



AGC of Minnesota 2019 Legislative Session Summary

The Legislature and Governor Tim Walz were tasked with setting the state biennial budget in 2019. The Republican-majority Senate and Democrat-led House accomplished passing a \$48.3 billion-dollar budget in a 21-hour special session that convened a few days after the regular legislative session adjourned. The following week, per agreement, the governor signed 13 budget bills passed in the May 24th special session. As the only divided legislature in the country, leaders felt pressure on local, state, and even national levels to compromise.

The session yielded both positive developments and mediocre results for the construction industry. Perhaps the most disappointing result for AGC of Minnesota members is the status quo transportation budget. Although state leaders funded the Minnesota Department of Transportation (MnDOT), the transportation package does not contain significant new investments for state and local roads and bridges, as well as transit projects. On the upside, safety in construction work zones received much needed attention through laws aimed at curbing distracted driving and enhancing flagger protections.

AGC Legislative Priority Issues

Bonding Bill - Did not become law

Transportation and infrastructure advocates were hopeful that a \$500 million capital bonding bill could be passed, as indicated by legislative leadership in their global agreement towards the end of the regular session. However, absent an agreement with House Republicans to get the required supermajority of votes for a bonding bill, the passage of a bonding bill was not in the cards. Large bonding bills are not usually passed in odd years, as they are typically reserved for even years, when the budget does not need to be worked on.

Distracted Driving/“Hands-free” Electronic Devices - PASSED

[Chapter 11 – H.F. 50](#)

After a decade of advocacy by families and various groups, legislation prohibiting handheld cell phone use while driving was signed into law. Texting while driving is currently illegal in Minnesota. Now, it will be against the law to use a handheld device while driving to make phone calls, access apps, and streaming video content. There are some exceptions that allow for accessing features through a one-touch, hands-free mode and in emergency situations. The penalty for violating the law is a petty misdemeanor, which remains unchanged from current law banning texting while driving.

The bill was signed on April 12th and will go into effect on August 1st.

Public Private Partnerships (P3) - Did not become law

AGC is looking ahead to the next session, as a policy year, to push for statutory authorization for public private partnerships for all Minnesota construction sectors due to the high volume of budget conversations and other policy bills this year.

Retainage - PASSED

[Chapter 7 – Special Session H.F. 2](#)

At the beginning of session, a bill related to retainage was introduced that would have had overall adverse consequences for the construction industry. The bill underwent several iterations as AGC worked with the bill authors and stakeholders to develop language that is practical and workable. AGC believes the adopted version is greatly improved from when it was introduced. Changes to retainage law were included in the jobs and economic development omnibus budget bill. There are significant changes to the law, including:

- Changes to the definition of substantial completion
- Allowance for owners to withhold up to 250% of the cost to correct or complete work known at the time of substantial completion
- Any withheld retainage funds must be paid within 60 days of substantial completion
- The public contracting agency can withhold one percent of the value of the contract or \$500, whichever is greater, pending completion and submission of all final paperwork by the contractor and subcontractor
- If an owner reduces the amount of retainage, the contractor must reduce retainage for any subcontractor at the same rate, and;
- Withholding retainage for warranty work is prohibited, but this provision does not waive any rights for warranty claims.

The new law applies to both public and private owners.

Go to [this briefing paper](#), written by one of AGC’s affiliate members, for additional details and analysis.

The bill was signed on May 30th. The retainage provisions are effective for agreements made on or after August 1st.

Transportation Funding – PASSED, but with no significant revenue increases

[Chapter 3 – Special Session H.F. 3](#)

In the end, the House, Senate, and Governor Walz agreed to a status quo budget for transportation. It maintains the statutory dedication of sales tax revenues but does not allow for new revenue moving forward.

The House and Senate had very different proposals tracking throughout the regular session. The House included a 20-cent increase in the gas tax, an increase in the motor vehicle registration tax, an increase in Motor Vehicle Sales Tax, and a ½-cent metropolitan area tax for transportation, with most of the revenue dedicated to transit in the metro area. The bill also repealed the dedication of sales tax revenue from rental vehicles, leased vehicles and auto repair parts. The Senate transportation budget bill did not repeal the dedication of sales tax revenue but did not provide any increases in funding for the Fiscal Year (FY) 2020-21 budget.

The Governor, House Speaker and Senate Majority Leader arrived at a global agreement at the end of the regular session. This ran out the clock for the Legislature to process the large budget bills; therefore, a special session was called later in the week. None of the House revenue increases were included nor were state surplus dollars used for transportation. Transportation was allocated \$93.5 million in general fund dollars for the biennium. This funding breakdown included:

- Metro Mobility – FY2020 - \$23.19 million, FY2021 - additional \$13 million (if available)
- Deputy Registrar reimbursement - \$13 million
- MnLARS (driver's license) replacement system - \$55.67 million
- Disaster Contingency Account - \$20 million (if available)

According to an analysis by the Minnesota Transportation Alliance, the transportation budget bill provides \$264.6 million, or about 4%, in all funds for all agencies more than in the previous biennium. The bill includes \$8 million less in general fund dollars than the budget for last biennium overall.

There is an increase in MnDOT spending from the trunk highway fund of \$104.8 million. The operations and maintenance budget is increased by \$53 million for the biennium, the state road construction budget is cut by \$23.5 million over the previous biennium, debt service on trunk highway bonds is increased by \$20.6 million for the biennium, and funding for agency management is increased by \$19.3 million for the biennium. An allocation of \$25 million each year, or \$50 million for the biennium, in trunk highway cash is provided for the Corridors of Commerce program. Increases to some accounts are attributed to the statutory dedication of the sales tax revenue passed in 2017 along with some growth in constitutionally dedicated revenue sources. The Metropolitan Council is authorized to issue regional bonds for transit capital expenses in the amount of \$92.3 million for the next two years.

The bill was signed on May 30th and has varying effective dates. Fiscal provisions are effective with the beginning of the new fiscal year, July 1st.

Work Zone Safety - PASSED

[Chapter 35 - S.F. 1753](#)

SF 1753, authored by Sen. Jason Rarick (R-Brook Park) and Rep. Erin Koegel (D-Spring Lake Park), received bipartisan support in the Legislature and became Chapter 35 of the session when it was signed into law. The law allows road flaggers to call law enforcement if a driver violates the flagger's directive. If the vehicle is located within four hours of the call, the driver can be cited and fined \$300. The law will be effective on August 1st to allow for AGC to work with MnDOT and others to incorporate this information into flagger training.

The bill was signed on May 17th.

Additional Legislative Issues Affecting AGC Members

Ames Highway Designation - PASSED

[Chapter 55 – S.F. 1003](#)

The law designates a portion of highway between Jordan and US Highway 61 as the Richard J. Ames Memorial Highway. This was passed as its own bill and was also included in the transportation omnibus budget bill.

The standalone bill was signed on May 22nd and is effective August 1st.

Bid Protest/Original Jurisdiction of Public Procurement Actions - PASSED

[Chapter 21 – S.F. 558](#)

Language initiated by the Construction Section of the Minnesota State Bar Association (MSBA) gives state district courts original jurisdiction in actions involving procurement contracts with state or local governments. Representatives from MSBA, cities and AGC agreed to language prior to the legislative session.

The bill was signed on May 9th and became effective the following day.

Duty to Defend - Did not become law

A bill was introduced in the House and Senate regarding duty to defend. It received two hearings in the House but did not proceed in the Senate and was not included in any final legislation. AGC testified that outlawing the practice through legislation would force construction projects to create wrapper policies that are more expensive, less desirable and have the effect of positioning Minnesota as a unique outlier in these matters.

Employment Law: Paid Family and Medical Leave/Earned Sick and Safe Time - Did not become law

The House omnibus jobs budget bill included language creating a paid family and medical leave benefit program, as well as requirements for employers to provide earned sick and safe time. These measures were not included in the final bill that was passed during the special session.

Hours of Service Exemption - PASSED

[Chapter 3 – Special Session H.F. 3](#)

Language was included in the transportation omnibus bill that would expand the federal hours of service exemption for drivers hauling utility construction materials within a 50-mile radius from the site of a construction or maintenance project. Utility construction materials include materials used to construct or maintain a street or highway, electric transmission services, telecommunications or cable communications, waterworks, sanitary or storm sewers, or gas heating service lines and pipelines.

The bill was signed on May 30th and this provision is effective August 1st.

Sales Tax Exemption for Building Materials - Did not become law

There was a bill introduced and given consideration this session, but ultimately the tax omnibus bill did not include a provision to clarify or streamline provisions related to a sales tax exemption for construction materials.

Wage Theft - PASSED

[Chapter 7 – Special Session H.F. 2](#)

Wage theft legislation was passed as part of the omnibus jobs and economic development budget bill. It has recordkeeping requirements and a new wage statement employees sign when they start work, states that commissions must be paid at least 31 days after earned, and outlines penalties that include dollar fines and potential imprisonment. The bill also provides funding and investigative power for the Attorney General and the Department of Labor to enforce the new law. The biggest point of contention between the House and Senate, and was an AGC concern, was the removal of “intent to defraud” from the criminal statute. In the end, the intent language remains part of the statute.

The bill was signed on May 30th and this provision is effective August 1st.

The 2020 Legislative Session will convene on February 11, 2020.