

February 26, 2025

AGC Testimony Re: SB 426

Dear Chair Prozanski, Vice Chair Thatcher and Members of the Committee:

Associated General Contractors – Oregon Columbia Chapter represents a broad cross-section of the commercial construction industry, including open shop and union, rural and metro, highway and building contractors. Most of our members are small, homegrown businesses, doing business throughout Oregon.

1. AGC's Strong Opposition to Wage Theft

Most important to note is that AGC has continuously opposed wage theft and worked for practical solutions to bring an end to this heartbreakin issue. No employee should go without pay, and everyone should be fairly and justly compensated for the work that they perform. Wage theft hurts the workers in our industry, and their families – no one should have to go through this and experience what the victims of wage theft have had to endure.

We believe strongly that there are options to get these bad actors out of the system and ensure that employees are being fully paid for the work they are doing. However, the policy before the committee in SB 426 does not actually target the bad actors and will therefore not effectuate the change necessary to stop these heartbreaking situations.

2. SB 426 Fails to Target the Bad Actors

Throughout conversations on wage theft issues in the construction industry, it has been repeatedly asserted that labor brokers are to blame for a significant number of these cases. However, this bill does nothing to target those labor brokers. Instead, it focuses on shifting liability within the owner/general contractor/subcontractor stream. If the bad actors are the labor brokers, a policy change that focuses on the labor brokers would actually work to bring an end to the situations that we have heard about.

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There is nothing in this bill that limits contractor/owner liability to when they were aware of wage theft occurring. Under SB 426, a contractor will be held liable for unpaid wages regardless of whether they were aware of their subcontractor's failure to pay. A contractor that had no reason to know that there was wage theft occurring by one of their subcontractors is not the right target – the target needs to be the *subcontractor* who is not paying their employees. This is particularly true on large commercial or public projects where the general contractor has a significant number of subcontractors who then have subcontractors as well. These jobs are complicated and require the use of different subcontractors for specific work that needs to be completed. It is impossible for a general to keep track of every employee and their pay – the responsibility of payment of wages needs to be on the subcontractor who is in privity of contract with the employee.

We understand the severity of the situation and how significant the issue is for workers who are not getting paid. As a result, we propose the following solutions:

3. Solution #1: Fund BOLI

BOLI is tasked with enforcing the labor and employment laws in Oregon. As such, they have responsibility for wage claims throughout the state. BOLI is able to process wage claims without employees having to obtain (and pay for) the services of an attorney. This makes the process more straightforward and less expensive for employees who are already having financial difficulty from their loss of wages.

On February 25, 2025, AGC testified in support of the BOLI budget, particularly calling out the necessity of eliminating the backlog on wage claims, and emphasizing that tasking an agency with providing such a critical support to workers and not fully fund them to do so, is an untenable situation for Oregon. BOLI does not receive sufficient funding to ensure that all wage claims can be processed in an expeditious way, and that is simply unacceptable. Instead of passing new laws, the Legislature must fully fund BOLI so that they can bring justice to these workers and get the bad actors out of the system. To simply accept that Oregon's agency shouldn't get the funds they need and perform these duties, is unacceptable. The state must continue to ensure that BOLI receives the funding it needs, so that it can help workers in our industry, and all others, who are victims of wage theft.

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4. Solution #2: Further Regulation of Labor Brokers

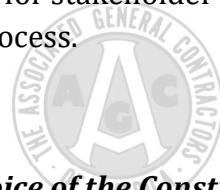
Throughout recent conversations on wage theft, labor brokers have been at the center as the main bad actors in the construction pipeline. However, this bill does nothing to target their malfeasance, instead focusing on other contractors in the chain of commerce. We propose that the focus of this policy discussion should be on removing unscrupulous labor brokers from the industry.

Construction labor brokers currently have some regulation through BOLI, including a bond. However, based on the information being brought forward, the regulations on labor brokers are currently inadequate. We propose that construction labor brokers be regulated at the CCB and to the same standards as other contractors in the construction industry. This would include a bonding requirement that would be sufficient to cover the wages of their employees, should the company go out of business or not pay their employees.

It is important to note the role that bonds play in the construction industry. Bonding allows for other parties to access funds if needed. It allows the industry to self-police and ensure that bad actors are removed from the system. When applying for a bond, the applicant is customarily asked whether they have had a claim paid from a bond in the past. If the answer to this is affirmative, it is unlikely that the bond company will take the risk of offering a bond to that company. Once a company has lost its ability to bond, it is no longer able to maintain its CCB license and will go out of business. If labor brokers are required to follow the same bonding protocols as the rest of the industry, the bonds will help to weed out the bad actors, in addition to ensuring that funds are available to pay employees who are left unpaid by unscrupulous labor brokers.

5. Stakeholder Discussion Needed

This bill proposes a massive shift to the liability structure in the construction industry. A change of this magnitude necessitates a broad conversation with the various stakeholders who will be impacted by this bill. Given the scope of SB 426, there is a broad group with a variety of different viewpoints and concerns. We request that there be an opportunity for stakeholder discussion before this bill proceeds further in the legislative process.



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We appreciate the commitment this committee has to the issue of wage theft, and we look forward to future conversations on how to remove bad actors from the construction pipeline. Thank you for your time.

Sincerely,

Kirsten Adams
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Associated General Contractors, Oregon-Columbia Chapter

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