance and retirement benefits for their employees. This bill would have gone into effect in fall 2023, leaving no time for contractors to prepare to meet these requirements.

Result: AGC worked with the Oregon School Boards Association in opposition to this bill, and were able to prevent the bill from moving forward out of the Senate Committee. However, the bill sponsor noted that he hoped HB 2649 would pass, as it carried similar provisions to this bill (HB 2649 adds apprenticeship utilization requirements to all Higher Education Coordinating Commission (HECC) projects).

2,970
BILLS
INTRODUCED

550+
BILLS THAT AGC
TRACKED

WINS & LOSSES

PUBLIC CONTRACTING MANDATES & PREVAILING WAGE LAWS, CONT.

PASSED INCREASED APPRENTICESHIP UTILIZATION REQUIREMENTS – HB 2649

Background: HB 2649 increases apprenticeship utilization requirements in state projects. As introduced, it would have required an increase from the required 12% to a new requirement of 15% on projects with a contract price of \$750,000 or more by 2025. The bill also adds all HECC projects to the requirement, and removes Oregon Department of Transportation's (ODOT's) current exemption from requirement. The bill creates a provision reducing payments for contractors who are unable to meet the apprenticeship requirements, by \$15 per hour of the number of hours that should have been completed by apprentices under this requirement but were not. These funds are intended to assist in developing apprenticeship programs in areas of the state where they are lacking.

Result: AGC led the opposition coalition against this legislation, and sought amendments with the bill's sponsor. We were successful in getting the effective date of the 15% requirement pushed out to 2027, to give contractors more time to come into compliance. This bill passed out of the House committee without stakeholder conversations and engagement that were promised by the chair during the bill's first and only hearing. The bill went to Ways and Means where it barely made it out of the subcommittee. Despite AGC and our coalition's aggressive efforts to kill the bill, HB 2649 passed in the last week of session. We have commitments from two legislators to work with us during the interim on issues we raised with the bill, before it goes into effect.

PASSED HB 3031/ **DEFEATED** SB 414 – LABOR REQUIREMENTS ON HVAC IN SCHOOLS

Background: HB 3031 and SB 414 were introduced as companion bills, with the goal of addressing concerns across the state regarding poor air quality and ventilation systems in schools. While the concept was an important one, SB 414 mandated that school districts would have had to enter project labor agreements (PLAs) on these projects and that they would have had to employ apprentices to perform at least 15% of the work hours that workers in applicable occupations performed. Because of these requirements, AGC opposed the bill.

Result: AGC worked with a coalition including the Oregon School Boards Association to educate members of the House and Senate education committees on the negative impacts putting a mandated PLA requirement or a 15% apprenticeship utilization rate would have on small school districts, particularly in the most rural parts of the state. SB 414 failed to pass out of the Senate before the first chamber deadline, and the focus turned to HB 3031. The coalition worked on the bill, and HB 3031 was amended to remove the PLA requirement, but still maintained the training agent requirement and aspirational goals, and allows contractors the choice to enter into a PLA instead of meeting the labor requirements if the contractor chooses.

PASSED BUY AMERICA – HB 3332

Background: HB 3332 adds Buy America requirements to certain public contracts. As this was a priority of the new Speaker of the House, AGC provided feedback on initial drafts of the bill, and offered direction on limiting the scope and ensuring that the waiver process is practical and allows the contractor to know as quickly as possible whether the waiver will be approved. Also, once the waiver is approved, the waiver can be in effect for all contracts using that product for five years, and may be extended past that.

Result: HB 3332 was amended to deal with AGC's specific concerns, and passed in the final days of the session. The bill that passed applies to all ODOT and Department of Administrative Services (DAS) projects over \$250,000, and required that steel and iron used in these projects be produced in the United States. There is a waiver provision if the products are not available in sufficient quantity or quality, or will increase the project cost by more than 25%, or if it is against public interest. The agency director must respond within 15 days with the waiver determination. This short timeframe was insisted upon by AGC, to ensure the contractors know as soon as possible whether their waiver will be granted.

WINS & LOSSES

PUBLIC CONTRACTING MANDATES & PREVAILING WAGE LAWS, CONT.

DEFEATED ENVIRONMENTAL PROCUREMENT PREFERENCE - SB 442

Background: SB 442 started as a bill permitting public contracting agencies to grant preferences for procuring goods and services that are available in Oregon, and allows procuring agencies to spend not more than 5% more if the agency determines that the increased cost of the good or service is offset by the environmental cost of transporting the out of state good or service. AGC worked with the legislator who introduced the bill to ensure that it would not have any unintended consequences on the procurement of construction and related services in the public contracting code (ORS Chapter 279C). He agreed to limit the requirement to goods and services, not construction, and we were able to remain neutral on it moving forward.

Result: SB 442 passed as amended out of the Senate, but it failed to pass out of its assigned House committee before the chamber deadline and was not able to move forward in the process.

A WORD FROM OUR LEGISLATIVE CO-CHAIRS



2023 Legislative Forum Co-Chair Dee Burch, Advanced American Construction, Inc.



2023 Legislative Forum Co-Chair Tom Gerding, Gerding Builders

“In a year of transition for the AGC Public Affairs team, with Kirsten Adams taking the lead and John Rakowitz partially retiring, our work continued seamlessly and we continued to have the same level of success during this difficult session that we experienced in previous sessions.”

“AGC’s strong PAC and dedication to strategic investments teed our team up for a successful session working with legislators on both sides of the aisle.”

WINS & LOSSES

EMPLOYMENT LAW AND LIABILITY

DEFEATED WAGE THEFT LIABILITY - HB 2057

Background: [HB 2057](#) would make contractors liable for the unpaid wages of their subcontractors. The bill was looking to solve instances of wage theft in the construction industry, but did nothing to actually go after the bad actors who were not paying their employees. Instead, the bill pushed the liability on to the contractors to pay if the subcontractor did not. The bill also had a six year statute of limitations, meaning the contractor could still be held liable six years in the future for unpaid subcontractor wages, years after their final payments to the subcontractors. AGC and our coalition offered a variety of alternative solutions to the wage theft issue, but given that this was a national priority of the Carpenters, the bill proponents had no interest in negotiating a practical and meaningful solution to wage theft issues.

Result: AGC led the coalition of construction organizations to oppose this bill. We worked closely with NAMC, LatinoBuilt, Oregon Homebuilders Association, OCAPA, OBI, and National Federation of Independent Business (NFIB) to emphasize that this was terrible policy for all contractors in the state, in particular small and minority contractors. We emphasized the chilling effect this would have on new businesses, since contractors would not want to take on the liability of an unknown subcontractor. [HB 2057](#) narrowly passed by one vote in the House. We continued to fight the bill in the Senate, including working with several moderate House members to articulate the issues to their Senate colleagues. After several contentious Senate committee hearings, the bill died in the Senate.

DEFEATED RETENTION AND HIRING BONUSES/BOLI RULEMAKING - HB 3205

Background: [HB 3205](#) began as a bill that would ensure that employers could offer hiring and retention bonuses to their employees without violating Oregon's pay equity laws. This was allowed on a temporary basis during the COVID pandemic, but expired in 2022. This bill was introduced by the business community to ensure that employers are able to be as competitive as possible in hiring and retaining employees.

Result: AGC supported the bill as introduced, and as it was amended in the House. However, when [HB 3205](#) reached the Senate, it was amended to only include new rulemaking authority for BOLI, and removed the portion to protect employers who use hiring and retention bonuses. Since the bill no longer served its original purpose to protect employers, AGC, with the rest of the business coalition, opposed the bill as amended and was successful in killing the bill before the end of session.

DEFEATED BULLYING IN THE WORKPLACE - SB 851

Background: [SB 851](#) started as a study bill to examine bullying in the workplace. An [amendment](#) was considered that would have created an unlawful employment practice for an employer to engage in or subject an employee to a hostile work environment. The bill even allows for one action to be considered a hostile workplace, giving employers no ability to prevent an unlawful employment practice claim.

Result: AGC was part of the business community coalition who opposed the bill as amended and pushed for changes that were more workable for employers. [SB 851](#) was amended further to remove the unlawful employment practice, and only require that BOLI create a model policy on respectful workplaces that employers can choose to adopt.

WORKERS' COMPENSATION SYSTEM & OREGON OSHA LAW

PASSED MEDICAL APPOINTMENTS IN WORKERS' COMPENSATION – SB 418

Background: SB 418 began as a bill that would require employers to create a new type of paid leave for employees who were attending appointments to receive medical treatment for a workers' compensation related injury. Because workers' compensation is supposed to be the exclusive remedy, it would be a breach of this exclusive remedy to require employers to pay for this leave in addition to paying their workers' compensation premiums. AGC led the coalition pushing against this change and protecting exclusive remedy.

Result: AGC and other members of the business community negotiated with the bill proponents to change the requirement from a separate paid leave requirement for employers to part of the existing workers' compensation system. The compromise was to remove the four hour requirement currently in statute. With the passage of the bill, if an employee has returned to work following a compensable injury, future appointments for treatments related to that injury will be covered by the workers' compensation system, and will not require separate paid leave from the employer. With this compromise, SB 418 earned Management Labor Advisory Committee (MLAC) approval and passed through both the House and Senate.

PASSED COMPREHENSIVE OSHA INSPECTIONS AND FINE INCREASES – SB 592

Background: As introduced, SB 592 would have allowed the Occupational Safety and Health Division (OSHA) to perform a comprehensive investigation of any workplace when there was any death on any of the employer's jobsites/workplaces. There was no requirement that the death needed to be related to employment, nor a limit on which workplaces OSHA could inspect. The bill also included increases in the minimum and maximum amounts of OSHA fines for certain violations.

Result: AGC worked with a coalition of other business organizations to negotiate amendments to the bill that would require the death be "caused or contributed to" by an OSHA violation to trigger the comprehensive investigation, and to limit the inspection to the jobsite where the death occurred. We were able to limit the exposure and potential disruption from unnecessary comprehensive investigations across all workplace locations. SB 592 passed through the Senate and House with these amendments. Rulemaking has already begun on this bill, and AGC is involved to ensure the rules are reflective of the legislative intent.

PASSED WORKERS' COMP CLAIM SETTLEMENT AGREEMENTS – HB 3471

Background: HB 3471 started as a bill that would entirely prohibit employers from asking for a no rehire provision when looking to settle a workers' compensation claim. Employers could be held liable for an unlawful employment practice for even asking for a no rehire agreement, which would cause a substantial chilling effect on the ability to settle workers' compensation cases.

Result: AGC worked with several workers' compensation defense attorneys to negotiate with the bill proponents to ensure that employers will still be able to ask for a no rehire provision, provided they follow certain protocols. This will allow for employers to put this option on the table in situations where that is an important part of the settlement. With this amendment, HB 3471 passed out of the House and Senate.

PASSED RIGHT TO REFUSE DANGEROUS WORK – SB 907

Background: SB 907 began as a bill that would have allowed employees to refuse to perform assigned tasks assigned by employers in hazardous conditions, and gave significant discretion to the employee. Prior to this bill being introduced, Oregon already has some of the strongest workplace protections in the country, and this bill would have created further uncertainty and liability for employers.

WINS & LOSSES

WORKERS' COMPENSATION SYSTEM & OREGON OSHA LAW, CONT.

Result: AGC was a part of a coalition of other members of the business community in opposition to the bill. A compromise amendment was reached, that brought federal OSHA's rules into Oregon OSHA's rules. and makes it unlawful for employers to fire or discriminate employees from employment because they refuse to expose themselves to serious injury or death from hazardous conditions, but only when there are no reasonable alternatives and it is done in good faith. SB 907 passed as amended through the Senate and House. Rulemaking has already begun on this bill, and AGC is involved to ensure the rules are reflective of the legislative intent.

INTERSTATE BRIDGE REPLACEMENT PROJECT

"We are united in the belief that our industry needs to be open and inclusive and that unbiased and fair competition must be the cornerstone of any publicly financed construction project in our state—particularly one where Oregon taxpayers are contributing a billion dollars in public money."



—"Our View: Protect fair, open competition on Interstate Bridge Replacement Project" by George Carrillo (LatinoBuilt), Mike Salsgiver (AGC) and Nate McCoy (NAMC), Portland Tribune

PASSED INTERSTATE BRIDGE REPLACEMENT FUNDING

Background: HB 2098 became a comprehensive bill to commit Oregon's needed share of the \$6.3B Interstate Bridge replacement project, and related policy. The introduction of the -2 Amendment, which AGC supported, was a bipartisan effort from the Democratic and Republican leaders of the Joint Transportation Committee. Oregon's traditional transportation stakeholders, AGC, Oregon Trucking Associations, and AAA, helped shape a bill that included Oregon's financial commitment to the project, protections against mandated PLAs on the project, a set up for a 2025 transportation package, and assurances for continued funding for the Rose Quarter project. This also included support for the locally preferred alternative that included interchanges on both sides of the river and transit improvements, in addition the bridge itself. However, the bill met resistance from prominent environmental groups and anti-tolling groups, including Right Size Right Now and No More Freeways.

Result: Despite bipartisan support and the strong push by transportation stakeholders and the broader business community, HB 2098 died in committee. However, AGC and other coalition members (including NAMC and LatinoBuilt) shifted strategies to ensure that the Oregon Legislature did the absolute minimum necessary to keep the Interstate Bridge Project viable. By working with legislative leadership and legislative transportation champions, our coalition was successful in securing the funding in one of the last bills of the session, with \$250M in general obligation bonding for this biennium for the bridge, as well as a commitment of funding for the bridge at the rate of \$250M per biennia for the next three biennia. This \$1B commitment matches Washington's commitment and will be critical in ODOT's application for federal infrastructure funding for the IBR project, expected to occur this summer. Most critical with the funding from SB 5005 was that the funding will come from general obligation bonds this biennium and assumes that future funds will as well, as opposed to using existing Highway Trust Funds that are already committed through the Statewide Transportation Improvement Program.

WINS & LOSSES

TRANSPORTATION AND ODOT POLICIES

DEFEATED LIMITATIONS ON TOLLING – HB 3293 and HB 3614

Background: Both HB 3293 and HB 3614 were aimed at limiting ODOT's ability to toll state highways. These bills in particular were put forward by the legislators who represent the areas along I-205 in Clackamas County where the topic of tolling has become increasingly politicized.

Result: None of the bills introduced this session limiting ODOT's abilities to toll state highways passed, but the coordinated effort to introduce these bills and their bipartisan support contributed to Governor Kotek's decision to pause collection of tolls statewide until no earlier than January 2026.

PASSED ODOT SMALL BUSINESS DEVELOPMENT PROGRAM – SB 1048

Background: SB 1048 creates a small business development program at ODOT that will limit the bidders for select projects to small businesses. The intent from ODOT is to create opportunities for smaller contractors to act as general contractors on smaller ODOT projects. The bill also creates an assistance program for these contractors.

Result: AGC worked with ODOT to ensure that the small business contractor hours on these projects would not create issues with meeting broader federal requirements. With these assurances, AGC was neutral on the bill, and the bill passed through the House and Senate in the final weeks of the session. AGC will be monitoring this program to ensure that no unintended consequences arise in the implementation.

DEFEATED OREGON TRANSPORTATION COMMISSION OVERHAUL – HB 2619

Background: HB 2619 would completely overhaul the composition of the Oregon Transportation Commission, increasing the number of commissioners from five to nine. It would also require that one commissioner be under 25, and that another commissioner be a person whose main mode of transport is not a car. The Oregon Transportation Commission plays a critical role in shaping Oregon's transportation policy, and this bill was an attempt to make the commission more sympathetic to environmental concerns rather than focus on transportation necessities.

Result: AGC diligently monitored this bill, and continued to check in with leadership in the legislative transportation committee to ensure that it never received a hearing. The bill died upon adjournment without receiving a hearing or vote.

ENERGY & ENVIRONMENTAL REGULATIONS

DEFEATED INDIRECT SOURCES REGULATION PROGRAM – HB 2396

Background: HB 2396 would have required the Department of Environmental Quality (DEQ) to begin an indirect sources regulation program, similar to other bills and Environmental Quality Commission petitions introduced in the past. The indirect sources regulation program would require that contractors and businesses apply for permits from DEQ based on what kinds of equipment and vehicles are at the construction and business sites for emissions purposes. Based on the current timeframe to receive other permits from DEQ, it is estimated that this could add a delay of up to two years for getting these permits, which would create a two year delay in construction overall.

Result: AGC led the coalition that opposed this legislation, as we have in past sessions. With five attorneys on the House Climate committee, the legal concerns raised by an environmental attorney testifying on AGC's behalf caused significant concern in the committee about the bill. Our coalition was successful in preventing this bill from moving out of the House committee to the Senate. However, we expect to see similar legislation again in future sessions.

WINS & LOSSES

ENERGY & ENVIRONMENTAL REGULATIONS, CONT.

PASSED OMNIBUS CLIMATE BILL - HB 3409

Background: SB 868, 869, 870 and 871 were a suite of bills creating new requirements for energy efficiency in buildings. The bill concepts arose from the Taskforce on Resilient and Efficient Buildings, which was created in response to the push for a Reach Code requirement in the 2022 Session. These bills were not consensus concepts from the taskforce, but rather the policy priorities of environmental advocates. The bills looked to create further energy efficiency requirements in Oregon's building codes, while moving away from the Building Codes Division boards in favor of DEQ engagement. Given the importance of keeping our statewide building code strong and focused on safety and feasibility rather than environmental goals, AGC opposed this legislation.

Result: AGC was a member of a broad coalition that pushed back against these bills. These bills were condensed into HB 3409, an omnibus climate bill that came out at the end of session. The coalition was successful in pushing back on some of the infringements on building codes and unnecessary involvement of DEQ, and was able to amend the bill to give discretion back to Building Codes Division, and limit the influence of DEQ on statewide building codes.

DEFEATED DIESEL EQUIPMENT AND TIRE TAXES - HB 3158

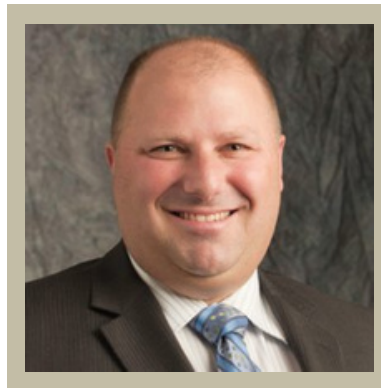
Background: HB 3158 contained a variety of problematic funding mechanisms that came from a legislative taskforce on how to support businesses transitioning to clean diesel equipment. There was opposition to these mechanisms from members of the taskforce, including AGC member Larry Gescher, who represented AGC on the taskforce. AGC led the opposition to the bill, which included a tax on diesel rentals, a tire tax, a tax on red dye diesel, and a tax on the sale of diesel equipment. The purpose of these new taxes was to fund grants for diesel equipment replacements and retrofits.

Result: AGC opposed this legislation, since these proposed taxes were taxing the exact businesses that they are trying to help. Our coalition also raised concerns about which funds from these taxes should be directed to the Highway Trust Fund, rather than going into a grant program. The bill did not move past the first hearing in the House committee. However, we expect further diesel related legislation in future sessions.

DEFEATED BAN ON PETROLEUM-BASED DIESEL - SB 803

Background: SB 803 would have gradually phased out petroleum-based diesel in Oregon over the next seven years. While renewable diesel is becoming increasingly popular, there are significant issues with a phase out plan like that outlined in SB 803. Phasing out the available supply of diesel that our industry depends on daily for operations and materials before there is enough renewable diesel in the market, would be detrimental to Oregon's entire economy.

Result: AGC joined in with other construction and industry coalition members in opposition to the bill as it was introduced, noting the issues with current supply levels. SB 803 was amended into a study bill and eventually died in the Ways and Means Committee before the end of session.



Larry Gescher

AGC diesel champion
since 2015



WINS & LOSSES

GENERAL CONSTRUCTION LAW

PASSED CCB MODERNIZATION – **SB 228**

Background: SB 228 was brought by the Construction Contractors Board to provide tools to better support their operations. The agency has requested certain changes to statute to assist them in modernizing their systems and streamlining some of their procedures. It will also provide additional consumer protection by increasing the agency's ability to crack down on contractors who are trying to get licenses under other names, once their own licenses are revoked.

Result: AGC supported the bill in the Senate and the House. SB 228 was amended in the House, to require recertification of independent contractor status at the time of license renewal. Although we weren't opposed to the policy changes, we were hesitant of the bill getting amended amidst the Senate walkout. The bill was amended and passed out of the House, requiring a concurrence vote from the Senate, pending the return of the Senate Republicans. Once the walkout ended, the Senate concurred and the bill passed.

DIED RETAINAGE FIX BILL – **HB 2870**

Background: In the 2019 Oregon Legislative Session, HB 2415 passed, creating a requirement that retainage be held in an interest-bearing escrow account. This change to retainage law created problems for general contractors, between issues with out-of-state owners and problems actually accessing interest-bearing escrow accounts. AGC worked with Associated Wall and Ceiling Contractors and construction attorneys from the Oregon State Bar's Construction Law Section, to come to a solution that would function better for contractors and subcontractors. The coalition came to agreement on using the retainage bond model from Washington State, to allow contractors and subcontractors to submit surety bonds in lieu of retainage.

Result: Our coalition presented HB 2870 that allows for contractors and subcontractors to provide a retainage bond, and removes entirely the requirement of an interest-bearing escrow account. This would have applied for all contracts that are entered into on or after January 1, 2024. The bill gained support from the construction trades, other construction associations, and business organizations, and passed out of the Senate with bipartisan support. However, the bill was torpedoed in the final days of the session by a last minute fiscal impact statement from Department of Administrative Services, claiming a cost of \$200M to the agency. While this is not accurate, the doubt it cast in the final hours of session was enough to prevent the bill from passing. We will be bringing it again next session, with an emergency clause. This will allow the bill to go into effect in early 2024, meaning we only lose about three months of implementation.

DEFEATED DUTY TO DEFEND – **SB 848**

Background: For the last several legislative sessions, design professionals advanced legislation seeking to shield themselves from bearing the cost of litigation from construction agreements via indemnity agreements. If SB 848 passed as originally introduced, the result would have been to eliminate design professionals' obligation to pay for the costs of litigation involving a project even when it was the design professionals' negligence that caused the harm.

Result: AGC worked closely with OCAPA, local governments, and others in the chain of construction commerce to substantially amend the bill into a form that allowed AGC to become neutral on the legislation. Design professionals agreed to amend the bill by narrowing its scope from applying to all construction contracts to exclusively applying to public works projects where the design professional was in direct privity of contract with the public owner. The amended bill protected AGC members from any shifting of liability from design professionals to contractors. Ultimately, the bill died in the Ways and Means Committee due to its fiscal impact on local governments.

MEMBER ENGAGEMENT

THANKS FOR PARTICIPATING IN VOTERVOICE!

This was the first session that our Public Affairs team has utilized the advocacy software VoterVoice. Using VoterVoice allowed us to send alerts about our most critical issues at strategic moments to AGC members on the Legislative Forum, Highway Council, and the Board of Directors, and allowed them the opportunity to send a targeted email to legislators who were in key decision-making positions within a couple of minutes. Thanks to our AGC members who engaged with our VoterVoice campaigns, legislators got an opportunity to read how legislation like mandated PLAs and misguided wage theft laws would impact contractors in their districts. We look forward to growing AGC's reach within the Capitol by utilizing VoterVoice in future legislative sessions. Thank you to everyone who participated!



JOIN LEGISLATIVE FORUM

Every member of AGC is encouraged and invited to join AGC's Legislative Forum to help shape the core policies that inform our legislative positions. Contact Kirsten Adams to become a member of AGC's Legislative Forum and attend our annual meeting.

AGC COALITION PARTNERS



**Special thanks to our
contract lobbyists for their
tireless work this session!**



John Rakowitz
Transportation &
Campaign Finance



Drew Hagedorn
General Construction Law
& Public Contracting

This report brought to you by:

Kirsten Adams, Director and Counsel of Policy & Public Affairs: 503-990-2262 | kirstena@agc-oregon.org

Maggie Gerlicher, Public Affairs Associate: 971-412-1063 | maggiieg@agc-oregon.org

Tanner Lloyd, Strategic Affairs Manager: 971-940-4193 | tannerl@agc-oregon.org

