

Nevada Chapter  
Associated General Contractors



# End of Session Report

2021 Legislative Session

February 1 - May 31, 2021

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## Contractors Board/Licensing

### **BILLS THAT DID NOT PASS:**

#### AB49 - (Priority B)

Sections 1 and 2 of AB49 eliminated the “willful,” “prejudicial” and “deliberate” standards of intent when violating laws and regulations, making the respective actions cause for disciplinary action regardless of intent or state of mind; eliminated the “knowingly” standard of intent when bidding a contract or entering into a contract with a contractor for work in excess of the contractor's license limit or beyond their scope, making the respective actions cause for disciplinary action regardless of intent or state of mind; lowered the threshold for disciplinary action against a contractor for any potential departure from plans or specifications; and lowered the threshold for disregarding any safety or labor law of the State. Section 3 clarified crimes involving moral turpitude.

AGC opposed sections 1 and 2 but supported section 3. After meeting with the Contractor’s Board Executive Director and legal team, they agreed to delete the offending sections and AGC agreed to support the bill.

AB49 failed to meet the first committee passage deadline on April 9, 2021, and was not processed further.

## COVID-19

### **BILLS THAT PASSED:**

#### **AB106** - (Priority B)

AB106 transferred \$50 million from the State General Fund to the Governor's Office of Economic Development to provide Pandemic Emergency Technical Support (PETS) grants for operational support to small businesses and nonprofits adversely impacted by COVID-19.

AB106 was signed by the Governor on February 16, 2021, and became effective upon passage and approval.

### **BILLS THAT DID NOT PASS:**

#### **AB246** - (Priority B)

AB246 defined COVID-19 to include SARS-Co2, mutations thereof and diseases caused by those viruses; required employers to provide written notice of potential exposure to employees, principal contractors, subcontractors and independent contractors who may have been exposed; prevented employers from retaliating against an employee for getting COVID-19 & allowed an employee who believed they had been retaliated against to file a complaint with the Labor Commissioner, required employers to establish, implement and maintain a written COVID-19 prevention program.

AGC was opposed to this bill due to the burden the notification requirements would have put on employers. It would have been especially difficult for the construction industry, as it is impossible for the general contractor to know who each of their subs have on a job on any given day. AGC met with the sponsor to discuss these concerns and testified in opposition at the bill hearing.

AB246 failed to meet the first committee passage deadline on April 9, 2021, and was not processed further.

#### **AB314** - (Priority A)

During the 32<sup>nd</sup> Special Session, July 31-August 6, 2020, SB4 was passed which provided immunity to certain businesses from civil liability for personal injury of death resulting from exposure to COVID-19. AB314 would have extended those liability protections to nursing homes, hospice facilities, skilled nursing facilities, hospitals, independent medical centers, and independent contractors of a protected entity. AGC monitored this bill to ensure nothing changed in the definition of "non-profit", as that is where trade associations were captured in SB4 to be included in the liability protections.

AB314 was never scheduled for a hearing.

## DMV/Registration

### **BILLS THAT PASSED:**

#### **[AB349](#)** - (Priority B)

AB349 closes the “classic car loophole”, by which cars manufactured 20 years before the date of registration could qualify as a classic car, classic rod or old timer vehicle and be exempt from emissions testing if the owner signed an affidavit that the vehicle was not driven more than 5,000 miles during the preceding year.

Now in order to qualify as a classic car, classic rod, or old timer vehicle, the owner will need to show proof that the car is covered by insurance or endorsement that is designed or designated specifically for a classic or antique vehicle. Older vehicles that do not meet this requirement will be required to comply with the provisions in law governing the control of emissions.

AB349 was signed by the Governor on June 4, 2021. Sections 2, 5-9, 10.3, 10.5 11 and 11.5 become effective on October 1, 2021. Section 10 becomes effective on January 1, 2022, and sections 1, 3, and 4 become effective on January 1, 2023.

#### **[SB371](#)** - (Priority B)

SB371 exempts recreational vehicles from the odometer reporting requirement passed in the 2019 legislative session and allows for DMV to adopt regulations providing for an administrative fine for failing to comply with the requirements of the odometer reading program.

SB371 was signed by the Governor on May 30, 2021, and became effective upon passage and approval. It expires on December 31, 2026, with the entire odometer reporting program.

## Elections/Lobbyists/Legislature

### **BILLS THAT PASSED:**

#### **AB110** - (Priority A)

Prior to the passage of AB110, the definition of lobbyist was someone who “appears in-person in the Legislative Building or any other building in which the Legislature or any of its standing committees hold meetings; and communicates directly with a member of the Legislative Branch on behalf of someone other than himself or herself to influence legislative action...” Given that the 2021 session began as a virtual-only session, this definition had to be modified. AB110 removes the criteria that the person appear in-person in the Legislative Building or other buildings where the Legislature or its committees hold meetings. The bill also clarifies that the requirement to file a registration statement with the Director of the Legislative Counsel Bureau applies to a person who acts as a lobbyist during a regular or special session.

AB110 was signed by the Governor on March 18, 2021, and became effective upon passage and approval.

#### **AB321** - (Priority C)

AB321 codifies the pandemic-related election changes adopted during the 32<sup>nd</sup> Special Session ahead of the 2020 election. It requires all city and county clerks to send every active registered voter a mail ballot before the primary or general election; requires ballots postmarked by Election Day can only be accepted for four days; gives voters six days to cure their ballots; requires election officials to finish counting mail ballots in seven days; requires the Secretary of State to work with the State Registrar of Vital Statistics to cross check the list of registered voter with a list of deceased individuals; authorizes election clerks to use electronic devices in signature verification; and allows sponsors of initiative petitions to withdraw qualified petitions up to 90 days before an election. This last change will allow for the Clark County Education Association to withdraw their petitions seeking to raise mining and gaming taxes since a deal was reached with mining companies and AB495 was passed. (See page 4)

AB321 was signed by the Governor on June 2, 2021, fully effective on January 1, 2022.

#### **AB443 & SB176** - (Priority B)

AB443 revises the structure of the interim committee structure of the Legislature by creating joint Senate and Assembly committees that mirror the standing committees of regular legislative sessions.

SB176 would have given the Commission to Study Governmental Purchasing two bill draft requests each legislative session. AGC was opposed to SB176 because of the lack of

transparency of the Commission. AGC worked with legislators to find a mechanism by which the Commission had a means to bring issues forward to the legislature, without giving them the authority to introduce legislation.

As a compromise, AB443 was amended to require the Commission to submit a biennial report to the Joint Interim Standing Committee on Legislative Operations and Elections.

SB176 was not processed out of the Assembly.

AB443 was signed by the Governor on June 4, 2021, and becomes fully effective on July 1, 2021.

## Electric Vehicles

### **BILLS THAT DID NOT PASS:**

#### **SB162** - (Priority B)

SB162 would have allowed electric vehicles and low-emission vehicles to use the high-occupancy lanes on public roadways.

AGC testified in opposition as any incentives for the purchase and use of electric vehicles should not come before an equitable and sustainable funding solution for the State Highway Fund is found.

SB162 failed to meet the first committee passage deadline on April 9, 2021, and was not processed further.

#### **SB191** - (Priority B)

SB191 would have imposed a surcharge on the sale of electric service to charge the battery of an electric vehicle or plug-in hybrid vehicle.

AGC testified in support of the measure, noting that it was not a perfect solution, but that it at least would have required electric vehicles to contribute to the State Highway Fund.

SB191 failed to meet the first committee passage deadline on April 9, 2021, and was not processed further.

#### **SB384** - (Priority B)

SB384 would have imposed a tax of .07 cents per kilowatt hour tax on electric fuel for electric vehicles and hybrid vehicles.

AGC met with the sponsor to discuss our concerns that this was not a wholistic enough approach to finding an equitable and sustainable funding mechanism for the State Highway Fund.

SB384 was never scheduled for a hearing.

## Employment

### **BILLS THAT PASSED:**

#### **AB47** - (Priority B)

AB47, as originally drafted, made several changes to the health care industry and also repealed provisions of law regarding noncompetition agreements. The proposed changes would have resulted in the reliance on case law to determine when a noncompetition agreement is valid. AGC was aligned with the larger business community in opposition to the language regarding noncompetition agreements. The sponsor, the Nevada Attorney General's Office, amended the bill to prohibit noncompetition agreements with employees who are paid solely on an hourly wage basis, thus removing our opposition.

AB47 was signed by the Governor on May 27, 2021, and becomes effective on October 1, 2021.

#### **AB227** - (A Priority)

AB227 prohibits an employee employed by a private employment agency from performing work that requires a contractor's license. This bill was a priority of the Southern Nevada Building Trades Union (SNBTU) and sponsored by Assemblywoman Carlton. AGC worked with SNBTU on language that would have minimal impact to our membership. Other construction trade associations opposed the measure but were unsuccessful in amending or killing it altogether. As enrolled, the compromise between AGC and the SNBTU remains intact.

AB227 was signed by the Governor on May 28, 2021, and becomes fully effective on October 1, 2021.

#### **AB190** - (Priority B)

AB190 requires that if an employer provides paid or unpaid sick leave, the employer must allow an employee to use any accrued sick leave to assist an immediate family member with an illness, injury, medical appointment, or other medical need provided to the employee.

AGC monitored this bill to ensure the scope did not get expanded.

AB190 was signed by the Governor on May 31, 2021, and becomes effective on October 1, 2021.

## [AB222](#) - (Priority A)

AB222, as drafted, codified the Nevada Supreme Court decision that an employer may not retaliate against an employee for whistleblowing suspected illegal activity to external authorities. It also extended that to protect employees when they report to a supervisor or someone else within their organization and added protections for reporting unsafe conditions. It also stated that if a discharged employee makes a prima facie showing in a civil action, the burden of proof would shift to the employer to prove the employee was terminated for gross misconduct to justify termination; and extended the 180-day / 90-day statute of limitations for unfair employment practices filed with Nevada Equal Rights Commission (NERC) to actions in district court for Title VII, issuance of right to sue letters by the federal Equal Employment Opportunity Commission (EEOC) and the tolling of the 90-day / 180-day during the pendency of a complaint before the federal EEOC.

The bill was amended to only include the language extending the statute of limitations for unfair employment practices filed with Nevada Equal Rights Commission (NERC) to actions in district court for Title VII, issuance of right to sue letters by the federal Equal Employment Opportunity Commission (EEOC) and the tolling of the 90-day / 180-day during the pendency of a complaint before the federal EEOC.

AB222 was signed by the Governor on June 2, 2021, and became effective upon passage and approval.

## [SB55](#) - (Priority B)

SB55 transfers the duties of licensing and regulating employee leasing companies from the Department of Industrial Relations to the Office of the Labor Commissioner.

SB55 was signed by the Governor on June 3, 2021, and becomes effective on July 1, 2021.

## [SB75](#) - (Priority B)

SB75 makes changes to the unemployment compensation program. This bill as largely a result of the problems exposed when thousands of claims were filed following the economic shut-down caused by COVID-19. The bill includes:

- Revising provisions concerning the weekly benefit amount for unemployment compensation;
- Establishing requirements for determining the eligibility for unemployment benefits for persons who provide services in multiple capacities for educational institutions in accordance with federal guidance;
- Providing that, for the second and third quarters of 2020, all contributory employing units will not have benefits charged against their experience rating records and for the second, third, and fourth calendar quarters of 2020,

reimbursements in lieu of contributions will be reduced as allowed by federal law;

- Authorizing an extended benefits period to begin before the 14th week following the end of a prior extended benefits period, if authorized by the United States Department of Labor;
- Revising requirements for the payment of certain refunds;
- Prohibiting the State of Nevada from being charged fees of any kind in a proceeding under the Unemployment Compensation Law;
- Revising provisions concerning the confidentiality of information related to unemployment compensation and the circumstances under which the administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation is authorized to disclose such information in accordance with federal law; and
- Authorizing the administrator to send, by electronic transmission, certain communications related to unemployment compensation.

SB75 was signed by the Governor on June 2, 2021, and becomes fully effective on July 1, 2021.

### [SB107](#) - (Priority B)

As originally drafted, SB107 extended, from 2-years to 4-years, the statute of limitations on wrongful termination lawsuits. However, the bill was drafted incorrectly and was intended to start the clock on the statute of limitation for civil proceedings after all administrative remedies have been exhausted.

AGC worked with the sponsor on further refining the language to minimize other concerns.

SB107 was signed by the Governor on May 27, 2021, and became effective upon passage and approval.

### [SB245](#) - (Priority B)

As drafted, SB245 expanded the definition of "wages" to include the amounts due to a discharged employee or to an employee who resigns or quits. The bill authorized such employees, who believed that he or she was entitled to wages or compensation from a former employer who fails to pay within the required time, to file a claim or complaint with the Nevada Labor Commissioner. AGC was opposed to the bill as originally introduced.

AGC worked with the Labor Commissioner to resolve our shared concerns. Upon adoption of the amended language, AGC moved to support the bill. The amendment deleted the section authorizing an employee to file a claim or complaint with the Labor

Commissioner and instead added clarifying language when the Labor Commissioner can take jurisdiction of a claim or complaint if the employee is subject to a collective bargaining agreement.

SB245 was signed by the Governor on June 3, 2021, and becomes effective on July 1, 2021.

### [SB327](#) (Priority B)

SB327 expands existing discriminatory practices to include “protective hairstyles” by defining “race” to include traits associated with race, including hair texture and protective hair styles. Protective hairstyles is defined to include natural hairstyles, afros, bantu knots, curls, braids, locks and twists.

AGC worked with the sponsors of the bill to secure an amendment stating that nothing in the bill prevented an employer from enforcing health and safety requirements set forth in federal or state law.

SB327 was signed by the Governor on June 2, 2021, and becomes fully effective on October 1, 2021.

### **BILLS THAT DID NOT PASS:**

#### [AB124](#) - (Priority A)

AB124 extended employment discrimination law to prohibit the assigning of an employee into a less favorable track based on sex, failing to inform about promotions based on sex, limiting and depriving opportunity that would otherwise be available if not for the sex of the employee, and prohibits prospective and current employers from seeking wage history. It also allowed for court costs and attorney fees and allowed the Labor Commissioner to impose up to a \$5,000 fine for each violation and bring a civil action against the employer. Employer was defined as *any* public or private employer in the State.

AGC opposed the bill and met with the sponsor to try to find common ground. AGC presented the sponsor with an amendment that would have removed our opposition, parts of which she accepted, but not enough to move us to neutral.

AB124 failed to meet the 1<sup>st</sup> committee passage deadline on April 9, 2021, and was not processed further.

## Energy

### **BILLS THAT PASSED:**

#### **SB448** - (Priority B)

SB448 makes various changes related to energy regulations, policies, and programs. Specifically, the bill:

1. Makes renewable energy storage facilities and hybrid renewable energy generation and storage facilities eligible for partial abatements of certain property and sales taxes;
2. Requires an electric utility to amend its current integrated resource plan (IRP) before September 1, 2021, to include a plan for two high-voltage transmission infrastructure projects to be in service by December 31, 2028;
3. Amends the components of an IRP to include a carbon dioxide emissions scenario that meets certain goals for reductions in carbon dioxide emissions by 2050;
4. Requires transmission providers to join a regional transmission organization before January 1, 2030, unless the Public Utilities Commission of Nevada allows a waiver or a delay;
5. Requires an electric utility to file a plan by September 1, 2021, for investing up to \$100 million in transportation electrification programs between January 1, 2022, and December 31, 2024.
6. Requires an electric utility to amend its IRP by September 1, 2022, to include a plan for accelerating transportation electrification;
7. Provides that there is no presumption that expenses, investments, or costs incurred by a utility were prudently incurred, and places the burden of proof on the utility;
8. Clarifies that, subject to certain conditions, a net metering system providing electricity to multiple units on the same property is not deemed a public utility;
9. Extends the Economic Development Electric Rate Rider Program through December 31, 2024, or whenever the set-aside capacity is fully allocated—whichever is earlier—modifies the allowable discounts, and requires the Commission to submit a report on the Program to the 2023 Legislature by December 31, 2022;
10. Increases from 5 percent to 10 percent the expenditures that must be spent on energy efficiency measures for customers in low-income households, residential customers, and public schools in historically underserved communities as part of an electric utility's energy efficiency plan;

11. Creates the Regional Transmission Coordination Task Force to advise the Governor and Legislature on energy transmission policies; and

12. Abolishes the New Energy Industry Task Force and phases out the Electric Vehicle Infrastructure Demonstration Program by July 1, 2023.

SB448 was signed by the Governor on June 10, 2021 and became effective upon passage and approval.

### **BILLS THAT DID NOT PASS:**

#### **AB380** - (Priority A)

As drafted, AB380 declared that it is the policy of this State to have the goal of statewide reductions in annual net greenhouse gas emissions from the use of combustible fuels in commercial and residential buildings by certain amounts increasing every few years until Nevada reached a 95% reduction by 2050. AB380 established a resource plan by which Nevada utilities would analyze future plans to demonstrate they were economically and environmentally feasible. It would have required a utility who supplies natural gas to file with the Public Utilities Commission of Nevada (PUCN) an Infrastructure, Supply and Alternatives Plan every three years beginning in 2023. The Plan was to include a projection for the next 30-years, the annual demands on the gas utility's transmission & distribution, the investments the utility planned to implement in the next 6 years, a cost-benefit analysis of the planned investments and of alternatives. It also allowed for the utility to identify projects that would accelerate cost recovery.

The bill was heard in Assembly Growth and Infrastructure, but failed to meet the first committee passage deadline on April 9, 2021, and was not processed further.

## Environment

### **BILLS THAT PASSED:**

#### **AB146** - (Priority B)

As originally drafted, AB146 required the State Department of Conservation and Natural Resources (DCNR) to establish a program regulating water pollution resulting from diffuse sources. The bill revised requirements for regulations adopted and notices provided by the State Environmental Commission (SEC) relating to water pollution; revised various requirements for permits to discharge a pollutant or inject fluids through a well; required such permits to file a bond or other surety and the SEC to adopt corresponding regulations; required the SEC to adopt regulations for controlling the infiltration of contaminants into underground water resulting from contaminated fluids or soil if the underground water supplies a public water system; it also required the SEC to consider any disproportionate impacts on marginalized or historically oppressed communities when adopting such regulations; and required the Director of DCNR to consult or notify Indian tribes of certain actions relating to water pollution.

The bill faced opposition from both the mining and construction industries and was amended to remove much of the offending language.

The amended version authorizes the DCNR to develop plans, recommendations, and policies to address water pollution resulting from diffuse sources; requires the director of the Department to consult or notify Indian tribes when working to control water pollution; revises requirements for regulations adopted by the SEC relating to water pollution and other requirements relating to the control of diffuse sources of water pollution; and provides that the Legislature declares that the people of this state have a right to clean water and that it is the policy of Nevada to mitigate any degradation of the waters of this state. Additionally, before the SEC adopts certain regulations, they must consider the economic and technological feasibility of those regulations and any cost to local governments for implementation; and authorizes the director of the Department to submit recommendations to the SEC for the adoption of regulations deemed necessary to control the infiltration of contaminants into underground water resulting from contaminated fluids or soils pursuant to state law.

AB146 was signed by the Governor on June 8, 2021, and becomes fully effective on January 1, 2022.

#### **AB452** - (Priority B)

Requires inclusion of information relating to emissions from substitutes for ozone-depleting substances in the annual greenhouse gas emissions report & allows for \$500,000 from any amount over \$7.5 million in the Fund for Cleaning Up Discharges of Petroleum to be transferred to the Account for the Management of Air Quality.

AB452 was signed by the Governor on May 28, 2021, and becomes effective on July 1, 2021.

### **BILLS THAT DID NOT PASS:**

#### ACR3 - (Priority B)

ACR3 would have created an interim committee to conduct a study of environmental justice in Nevada. The committee would have been tasked with recommendations on developing an environmental justice review process; ways to mitigate environmental degradation and promote principles of environmental justice; gaps in existing programs or policies; etc.

ACR3 did not meet the final deadline for passage.

## Local Government

### **BILLS THAT PASSED:**

#### **AB139** - (Priority A)

AB139 authorizes local governments in Clark County to use Enterprise Funds to build fire stations. This authorization expires in 2024. AGC monitored this bill closely to ensure the scope was not expanded to include Washoe County.

AB139 was signed by the Governor on May 31, 2021, and became effective upon passage and approval.

#### **AB249** - (Priority A)

As introduced, AB249 would have required local governments adopt construction hours, not to begin before 5:00a.m. May through September. AGC met with the sponsor to address our concerns with having construction hours be set in statute rather than by ordinance as this severely limits the flexibility of local governments to allow variances on a case-by-case basis. The bill was amended to prohibit Homeowners' Associations from having more restrictive hours than the locality in which they are located.

AB249 was signed by the Governor on May 29, 2021, and becomes effective on October 1, 2021.

## Prevailing Wage

### **BILLS THAT DID NOT PASS**

#### **AB99** - (Priority B)

AB99, as drafted, would have raised the prevailing wage threshold to \$250,000. At the hearing, the sponsor introduced it with an amendment limiting that only to rural counties. During the hearing, another amendment was proposed for consideration to lower the threshold altogether to \$2,000.

AGC was neutral on the original bill, had concerns with the language limiting the change to rural counties due to the complications that would cause on inter-county projects, and vehemently opposed the idea of lowering the threshold to \$2,000.

AB99 failed to meet the first committee passage deadline on April 9, 2021, and was not processed further.

## Public Purchasing

### **BILLS THAT PASSED:**

#### **AB28** - (Priority B)

AB28 imposes an inverse preference on any bidder for a state purchasing contract with a principal place of business in another state if, for a similar contract the other state grants a preference to a person with a principal place of business in that state; and denies that preference to a person with a principal place of business in Nevada. The inverse preference imposed on a bid or proposal for a state purchasing contract is equal to the amount of the preference that is denied by the other state to a person with a principal place of business in Nevada.

AGC monitored this bill closely to ensure it remained a reciprocal bidder's preference and not automatic.

AB28 was signed by the Governor on May 26, 2021, and becomes effective on July 1, 2021.

#### **SB445** - (Priority B)

SB445, as drafted, gave way too much discretionary authority to the administrator and there was no obvious remedy for dealing with erroneous decisions. The language was written so broadly that any minor deviation in a contract could be cause for a breach of contract and debarment, and minor noncompliance with provisions in NRS333 could have resulted in the debarment of someone for up to 2 years. This could have included something as insignificant as an administrative error on a bid. This put all vendors' and potential vendors' ability to do business with the State at the whim of the Administrator.

AGC met with the Administrator of State Purchasing to express our concerns and testified in opposition at the bill hearing. The bill was amended to remove the offending sections.

SB445 was signed by the Governor on June 3, 2021, and becomes effective on October 1, 2021.

## Public Works

### **BILLS THAT PASSED:**

#### **AB410** - (Priority A)

AB410 clarifies that a Construction Manager at Risk must not have entered into a contract with a public body to act as a Construction Manager as Agent during the 4 years immediately preceding the date of the advertisement for proposals and establishes the process by which a Construction Manager as Agent must be selected.

As originally drafted, AB410 would have required a 5-year cooling-off period and that a Construction Manager as Agent be selected through a competitive bidding process. AGC worked with the sponsor and northern Nevada labor on language that would instead apply the same qualifications-base process as required by statute for other professional services e.g., architects and engineers and shorten the cooling-off period to 4 years.

AB410 was signed by the Governor on June 4, 2021, and became effective upon passage and approval.

#### **AB492** - (Priority A)

AB492 is the State's Capital Improvement budget. Included was a \$14,941,908 appropriation from the State Highway Fund for capital improvements to DMVs throughout the state.

Also included in the bill is the funding mechanism for the State Infrastructure Bank. The State Board of Finance will issue general obligation bonds up to \$75 million to provide loans and other financial assistance for the construction of certain facilities and infrastructure.

AB492 was signed by the Governor on June 4, 2021, and became effective upon passage and approval.

#### **SB67** - (Priority A)

SB67, as originally drafted would have allowed public bodies to award a up to \$25 million in job order contracts for public works annually. AGC met with the sponsor of the bill, Clark County, to discuss our long-held concerns with this procurement method. Together with northern Nevada labor, we successfully got the bill amended to be a 4-year pilot program for Clark County only. When the bill was heard in the Senate, it was presented as amended and AGC and northern Nevada labor testified in neutral. However, during the hearing a legislator indicated an appetite to have this expand to every jurisdiction in the state. This was enough for both AGC and northern Nevada labor to change position and begin lobbying against the bill on the Assembly side.

We had secured the votes in the Assembly Government Affairs Committee to kill the bill, but there was pressure from Leadership to move the bill along. The bill was moved out of committee 'without recommendation' and was able to pass off the floor of the Assembly.

Politics played a large role in this bill moving forward. The former Speaker of the Assembly is the current Chairwoman of the Clark County Commission. This bill was a priority of hers and deference was given. It was further complicated by the politics of southern Nevada, as labor and industry had a more delicate balance to maintain than we did in the north.

The bill was delivered to the Governor on May 27, 2021. AGC, several member companies, and representatives from northern Nevada labor requested a veto from Governor Sisolak.

SB67 was signed by the Governor on June 8, 2021. It becomes effective on October 1, 2021, and expires on June 30, 2025.

### [SB141](#) - (Priority A)

SB141 removed the sunset in the section of law authorizing the use of Construction Manager at Risk as a procurement method, thereby making it a permanent part of statute. AGC supported this bill and worked with other construction industry representatives to ensure its passage.

SB141 was signed by the Governor on May 27, 2021, and became effective upon passage an approval.

### [SB237](#) - (Priority A)

As introduced, SB237 would have required NDOT to establish a state Disadvantaged Business Enterprise (DBE) program for LGBTQ+ business owners. AGC opposed this bill as it only required self-declaration of LGBTQ+ status, would have required NDOT to manage two DBE programs, created confusion amongst contractors regarding which project required which DBE goals, and could have potentially put at risk federal reimbursements.

The AGC team worked with the sponsor and NDOT on amendment language. As passed, SB237 only requires NDOT to include LGBTQ+ businesses in their Small Business Enterprise (SBE) goals.

SB237 was signed by the Governor on June 6, 2021, and becomes fully effective on January 1, 2022.

## [SB430](#) - (Priority B)

Existing law already provided for the creation of the Nevada State Infrastructure Bank, but it only became effective on the date on which the Director of NDOT notified the Governor and Director of the Legislative Counsel Bureau that there was sufficient funding. SB430 makes the establishment of the bank effective on July 1, 2021. The purpose of the Bank is to provide loans and other financial assistance to public bodies,

Indian Reservations or colonies, or private nonprofit created for charitable or educational purposes for infrastructure projects. The bill defines infrastructure projects as the development, construction, repair, improvement, operation, maintenance, decommissioning and ownership of transportation facilities, utility infrastructure, water and wastewater infrastructure, renewable energy infrastructure, recycling and sustainability infrastructure, digital infrastructure, social infrastructure and other infrastructure related to economic development as necessary for public purposes.

The \$75 million in funding for the Nevada State Infrastructure Bank is provided for in AB492, the Capital Improvement Projects budget bill.

SB430 was signed by the Governor on June 10, 2021, and becomes fully effective on July 1, 2021.

## [SB450](#) - (Priority A)

SB450 extends the bond rollover for school construction for an additional 10 years without further approval of voters. AGC testified in support of SB450 as it is over 50% of Washoe County School District's funding source for capital improvements.

SB450 was delivered to the Governor on June 2, 2021.

## **BILLS THAT DID NOT PASS:**

### [SB319](#) - (Priority A)

SB319 would have authorized a local government that rejects all bids for a public works to negotiate with the lowest responsible bidder or best bidder. AGC met with the sponsor of the bill and the local government on whose behalf the bill was introduced to express our concerns. Despite attempts to modify the language, AGC was unable to remove our opposition.

SB319 was never scheduled for a hearing.

## Regulations

### **BILLS THAT PASSED:**

#### **SB205** - (Priority A)

SB205 defines “water heater” to mean any appliance designed primarily to supply hot water for domestic or commercial purposes and is equipped with automatic controls that limit the water temperature to a maximum of 210 degrees Fahrenheit. It further clarifies that any provisions of NRS455C and any regulations adopted pursuant thereto do not apply if the input of heat is below 199,999 BTUs, the water temperature does not exceed 210 degrees Fahrenheit, and the capacity does not exceed 120 gallons.

These changes create parity between tankless and tanked water heaters.

SB205 was signed by the Governor on June 3, 2021, and will become fully effective on July 1, 2021.

### **BILLS THAT DID NOT PASS:**

#### **AB340** - (Priority B)

AB340 would have created an interim study to examine issues relating to the economic impact of administrative regulations.

AGC testified in support as good fiscal policy.

AB340 failed to meet the final deadline and was not processed further.

**Safety/OSHA**

**BILLS THAT PASSED:**

**AB400** - (Priority A)

As originally written AB400, removed the per se levels of marijuana to determine impairment while driving and also for workers' compensation claims. AGC worked with the sponsor and the broader business community to amend the bill to retain the 2 nanogram threshold for THC at which an employer can deny a workers compensation claim. The DMV was also successful in amending the bill to clarify that anyone holding a commercial drivers license could be prohibited from having any level of THC in their system.

AB400 was signed by the Governor on June 2, 2021. Sections 1-17 and section 18 become effective on July 1, 2021. Section 17.5 becomes effective on the date of the repeal of the federal law requiring each state to make it unlawful for a person to operate a motor vehicle with a blood alcohol concentration of 0.08 percent or greater as a condition to receiving federal funding for the construction of highways in this State.

## Taxes

### **BILLS THAT PASSED:**

**SEE EDUCATION FUNDING ON PAGE 33.**

### **BILLS THAT DID NOT PASS:**

#### **SB11** - (Priority A)

Existing law authorizes the Washoe County Board of Commissioners to impose a supplemental governmental services tax (GST) of 1 cent on each \$1 valuation of a vehicle based in the county. SB11, a City of Reno sponsored bill, would have authorized a governing body within Washoe County to impose the supplement GST and would have allowed the money to be used for projects related to construction, costs of interlocal agreements between the City and the RTC with respect to projects financed by the proceeds of the tax, and pay for the operating costs of the City and any other costs to carry out the governmental functions of the city, including to carry out programs that provide services and support to the homeless and those at imminent risk of homelessness.

AGC opposed the bill as an inappropriate use of this money and argued that if it were to be implemented it should be done so by the County and used for infrastructure.

The bill was heard in Senate Revenue and Economic Development, but failed to meet the first committee passage deadline on April 9, 2021, and was not processed further.

#### **SB73** - (Priority A)

SB73 was another bill sponsored by the City of Reno. It would have enabled the City to establish a committee to recommend taxes for capital projects and ongoing operational costs for parks & recreation, preservation of open space and protection of the Truckee River. Any recommendation would have been put on the 2022 General Election ballot. The ballot question would ask to either impose one of the recommended taxes, reallocate revenue from taxes imposed by Reno to fund the flood management authority, or both.

The allowable taxes for consideration were:

- Gross receipts from the rental of transient lodging
- Supplemental GST (separate from the County's supplemental GST)
- Tax on the transfer of real property
- Tax on gross receipts of any retailer from the sale of all tangible personal property
- Property tax

The bill was heard in Senate Revenue and Economic Development, but failed to meet the first committee passage deadline on April 9, 2021, and was not processed further.

## Transportation Funding

### **BILLS THAT PASSED:**

#### **AB413** - (Priority A)

AB413 requires the Nevada Department of Transportation (NDOT) to establish an Advisory Working Group to Study Certain Issues Related to Transportation during the 2021-2022 interim. Issues they are required to study include the needs of all users of different modes of transportation, social and user transportation equity, the reduction of greenhouse gas emissions, the role of land use and smart growth strategies in reducing transportation emissions, and the sustainability of the State Highway Fund. AGC supported AB413. Although it is only another study and analysis of the State Highway Fund, it will keep the conversation about declining fuel tax revenue and the need to find an equitable and sustainable source of highway funding moving forward.

AB413 was signed by the Governor on May 21, 2021, and becomes fully effective on July 1, 2021.

#### **AB467** - (Priority B)

AB467 appropriated over \$19 million from the State Highway Fund to the Department of Transportation for the continuing costs of the replacement of the Nevada Shared Radio System.

AB467 was signed by the Governor on June 4, 2021, and became effective upon passage and approval.

#### **AB468** - (Priority B)

AB468 is the appropriations bill to fund the operations of the DMV, all of which is funded by the State Highway Fund. In total, \$2,833,377 was appropriated.

AB468 was signed by the Governor on June 4, 2021, and became effective upon passage and approval.

#### **SB428** - (Priority B)

SB428 appropriated over \$12 million from the State Highway Fund to Nevada Highway Patrol Division of the Department of Public Safety.

SB428 was signed by the Governor on June 3, 2021, and becomes effective on May 30, 2021.

## [SB457](#) – (Priority B)

Under existing law, all proceeds from the imposition of any license or registration fee and other charges regarding the operation of a motor vehicle on any public highway, road or street in Nevada, except for the costs of administering the collection of those fees, are required to be deposited in the State Highway fund and used exclusively for the construction, maintenance and repair of the State's public highways. SB457 sets the maximum amount of the administration fees at 27%. This will sunset on June 30, 2026 and will revert to 22%.

Upon the failure of AB490 and AB491 (as discussed below), SB457 was to include an appropriation from the State Highway Fund of nearly \$8 million to cover the costs of reimbursing the \$1 technology fee that had been collected by the DMV unconstitutionally.

SB457 was signed by the Governor on June 3, 2021. It became effective upon passage and approval.

## **BILLS THAT DID and DID NOT PASS:**

### [AB490, AB491 and AB494](#) (Priority A)

In the 2015 Session, the body passed SB502 which required the DMV to impose and collect a \$1 technology fee on each transaction to pay for implementing, upgrading and maintaining the platform of information technology. This fee was set to expire on June 30, 2020, but in 2019 the Legislature passed SB542 that extended the fee for two additional years. SB542 was not passed with a 2/3 majority. Senator Settlemeyer and his fellow Senate Republicans sued the Legislature claiming the passage of SB542 with a simple majority violated the Nevada Constitution. The Nevada Supreme Court ruled in his favor, which resulted in the need to either refund the fee or retroactively pass it with a super-majority, which neither House enjoyed during the 2021 Session.

Upon commencement of the litigation, DMV collected the fee, but held the money in reserve until the case was settled. The total amount collected during that time was approximately \$5 million.

AB490 would have imposed the \$1 fee until June 30, 2026, and taken nearly \$8 million from the State Highway Fund to process the reimbursements. Because of the continuation of the fee, the bill required a 2/3 majority.

AB491 simply appropriated \$8 million from the Highway Fund to process the refunds.

AB494 is the appropriations bill funding state government. Section 77 makes an appropriation of almost \$14 million over the biennium to support the DMV's plan to redesign its computer system. This measure did not require a 2/3 majority as it was an appropriation not a tax or fee increase/continuation.

AGC opposed all three of these measures, arguing that this is an unconstitutional and inappropriate take from the Highway Fund.

Ultimately neither AB490 or AB491 were processed out of committee.

The funding included in AB494 addresses the ongoing costs of upgrading DMV's computer system and was signed by the Governor on June 3, 2021. It became effective upon passage and approval.

The \$8 million highway fund appropriation to process the refunds was amended into SB457 (discussed above).

### **BILLS THAT DID NOT PASS**

#### **AJR6** - (Priority A)

Currently, State Highway Fund dollars are constitutionally protected and can only be used for the cost of "...construction, maintenance, and repair of the public highways of this State." AJR6 sought to amend the constitution to read "...construction, *operation*, maintenance, and repair of the public highways *and the transportation and transportation infrastructure* of this State."

AGC opposed this measure as it did nothing to address the inadequate and antiquated funding mechanism currently in place and only would have taken a diminishing resource and diluted it further.

AJR6 was never scheduled for a hearing.

## Worker's Compensation

### **BILLS THAT PASSED:**

#### **SB289** - (Priority A)

As originally drafted, SB289 would have removed the finality of a workers compensation case where the claimant is paid a lump sum for a permanent partial disability.

The measure was amended to only allow any contested matters at the time of acceptance of the lump sum to continue to be litigated.

Upon adoption of the amendment, AGC was neutral on the bill.

SB289 was signed by the Governor on May 31, 2021, and became effective on passage and approval.

#### **SB295** - (Priority A)

SB295, as originally drafted, would have required lifetime payment of workers compensation claims for permanent disability regardless of income. AGC opposed the bill as it was drafted, but the sponsor presented an amendment limiting the scope so it only applies to police, fire and arson investigators.

SB295 was signed by the Governor on June 3, 2021, and becomes effective on October 1, 2021.

## Miscellaneous

### **BILLS THAT PASSED:**

#### **SB247** - (Priority B)

SB247, as drafted, would have required any new apprenticeship to be conditionally approved on the payment of wages and benefits, which must be equal or greater than an existing registered program. As drafted, AGC opposed the bill, but worked with the Southern Nevada Building Trades Union (SNBTU) on amending the bill to use the word “compensation” instead of “wages and benefits”. In the bill presentation, SNBTU clarified on the record that compensation meant the whole package, whether it is all on the check or includes benefits.

SB247 was signed by the Governor on May 28, 2021, and becomes effective on October 1, 2021.

#### **SCR11** – (Priority B)

SCR11 creates a joint special committee to conduct a study on innovation zones, a form of local government on private land. The measure was originally intended to be a bill establishing innovation zones would have allowed Blockchains LLC to build a blockchain-powered city in northern Nevada. The measure was surrounded by controversy and with other more pressing matters, the Governor scaled the proposal down to just a study.

SCR11 was delivered to the Secretary of State on June 1, 2021, and became effective upon passage and approval.

### **BILLS THAT DID NOT PASS:**

#### **AB90** - (Priority B)

AB90 would have created an interim study concerning the impacts of projects of intercounty significance. AGC supported the bill as Washoe County has been adversely impacted in many ways by the projects in Storey County (e.g., Tesla, Switch & Panasonic).

AB90 failed to meet the final deadline and was not processed further.

#### **AB331 & AB334** - (Priority A)

AB331 and AB334 were both attempts at addressing the affordable housing crisis in Nevada. Both included linkage fees on residential, commercial, and industrial developments up to \$5/square foot to fund an affordable housing trust fund.

AGC opposed the bill, while offering a different approach of using some of the abatement incentives awarded by the Governor's Office of Economic Development instead.

Both AB331 and AB334 failed to meet the first committee passage deadline on April 9, 2021, and were not processed further.

### [AB449](#) - (Priority B)

AB449 would have required applicants for abatements to pay 10% of the abatement amount for every year they are receiving it into an affordable housing fund in which the business is located and to repay the abatement if they fail to make the affordable housing payment.

AGC supported the bill, but unfortunately it failed to meet the first committee deadline on April 9, 2021, and was not processed further.

## ACE Charter High School

*Throughout the session, the AGC Government Affairs team worked on behalf of ACE Charter High School. Most of the efforts involved ensuring that ACE has a place in the broader educational picture as a unique and career-focused option for high school students in northern Nevada.*

### **BILLS THAT PASSED:**

#### **AB109** – (Priority B)

AB109 will require that 80% of teachers in a charter school hold a license or endorsement to teach in Nevada. Previously this requirement was 70%. This bill may impact ACE in the future as they hire teachers from industry, but currently all ACE teachers hold a Nevada teaching license or endorsement.

AB109 was signed by the Governor on May 27, 2021, and becomes effective on July 1, 2021.

#### **AB194** – (Priority A)

AB194 continues changes to the restorative justice school discipline procedures. This bill requires that if a student is suspended or expelled from school, the student must continue to receive an education in the “least restrictive environment possible”. It also requires every school in a district, including district-sponsored charter schools such as ACE, to submit their restorative justice/progressive discipline plan and their teacher/employee training program as part of their annual report to their district. This bill will have a high impact on ACE as it will make it more difficult to remove students from the school, including from trade classes, if they are creating an unsafe environment.

AB194 was signed by Governor on May 29, 2021, and becomes effective July 1, 2021.

#### **AB205** – (Priority B)

AB205 will allow schools to request a standing order for prescription opioid overdose reversal medication. ACE was initially concerned that this would be required of all schools. Acquiring, storing, and training staff in the use of this medication, which has not been needed at ACE, would have been a huge out-of-pocket expense for the school. We worked with sponsors to ensure this would be voluntary on the part of schools so only those who felt it would be necessary on their campus could receive the overdose reversal medication.

AB205 was signed by the Governor on May 26, 2021, and becomes fully effective on July 1, 2021.

## [AB257](#) – (Priority A)

AB257 sets minimum standards for schools and school districts that use federal aid money to upgrade, replace, or renovate their HVAC systems. These minimum standards will only apply if the money is used for HVAC purposes. This was a national labor union initiative meant to align with federal guidance on the use of federal rescue funds. ACE and the lobbying team met with the bill sponsor and proponents to learn why this bill was necessary and then met with the school district for assistance. The school district's government affairs team was successful in amending the bill to ensure that the upgrades were not mandatory unless the rescue funds were used for HVAC purposes.

AB257 was signed by the Governor on June 3, 2021. It becomes effective on July 1, 2021 and expires on June 30, 2023.

## [SB2](#) – (Priority B)

SB2 removes the requirement that schools collect height and weight data on students in grade 10, and instead requires only a representative sample be measured every other year.

SB2 was signed by the Governor on May 26, 2021, and becomes effective on July 1, 2021.

## [SB83](#) – (Priority B)

SB83 directs the Nevada Department of Education to request a waiver from the federal government requiring the college and career readiness test (ACT) be given and the associated reporting for school as part of Nevada School Performance Framework. The request is temporary but no time frame for expiration was specified.

SB83 was signed by the Governor on March 29, 2021, and became effective upon passage and approval.

## [SB173](#) – (Priority A)

Federal dollars were allocated to school districts directly under the American Rescue Plan. SB173 provides legislative guidance on how school districts could use those funds if they provide summer school to students. ACE polled their students and found only three who would be interested in summer school. Instead of ACE providing summer school, the administration has worked to find alternative arrangements for those three interested students. As originally written the bill was mandatory, the enrolled version allows more flexibility.

SB173 was signed by the Governor on June 7, 2021 and became effective upon passage and approval. The legislation expires on January 1, 2022.

## Education Funding Measures

### [AB495](#) – (Priority B)

AB495 imposes an annual excise tax on the gross revenues of gold and silver companies with revenues greater than \$20 million. The new tax is estimated to bring in an extra \$150-\$170 million per biennium, and earmarks more than \$500 million over the biennium to education. AB495 also designates existing mining tax revenues to education instead of the general fund; sets aside \$215 million of the state's allotment of American Rescue Plan funds to support traditional and charter schools efforts to help children rebound from learning loss resulting from school closures during the pandemic; gives \$4.75 million in tax credits to Opportunity Scholarships, a program that helps low-income children attend private schools, that was otherwise was on track to be phased out; calls for a study on alternatives to the current model of elected school board trustees; and tasks the Commission on School Funding with exploring other sources for raising revenue for schools.

AB495 was signed by the Governor on June 2, 2021. Sections 1-44, 46-50, 52-55 and 57-62 become effective on July 1, 2021. Sections 45, 52, and 56 become effective on July 1, 2023.

### [SB439](#) – (Priority A)

SB439 continues the transfer from the original school funding methods to the pupil centered funding formula. This bill was drafted to implement the recommendations of the Commission on School Funding (SB543, 2019). Due to the changes in weighted student funding, district sponsorship, and other provisions in the bill, ACE is projected to receive \$242 less per student in FY21-22 and \$244 less per student in FY22-23 than traditional schools in Washoe County. An amendment was proposed to SB458 to establish an equity adjustment for district sponsored charter schools to allow ACE to receive at least the same amount of per pupil funding as other schools in Washoe County. This was not adopted.

SB439 was signed by the Governor on May 31, 2021, and becomes fully effective on July 1, 2021.

### [SB458](#) – (Priority A)

SB458 is the K-12 funding bill that appropriates an average of \$10,204 per pupil in FY21-22 and \$10,290 per pupil in FY22-23. This is a lower amount than appropriated in 2019 due in part to the new funding formula, which does not consider school ending fund balances when calculating total public support. The new funding formula also removes categorical program appropriations and instead adds those funds to the larger pupil funding pot for distribution. This does not include the yet-to-be collected new tax on mining which is projected to add \$90 million to education funding each year.

A Washoe County school will receive \$7,222 per student. Due to a quirk in the pupil-centered funding plan and the hold-harmless provisions of the new education funding bill, ACE will receive only \$6,980 per student. The lobbying team, along with a Nevada Charter

School Association lobbyist worked with legislators to rectify this error. Another bill was introduced to address shortfalls with 12 charter schools (SB463), ACE was not included.

SB458 was delivered to the Governor on May 29, 2021.

### [SB463](#) – (Priority A)

SB463 provides additional funding for 12 charter schools adversely impacted by the new pupil-centered funding formula and hold-harmless provisions. ACE was not included in this legislation despite requests and meetings with legislators and Legislative Counsel Bureau (LCB) staff. The LCB determined that ACE would not be adversely impacted by the new formula because the school is receiving more funding that it has been as of June 30, 2020.

SB463 was signed by the Governor on June 4, 2021, and becomes fully effective on July 1, 2021.