

## **OP-ED: A postmortem of the 2016 legislative session**

By: [Mike Salsgiver](#) in [Buildings Bridges and Roads](#) March 16, 2016 8:48 am



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Oregon's 78th legislative session came to a close earlier this month. This session was the third official "short session" constitutionally mandated to occur on even-numbered years and not to exceed 35 calendar days.

However, this session was not "business as usual" and certainly not what voters had in mind when they approved Measure 71 in November 2010. That ballot measure created "short sessions" intended to deal with critical budget fixes and policy crises. I could write an entire column on the flawed mess these short sessions have become. I'll take that on sometime in the future.

In a span of 32 days, the 2016 Legislature passed three major bills that will fundamentally change Oregon's economic landscape. Strongly supported by left-leaning leadership, these included:

- Creation of a three-tiered minimum wage that will be the highest in the country by 2022 and make it difficult for many employers to stay in business and create jobs;
- Creation of a renewable energy utility mandate that will raise electricity prices by up to 40 percent while doing little to reduce carbon emissions; and
- A group of bills related to affordable housing.

Amid these fiery debates, a host of industry-specific issues were discussed. These included:

- Defeating a proposal that would have expanded prevailing wage rate laws to certain private construction work,
- Modifying a bill that would have dramatically expanded BOLI's authority and provided a new private right of action relating to general employment law,
- Defeating a bill that proposed a cap and trade system for carbon dioxide emissions and threatened the Highway Trust Fund, and
- Pursuing a failed attempt at a legislative fix for the statewide paid sick leave law.

### **Defeating prevailing wage expansion**

In the last week of the session, organized labor interests attempted, without discussion, to force adoption of amendments that would require prevailing wages on private work for certain industrial properties receiving tax abatements. A broad-based coalition, led by AGC, worked with legislators from both parties to eliminate that proposed amendment and maintain prevailing wage laws strictly for true public works. The bill ultimately passed without the proposed prevailing wage components.

### **Reshaping wage enforcement proposals**

After weeks of intense negotiation, Senate Bill 1587 passed in the last hour of the 2016 session. As originally introduced, this bill would have tipped the balance of the employer/employee relationship. It would have created a new private right of action in wage and hour claims and dramatically increased BOLI's authority to act on its own. AGC, in concert with a broad business coalition, modified the bill to focus on employers engaged in true wage theft. As passed, the bill will protect employers who make unintentional mistakes while providing ramifications for those employers who are intentionally violating wage and hour laws.

### **Monitoring failed cap and trade bill**

Senate Bill 1574 should not surprise anyone given the influence of the environmental lobby within the capitol. Introduced as a proposed a cap and trade system, this proposal included a unique element to divert constitutionally required highway trust funds into a special Climate Investments Account within the Highway Trust Fund. In addition, dollars associated with the Climate Investment Account would have required contractors be registered as a BOLI-approved apprenticeship agent to qualify for public works funded in this manner. Further, the bill would have created a new process for distributing Highway Trust Fund dollars distinct from traditional mechanisms. This bill received hearings only and did not pass.

### **Waiting on paid sick leave fixes**

Finally, AGC, in concert with many other impacted industries, attempted to pass legislation clarifying and easing implementation of the 2015 Paid Sick Leave Law. At the request of AGC, the senate president put forth Senate Bill 1594 to clarify that paid sick leave should qualify for all contractors as a fringe benefit for the purpose of meeting prevailing wage rate work requirements. Despite our coalition's best efforts, no legislation to improve the paid sick leave

paw passed. However, following compelling industry testimony, BOLI instead agreed to reopen the rulemaking process to make limited changes to the paid sick leave rules.

## **A look ahead**

We've got our work cut out for us. The silver lining of the 2016 session is that it served one critical purpose – it revealed the issues the industry will likely face in the 2017 session and beyond. These issues will likely include:

- Defending and maintaining Oregon's phenomenally successful workers' compensation system created during the 1990 Mahonia Hall reforms,
- Aggressive and far-reaching regulation of off-road construction diesel equipment (a major target of environmental advocates),
- Defending the Highway Trust Fund, and, perhaps most importantly,
- Laying the groundwork to create the momentum necessary to pass a transportation funding package.

These issues are all critical to survival of the construction industry and Oregon's economy. In the aftermath of an unprecedented and, at times, hostile session, we hope our elected officials will strive to work toward strong policy that is beneficial to the state as a whole and will allow us to continue our work without having to further damage our businesses in the process.

But there is no time to catch our breath; things are not stopping.

We now immediately turn our attention to the political season. AGC will be evaluating requests for support from candidates for statewide and legislative offices. We will be accelerating our work as part of a broad-based statewide business coalition to defeat Initiative Petition 28, which would levy over \$2.5 billion per year in new taxes on Oregonians. And we will prepare for the 2017 "long" session.

The next major milestone is the May 17 primary election. That will give us the first glimpse at what faces us at the ballot box in November.

Whatever the outcome, the next few years are shaping up to be challenging for all Oregonians interested in building and growing a strong economy.

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