

END OF SESSION REPORT

**AGC OF MISSOURI
LIST OF TRACKED BILLS *
1st Regular Session
96th General Assembly, 2011**

INDEX	
Impact on Transportation	p. 1
Other Construction Funding	p. 10
Public Contracting	p. 12
Contractor Operations	p. 21
Environmental Regulations	p. 24
Employment	p. 28
General Business	p. 34
Miscellaneous	p. 36

IMPACT ON TRANSPORTATION

Bill #	Sponsor / Bill Title	AGC Summary	Bill Status
HB 048*	Steve Cookson (R/Fairdealing) Exempts motor fuel used to operate school buses transporting students for educational purposes from the motor fuel tax and requires the establishment of a uniform and simplified rule for all exemptions.	School bus is defined to include motor vehicles “either publicly or privately owned, used to transport students to and from school . . .” (302.010 RSMo). Buses operated by contractors to school district or operated by a school district would be covered. Department of Revenue is to promulgate rules on the exemption. When fully implemented the bill creates a \$2.6 million annual loss in state road funds. The bill also requires the Department of Revenue to promulgate a uniform and simplified rule for all motor fuel tax exemptions.	02-09-11 H Public hearing completed
HB 291*	Charlie Denison (R/Springfield) Requires window stickers to show current motor vehicle registration instead of license plate tabs.	Provides for replacing the annual license renewal sticker to be fixed to the license plate with a front “window sticker.”	4-27-11 s Voted do not pass from Senate Transportation
HB 354*	Sally Faith (R/St. Charles) Exempts a qualified plug-in electric drive vehicle from the state's motor vehicle emissions inspection program.	<u>Truly Agreed and Finally Passed (TAFP):</u> Legislation relates to the Chevy Volt.	5-5-11 G Signed by the Governor

<p>HB 430*</p>	<p>Eric Burlison (R/Springfield) Changes the laws regarding motor carriers transporting household goods intrastate.</p>	<p>TAFP: Omnibus transportation Bill. Provisions include:</p> <ul style="list-style-type: none"> • Changes make-up, reporting and meeting dates regarding Joint Committee on Transportation Oversight: <ul style="list-style-type: none"> ➤ Seven Senate members of Joint Committee shall be in proportion to majority/minority party members serving in the Senate. (Currently no more than four members from the same party.) ➤ MoDOT Accountability Report date changed from November 10 to December 31 each year. ➤ Joint Committee meeting to review report changed from December 1 to February 15 of the following year. • Penalty for non-payment of fares to St. Louis Metro. Metro may recover costs of collection. • Extensive revision of outdoor advertising regarding when relocation of conforming signs on state highways are paid for by MoDOT due to highway reconstruction. Also has provisions for local control of outdoor advertising. • MoDOT Design/Build. <ul style="list-style-type: none"> ➤ Sunset extended to July 1, 2018. ➤ Clarification of 2% annual limit as applied to “contracts awarded to construction” from STIP. ➤ US 40/I-64 Missouri River Bridge authorized design/build. • Changes allowed width of recreational off-highway vehicles for 60 to 64 inches. • Extends optional biennial registration of motor vehicles to include commercial motor vehicles of up to 54,000 pounds. • Provisions relating to powers of Department of Revenue investigators as peace officers regarding fraudulent vehicle and drivers licenses. • Extensive revisions relating to motor vehicle dealers and motor vehicle dealer license plates. • Provisions relating to motor vehicle auctions by certain motor vehicle dealers. • Authorization of specialty license plates: <ul style="list-style-type: none"> ➤ “Breast Cancer Awareness” ➤ National Wild Turkey Federation ➤ National Rifle Federation • Provisions relating to “active emergency zones” and endangerment of “emergency responders” patterned after current “endangerment of highway worker” statute. • Changes in commercial drivers license statute to comply with federal mandate. (MoDOT indicates \$40 million in construction funds are at risk unless these provisions are passed to conform with federal law.) 	<p>5-13-11 S Truly Agreed to and Finally Passed</p>
----------------	---	---	---

		<ul style="list-style-type: none"> • Commercial motor vehicle use of city streets provisions supported by AGC and Missouri Limestone Producers Association. <ul style="list-style-type: none"> ➤ City ordinances are prohibited from denying commercial motor vehicle use of all city streets. ➤ At least one city street accessing a state highway must be designated for use of commercial motor vehicles from both directions. Cities may continue to regulate weight limits and traffic ordinances relating to commercial motor vehicles. ➤ Prohibits civil actions for a public or private nuisance against owners and operators on commercial motor vehicles for use of a public street or highway which is legal under state and local law. • Allows commercial vehicles hauling livestock of up to 85,000 pounds to operate on US Highway 36 to US Highway 63 and on US Highway 63 from US Highway 36 to the Iowa state line. (Current statutory exception for livestock trucks is limited to Highway 36 in the immediate St. Joseph area.) • Provisions relating to transportation of manufactured homes. • Provisions relating to transportation of household goods. (Original bill.) • 444.771: Mining restrictions in relation to schools: <ul style="list-style-type: none"> ➤ No permit may be issued for a new mine within 1,000 feet of an accredited school which has been operating for at least five years prior to permit application, excluding underground mining operations. ➤ Prohibition “shall not apply to any request for an expansion to an existing mine . . .” • Changes in Missouri law relating to “intoxication related driving offenses” to bring Missouri penalties and administrative and judicial procedures into compliance with federal law. (MoDOT states passage of these provisions will allow \$16 million in federal funds annually to be transferred from safety programs to construction.) 	
HB 484*	<p>Sally Faith (R/St. Charles) Establishes the Missouri State Transit Assistance Program to provide financial assistance to defray the operating and capital costs incurred by public mass transportation providers.</p>	<p>Authorizes funds to be appropriated by the General Assembly.</p> <p>TAFP: Establishes Missouri State Transit Assistance Program:</p> <ul style="list-style-type: none"> • Purpose is to provide operating and capital improvement funds to operators of local public mass transportation services. • Funds must be appropriated by General Assembly. • Distribution of appropriated funds is to be by a formula set out in statute. • Highways and Transportation Commission is to promulgate rules for administering the program. 	5-12-11 S Truly Agreed to and Finally Passed

Bill #	Sponsor / Bill Title	AGC Summary	Bill Status
HB 506*	Gary Fuhr (R/St. Louis) Changes the laws regarding property tax levy revisions	TAFP: Extends the provision for property owners' "one vote per acre" in Transportation Development Districts (TDDs) without residents to TDDs jointly established by local transportation authorities (i.e., cities and counties) as well as TDDs established by petitions submitted to the Circuit Court.	5-26-11 Delivered to Governor
HB 535*	Mike Leara (R/St. Louis) Changes the laws regarding initiative petitions and referendums.	Prohibits a petition circulator from being paid on a "per signature basis" or circulating more than one petition simultaneously.	4- 5-11 H Public hearing completed
HB 600*	Rodney Schad (R/Versailles) Expands the crime of assault of a law enforcement officer, corrections officer, emergency personnel, highway worker in a construction or work zone, or probation and parole officer to include a utility worker.	Defines utility worker to include workers working under contract. Also adds "utility worker" as well as "highway worker in a construction zone or work zone" to current criminal penalties for assault of a law enforcement officer. HCS/HB 600 (Perfectured): Provisions of interest include: <ul style="list-style-type: none"> • Prohibition of texting. • Adds "utility workers" to provisions of current law prohibiting assault of a highway worker and other protected classes. 	5-13-11 S Set on the Senate Calendar
HB 659*	Charles Denison (R/Springfield) Authorizes the St. Louis Metropolitan Sewer District to enter into a design-build contract for a construction project exceeding \$1 million	Legislation is proposed by St. Louis Metropolitan Sewer District. AGC/MO has taken no position on the legislation. However, there could be an attempt to add HB 659 to SB 133 (Rupp) or other MoDOT "design/build" legislation.	4- 7-11 H Voted do pass as substitute from committee on House-Trans. Funding and Public Institutions
HB 735*	Lincoln Hough (R/Springfield) Requires a municipality to allow at least one street to be used by commercial vehicles to access any state highway and prohibits a civil action for the legal use a motor vehicle on a public street.	Requires cities to provide at least one through street for lawful commercial motor vehicle use and bans nuisance suits against operators of commercial motor vehicles for lawful use of city streets. The legislation arises from a 2008 Jackson County Circuit Court and Court of Appeals decision which allowed the City of Greenwood to close its streets and prohibit all through truck traffic to a state highway. In a separate action a jury awarded \$1.9 million in compensatory and \$10 million in punitive damages in a nuisance claim.	3-15-11 H Public hearing completed
HB 846*	Paul Wieland (R/Imperial) Authorizes the governing body of any city or county to enter into design-build project contracts for neighborhood improvement districts.	Authorizes a "Neighborhood Improvement District" (NIT) Board to utilize "design/build" including adoption of a rule governing "design/build" for NITs. The intention is to use "design/build" for relatively small road, bridge and sewer projects. Under existing law such projects must be approved by the county commission.	4- 5-11 H Public hearing completed
HB 856*	Tony Dugger (R/Hartville) Changes the laws regarding initiative and referendum petitions.	Revises the requirements and process for submitting and qualifying an initiative petition. Statutory changes are favorable to petition circulators.	4- 4-11 H Returned to committee without amendment House-Elections

Bill #	Sponsor / Bill Title	AGC Summary	Bill Status
HB 1008*	<p>Thomas Long (R/Battlefield) Allows the Highways and Transportation Commission to enter into infrastructure improvement agreements to reimburse funds advanced for the benefit of a county, political subdivision, or private entity.</p>	<p>Authorizes MoDOT to enter into “<i>binding highway infrastructure agreements.</i>” Such agreements can apparently be made with a county, political subdivision or private entity to “<i>expedite state road construction or improvement.</i>” The purpose is to “<i>facilitate the finding of such improvement</i>” by allowing “<i>assignment</i>” of MoDOT’s “<i>reimbursement or repayment obligations.</i>” MoDOT may condition reimbursement upon projected highway revenues and may delay repayment if revenues fall below projections.</p> <p>The reason for the legislation relates to an access road to a state highway in the Branson area for purpose of building a race track and possibly other developments.</p> <p>The bill has thirty-six co-sponsors including Speaker Tilley.</p> <p>TAFP: Same as original bill.</p>	5-12-11 H Truly Agreed to and Finally Passed
HJR 08*	<p>Andrew Koenig (R/Winchester) Proposes a constitutional amendment replacing the individual and corporate income tax, corporation and bank franchise taxes, and sales and use tax with a fair sales tax on certain property and services.</p>	<p>“Fair Tax” proposal by General Assembly. Similar to HJR 56 (2010).</p>	5-4-11 H Set on the House Calendar
HJR 16*	<p>Tony Dugger (R/Hartville) Proposes a constitutional amendment changing the number of voter signatures that are required to place an initiative petition or a referendum on a ballot.</p>	<p>Requires 8% of legal voters to sign initiative petition in all (current law is two-thirds) of Congressional districts to place a Constitutional amendment on the ballot. Statutory amendments require 5% of legal voters in all Congressional districts, rather than two-thirds. The 8% and 5% requirements are the same as current law.</p> <p>The measure would be subject to voter approval at the November, 2012 election.</p> <p>Comment: It is expected that due to the recent US Census Missouri’s Congressional districts will be reduced from nine to eight so a standard of two-thirds is not possible.</p> <p>HCS/HJR 16: Initiative petitions proposing Constitutional amendments must be signed by 5.25% of legal voters (currently 8%) in all (currently two-thirds) of Congressional districts.</p>	5-13-11 S Laid over on third reading

Bill #	Sponsor / Bill Title	AGC Summary	Bill Status
HJR 23*	Mike Leara (R/St. Louis) Proposes a constitutional amendment changing the number of signatures required on an initiative petition proposing an amendment to the Missouri Constitution or on a referendum to change a state law	Changes signature requirements for Constitutional Amendments from 8% to 15% and for statutory measures from 5% to 10%. Signatures must be obtained in all Congressional districts rather than two-thirds as under current law.	4- 5-11 H Public hearing completed
SB 033*	Bill Stouffer (R/Napton) Repeals a provision of law which requires the Department of Transportation to submit to binding arbitration in negligence actions.	Applies to suits over injury or death, not contract arbitration.	4-18-11 H Referred to House Committee on House-Rules
SB 049*	Wright-Jones (D/St. Louis) Creates special rules for the formation of transportation development districts to operate mass transportation systems.	Provides for financing by property tax or sales tax upon a public vote.	3-30-11 S Voted do pass from committee on Senate-Transportation
SB 077*	Bill Stouffer (R/Napton) Expands the types of directional signs which may be erected and maintained within highway right-of-ways.	Related to agri-tourism. HCS/SB 77: Various highway naming provisions have been added in HCS. TAFP: Same as House Committee Substitute.	4-13-11 H Referred to House Committee on House-Rules
SB 133*	Scott Rupp (R/Wentzville) Authorizes an additional design-build contract for the improvement of the bridge on US40/I-64 located in St. Louis County and St. Charles County.	SB 133 does not revise the broad provisions of the 2009 (HB 359) MoDOT “design/build” statute, but merely adds the Highway 40/I-64 Daniel Boone Bridge between St. Louis and St. Charles Counties to named projects which may be, but are not required to be, constructed by the “design/build” method of project delivery. The bill was initiated by the St. Charles County Executive. Comment: On January 26 an AGC/Mo Design/Build Task Force met with Dave Nichols of MoDOT and formulated a recommendation to the AGC Board on MoDOT’s authority for “design/build” which expires July 1, 2012. The Board concurred with the Task Force recommendation that AGC support an extension of the “sunset” on MoDOT “design/build” authority through July 1, 2018, with retention of the limit of 2% of projects in the STIP annually by “design/build”. AGC of Missouri’s position has been communicated to Senator Bill Stouffer, Chair, Senate Transportation Committee. Since SB 133 does not relate directly to positions taken by AGC on the MoDOT “design/build” statute, AGC did not testify at a 2/16/11 hearing on SB 133.	4-14-11 H Referred to House Committee on House-Rules

		<p><u>HCS/SCS/SB 133:</u> Includes the following provisions:</p> <p><u>MoDOT Design-Build:</u></p> <ul style="list-style-type: none"> • Extends sunset on MoDOT “design/build” authority from July 1, 2012 to July 1, 2018. • Add Highway 40/I-64 Missouri River Bridge to list of projects which may be “design/build”: outside of the 2% annual limitation. <p>Does not include AGC’s clarification that 2% limit applies to contracts awarded to construction annually.</p> <p><u>MSD Design-Build:</u> HCS/SCS/SB 133 authorizes St. Louis Metropolitan Sewer District (MSD) to utilize “design/build.” MSD provision was not in the Senate version.</p>	
SB 173*	<p><i>Bob Dixon (R/Springfield)</i> Requires the Joint Committee on Missouri's Promise to develop long-term strategies and plans relating to developing a modern infrastructure and transportation system.</p>	<p>Requires existing Joint Committee (21.920 RSMo) to include in its annual report to the General Assembly a long range strategy on investing in transportation infrastructure.</p> <p style="padding-left: 40px;">➤ .</p> <p><u>TAFP</u> Provisions include:</p> <ul style="list-style-type: none"> • Joint Committee on Missouri’s Promise (original bill). <ul style="list-style-type: none"> ➤ “Modern infrastructure and transportation system” added to duties. • Missouri State Transit Assistance Program. (See HB 484.) • MoDOT Design/Build. <ul style="list-style-type: none"> ➤ Sunset extended to July 1, 2018. ➤ Clarification of 2% annual limit as applied to “contracts awarded to construction” from STIP. ➤ US 40/I-64 Missouri River Bridge authorizes as “design/build.” • Highway namings. • Transportation development districts for mass transit projects regarding rail lines in Kansas City. • Authorizes “design/build” for St. Louis Metropolitan Sewer District. • MoDOT “opt-out” provisions regarding membership in One Call notification center. <ul style="list-style-type: none"> ➤ Extends from December 31, 2011 to December 31, 2014 the date at which MoDOT can opt-out of membership. ➤ Removes requirement that excavation notice must state whether excavation is on a public roadway. 	45-12-11 H Truly Agreed to and Finally Passed

Bill #	Sponsor / Bill Title	AGC Summary	Bill Status
SB 254*	Bill Stouffer (R/Napton) Relating to intoxicated-related traffic offenses.	Changes penalty provisions for drunk driving convictions to comply with federal law. Repeals the ability of a court to consider “undue hardship.” SS/SCS/SB 254: Compliance with federal mandate will allow retention of \$16 million in federal funds in construction which are currently required to be expended for safety purposes. HCS/SS/SCS/SB 254: Title is “relating to intoxicated-related traffic offenses.” Legislation brings Missouri into compliance with federal law. No other subject matter is included in the bill.	5-13-11 H Set on the House Calendar
SB 277*	Brad Lager (R/Savannah) Modifies the law with respect to how municipalities and the legal system treats the lawful use of motor vehicles on public roads.	Legislation initiated by Missouri Limestone Producers Association to address restrictions on commercial vehicles on city streets. Relates to judgment against quarry operator in City of Greenwood for a public nuisance. Provisions include: <ul style="list-style-type: none"> • Municipality must designate at least one street which connects with a state highway for commercial traffic. • No ordinance may deny use of all streets by commercial motor vehicles. • Lawful use of motor vehicles on a public street or highway cannot constitute a public or private nuisance. 	4-19-11 S Voted do pass from committee on Senate-General Laws
SB 378*	Mike Kehoe (R/Jefferson City) Modifies law regarding commissions' authority to enter into additional design-build contracts.	Makes the following changes in MoDOT “design/build” statute: <ul style="list-style-type: none"> • Removes language in current law naming specific projects authorized for “design/build” above the 2% of STIP annual limit. • Extends the sunset on MoDOT “design/build” authority from July 1, 2012 to July 1, 2018. Does not include the clarification proposed by AGC that the 2% limit applies to projects awarded to contract from the STIP and not all projects listed in the STIP.	3- 9-11 S Voted do pass from committee on Senate-Transportation
SJR 01*	Luann Ridgeway (R/Smithville) Replaces all taxes on income with a sales and use tax.	“So Called Fair Tax”. Tax is 5.11% with provision for adjustment by Tax Adjustment Commission.	4-21-11 S Hearing conducted
SJR 13*	Jolie Justus (D/Kansas City) Requires referenda and initiative petitions to be signed by 5% and 8% of the voters in each congressional district.	Retains current Constitutional requirement of 5% of voters for initiative petitions amending statutes and 8% for Constitutional amendments. However, signatures must be obtained in all Congressional districts, not two-thirds as currently required.	02-07-11 S Hearing conducted

Bill #	Sponsor / Bill Title	AGC Summary	Bill Status
SJR 14*	Rob Schaaf (R/St. Joseph) Allows the Department of Revenue to receive its actual costs in collecting highway-related taxes and fees unbridled by the current 3 percent constitutional cap.	Revises Amendment 3 provision.	01-27-11 S Referred to Senate Committee on Senate-Transportation

OTHER CONSTRUCTION FUNDING

Bill #	Sponsor / Bill Title	AGC Summary	Bill Status
HB 124*	Jeanie Riddle (R/Mokane) Allows an electrical company to recover from ratepayers the costs associated with early site development for certain electrical generation facilities.	Relates to "Construction Works in Progress" (CWIP) fee to charge consumers for costs of application to Nuclear Regulatory Commission for approval for Callaway II facility.	2-22-11 H Voted do pass from committee on House-Utilities
HB 840*	Caleb Jones (R/California) Establishes the Aerotropolis Trade Incentive and Tax Credit Act to encourage foreign trade by authorizing the St. Louis City Mayor or the executive officer of certain counties to designate a gateway zone.	Relates to the "China Hub" project at St. Louis Lambert Field. Specifies tax credit authorizations for FY 2012 through FY 2014 and provides the total sum of tax credits shall not exceed \$60 million. HCS/HB 840 (Perfectd): "Aerotropolis Trade Incentive and Tax Credit Act"	5-11-11 S Set on the Senate Calendar
HJR 09*	Chris Kelly (D/Columbia) Proposes a constitutional amendment authorizing the General Assembly to issue bonds to fund higher education facility improvements, construction, landscaping, and land or building purchases.	Fifth State Building Fund proposal for state buildings. Similar to HJR 77 (2010).	3-29-11 H Public hearing completed
SB 050*	Mike Kehoe (R/Jefferson City) Allows electric companies to recover costs from ratepayers associated with early site development for certain electrical generation facilities.	Relates to Callaway II second reactor at Reform	3- 9-11 S Not heard in committee Senate-Veterans Affairs/Pension/Urban Affairs
SB 200*	Jason Crowell (R/Cape Girardeau) Modifies the ability of state educational institutions to issue bonds and incur debt.	Discourages issuance of bonds for construction for higher education facilities.	4- 5-11 S Set on the Senate Calendar

Bill #	Sponsor / Bill Title	AGC Summary	Bill Status
SB 321*	Mike Kehoe (R/Jefferson City) Allows electric companies to recover costs from ratepayers associated with early site development for certain electrical generation facilities.	Callaway II reactor.	3- 9-11 S Hearing conducted
SB 359*	Brad Lager (R/Savannah) Allows electric companies to recover costs from ratepayers associated with early site development for certain electrical generation facilities.	Alternative Callaway II proposal.	3- 9-11 S Not heard in committee Senate-Veterans Affairs/Pension/Urban Affairs

PUBLIC CONTRACTING

Bill #	Sponsor / Bill Title	AGC Summary	Bill Status
HB 138*	Mike Thomson (R/Maryville) Establishes the School Construction Act which exempts the construction and maintenance work done for certain school districts from the prevailing wage rate requirement upon the school board's approval.	Allows school boards to opt-out of prevailing wage, except when located in charter counties (St. Louis, Jackson, St. Charles).	5-10-11 S Referred to Senate General Laws
HB 142*	Gatschenberger (R/Lake St L) Increases the minimum value of county property that the auditor in a charter county must annually inventory.	TAFP: Several provisions relating to political subdivisions. SA 6 (McKenna) on construction bidding was removed in Conference Committee. No other provisions of interest.	5-12-11 S Truly Agreed to and Finally Passed
HB 319*	Barney Fisher (R/Richards) Changes the laws regarding contracts for public construction projects which are funded in any amount with public funds.	<p>Bill proposes changes in the "Fairness in Public Construction Act." Current law limits but would allow a local government to establish a Project Labor Agreement through a hearing process for projects which are 50% or less state funded.</p> <p>HB 319 makes the following changes:</p> <ul style="list-style-type: none"> • Defines "public funds" as <ul style="list-style-type: none"> ➢ "funds belonging to the state"; ➢ "any agency"; or ➢ "any instrumentality or political subdivision of the state." • Provides that no state agency, instrumentality or political subdivision funded by public funds "in any amount" may require a Project Labor Agreement. • "Project Labor Agreement" is defined as a "pre-hire agreement" between an "employer" and "one or more labor unions" which "is required" by a state agency, instrumentality or political subdivision for purposes of a "bid specification, bid submission or contract award." • Repeals a hearing process through which political subdivisions may justify establishing a PLA for projects with 50% or less state funds. • Provides any person submitting a bid or who would have submitted a bid except for violations of the statute has standing to seek equitable relief and/or monetary damages for any violation of statute. 	2-28-11 H Voted do pass from House Workforce Dev. And Workplace Safety

Bill #	Sponsor / Bill Title	AGC Summary	Bill Status
HB 320*	<p>Barney Fisher (R/Richards) Changes the laws regarding Missouri's prevailing wage as it relates to public works construction.</p>	<p>HB 320 revises the State Prevailing Wage Law as follows:</p> <ul style="list-style-type: none"> • Changes the definition of “locality” so as to prohibit the use of wages in “two or more adjacent counties” from being considered in establishing the prevailing wage if sufficient wages are not reported for purposes of establishing a prevailing wage for the county. • Changes “prevailing wage” from the wage established by the most hours reported in a county to the “average” wage of all wages reported for the county. • Removes the requirement that for fringe benefits counted toward meeting the “prevailing wage” that they must be: <ul style="list-style-type: none"> ➤ “[irrevocably made by a contractor or subcontractor to a trustee]”; and ➤ made to a [“third person”] • If the Department of Labor and Industrial Relations is unable to determine the “average wage” as the prevailing wage from reported wages for the county, the prevailing wage is set based on the latest report of the US Department of Labor, Bureau of Labor Statistics, entitled “Metropolitan and Non-Metropolitan Area Occupational Employment Wage Estimate.” <ul style="list-style-type: none"> ➤ The prevailing wage is the “median hourly wage estimate” stated in that report. ➤ The prevailing wage is the “median wage estimate” for the US DOL occupational title most closely matching the occupational title set by DOLIR’s rule. ➤ If there is no matching title “Occupational Code 47-000,” “Construction and Extraction Occupations”, which is the median of about fifty occupations stated in the report, is to be used. • Current law provides that any penalty for violation of prevailing wage cannot be imposed for forty-five days after notice of penalty. The contractor may dispute the penalty within that period. HB 320 provides that if the employer pays the back wages at any time within the forty-five day period “no other administrative, civil or criminal action shall be taken against the contractor, subcontractor, employee, agent, owner or principal of the employer.” • Any dispute resolved prior to initiation of enforcement action after the forty-five day period “shall not be considered a violation for purposes of section 290.330.” Section 290.330 RSMo is the section providing for debarment of contractors upon conviction for violation for a period of one year for the first violation or for three years for each subsequent violation. • Removes any consideration of collective bargaining agreements in setting prevailing wage. • Repeals provision allowing adjustment of the prevailing wage once each 	<p>3-14-11 H Voted do pass as substitute from committee on House-Workforce Dev. and Workplace Safety</p>

		<p>year on the anniversary date of a collective bargaining agreement for the occupational title.</p> <ul style="list-style-type: none"> • Repeals the requirement to have company name, city and state on each piece of self-propelled equipment of a contractor on a public works project. 	
HB 374*	Jay Barnes (R/Jefferson City) Establishes the Missouri False Claims Act.	<p>Establishes a State False Claims Act allowing third parties to initiate and obtain damages regarding any state or local contract. Provides for civil penalties of between \$5,000 and \$10,000 plus three times the “damages” sustained by the governmental entity.</p> <p>Establishes “qui tam” procedures similar to the Federal False Claims Act where the Attorney General and private party bringing the charge of a “false claim” may pursue recovery jointly, or the private party is authorized to continue the action even if the Attorney General withdraws from seeking a penalty.</p>	3- 9-11 H Public hearing completed
HB 530*	Jason Kander (D/Kansas City) Establishes the Public Fraud Prevention Act.	State False Claims Act. See HB 374.	3- 9-11 H Public hearing completed
HB 566*	Charlie Denison (R/Springfield) Establishes the Political Subdivision Construction Bidding Standards Act.	<p>HCS/HB 566: This is the AGC of Missouri drafted “Political Subdivision Construction Bidding Standards Act.” Provisions include:</p> <ul style="list-style-type: none"> • Broad definition of “contracts for construction” to include all types of building, heavy/highway and municipal utility construction. • Provides exceptions for: <ul style="list-style-type: none"> ➢ Engineering and design contracts negotiated under 8.287 RSMo. ➢ Construction management services awarded under 8.675 to 8.687 RSMo. ➢ “Design/build” contracts to the extent that “design/build” is authorized by law for use of the specific political subdivision. • Provides minimum bid solicitation and award standards for political subdivisions not currently required to bid construction contracts by state law, funding requirements or established local procurement policies. <ul style="list-style-type: none"> ➢ For contracts exceeding \$10,000, advertising once a week for two consecutive weeks in a newspaper within the county. ➢ For contracts over \$250,000 advertising by providing bid solicitation at least fifteen days in advance through a commercial or not-for-profit reporting service or plan room. ➢ Award to the “lowest and best bidder” that is “responsive” to the contract as advertised. Provides for rejection of any or all bids with written statement of cause within five business days to the apparent low bidder. • Establishes “bid integrity” standards applicable to all political subdivisions, including: 	3- 2-11 H Public hearing completed

		<ul style="list-style-type: none"> ➤ No bid may be opened in advance of the advertised deadline for bid opening. ➤ All bids must be sealed and in writing and if the letting is cancelled returned to the bidders unopened. ➤ Bids shall not be accepted after the advertised deadline for submission. ➤ Bids must be held secure and confidential. ➤ Bids must be opened in a public meeting at the date, time and place advertised or communicated to prospective bidders and the general public at least two business days in advance of bid opening. ➤ No construction contract may be awarded in violation of state statutes requiring performance and payment bonds. ➤ No construction contract may be awarded in substantial violation of a state statute of the political subdivision's procurement policy. • Provides for electronic bidding under comparable requirements. • Grants standing to persons submitting bids to challenge bid award for violations of "bid integrity" standards. Relief sought may include: <ul style="list-style-type: none"> ➤ Setting aside award of contract or ordering of re-bidding. ➤ Award to a different bidder. ➤ Monetary damages including reasonable attorneys fees. • Any person who would have submitted a bid except for complete failure to competitively bid the contract may file an action for 10% of the contract awarded not to exceed \$25,000 and the court may order rebidding. • If the court determines that violations result from unintentional errors and the project was competitively bid, a person not submitting a bid does not have standing to bring an action. • Action must be brought within fifteen business days of bid award. • Provides that political subdivision may not be required to accept a bid exceeding the estimate. Also provides for emergency contracts without bidding. • Provides political subdivision established construction procurement policies remain in place and may be adopted subsequent to the effective date of the legislation, but may not conflict with state law. 	
--	--	--	--

Bill #	Sponsor / Bill Title	AGC Summary	Bill Status
HB 647*	<p>Vicki Schneider (R/O'Fallon) Allows a contractor to contract with a title insurer, agency, or agent authorized to conduct business as an escrow agent in lieu of requiring a bond for certain public works contracts.</p>	<p>Allows public entities to substitute a contract with a title insurer as an escrow agent to receive funds as a substitute for a performance and payment bond for projects of over \$25,000 but less than \$500,000.</p> <p>The provisions are unclear in regard to:</p> <ul style="list-style-type: none"> ➤ The dollar amount to be escrowed. ➤ Whether the contractor or public entity must deposit funds to the escrow account. ➤ Whether the contractor must provide a bond in addition to the escrow account. <p>AGC of Missouri submitted a letter to the Committee raising these and other issues with the bill.</p>	3-16-11 H Public hearing completed
HB 828*	<p>Barney Fisher (R/Richards) Revises the definition of "construction" as it relates to the provisions regarding prevailing wages on public works projects.</p>	<p>The same revisions as proposed in HCS/HB 320 in response to a March 1 Missouri Supreme Court decision expanding the definition of "construction" and constricting the definition of "maintenance", have been introduced in a stand alone bill, HB 828 (Fisher, R/Richards). HB 828 was heard by the House Workforce Development Committee on 3/28/11.</p> <p>Both HCS/HB 320 and HB 828 apply prevailing wage only to "new" construction and eliminate "reconstruction," "improvements," "alterations" and "repairs" from the definition of "construction" making such work <u>not</u> subject to prevailing wage. AGC believes passage of the new definitions would exclude most current MoDOT work from prevailing wage since little is "new" construction.</p> <p>After consultation by e-mail with AGC's Legislative Committee, AGC of Missouri opposed HB 828 at the 3/28/11 hearing. The Heavy Constructors and AGC of St. Louis also testified in opposition. Testifying in support were the Missouri Chamber of Commerce, Associated Industries of Missouri, Missouri School Administrators Association, Missouri School Boards Association, Missouri Municipal League, Missouri Public Utility Alliance and Missouri Association of Counties.</p> <p>Although AGC opposes HB 828 in its current form, the Supreme Court decision calls on the General Assembly to clarify the distinction between "construction" and "maintenance." AGC of Missouri is working with the other Missouri AGC chapters to clarify the definitions.</p> <p>HCS/HB 828 (Perfected):</p> <ul style="list-style-type: none"> • Defines public projects to which prevailing wage applies as "construction" only to "new" construction, "enlargement" or "major alteration." • Defines "major alteration" as "an alteration or change to an existing facility which increases the size, type or extent of the facility." • Defines "maintenance work", to which prevailing wage does not apply to "restoration of the material condition or alteration" or painting or repainting. • Abrogates the <i>Utility Service Co., Inc. v. DOLIR</i> decision of the Missouri Supreme Court. (3/1/11) 	4-28-11 S Hearing conducted

Bill #	Sponsor / Bill Title	AGC Summary	Bill Status
HB 889*	<p>Gatschenberger Authorizes any city, town, village, sewer district, or water supply district to impose, upon voter approval, a fee for the repair or replacement of sewer service lines due to failure - "Omnibus Local Government Bill"</p>	<p>"Omnibus Local Government Bill"</p>	<p>4-28-11 H Referred to House Rules</p>
SB 001*	<p>Luann Ridgeway (R/Smithville) Bars employers from requiring employees to engage in or cease engaging in certain labor practices.</p>	<p>Prohibits as a "condition of employment" a person being required to:</p> <ul style="list-style-type: none"> • Belong to a labor organization. • Pay "dues, fees, assessments or similar charges . . . in any amount" to a labor organization. • Pay any amount to a third party in lieu of payments to a labor organization. <p>Any agreement an employer enters into with a labor organization is null and void if it violates any of the above prohibitions.</p> <p>The Attorney General or county prosecutors may investigate violations. Provides for criminal penalties (Class C misdemeanor). Provides any person injured by violation may bring a suit for injunctive relief or to recover damages.</p> <p>Exempts the following from the new restrictions:</p> <ul style="list-style-type: none"> • Employees covered by the Federal Railway Labor Act. • Federal employees. • Where pre-empted by federal law. • Collective bargaining agreements in effect prior to the effective date of the bill (August 28, 2011). Prohibition would apply to new and renewed agreements. <p>Comment: SB 1 would mean that collective bargaining agreements could no longer exist in their current form. Nor could unions exist through operation of a "union security clause" (all union members must pay dues for representation on wages and benefits.) According to Ron Gladney, Counsel for the State AFL-CIO, in testimony to the Senate General Laws Committee on February 8, under the <i>1988 Communications Workers of America v. Beck</i> decision a union security clause cannot require a union member to pay any portion of dues for political or lobbying purposes (that portion of a dues assessment may be deducted by the employee).</p>	<p>3-15-11 S Set on the Senate Calendar</p>

Bill #	Sponsor / Bill Title	AGC Summary	Bill Status
SB 109*	Jason Crowell (R/Cape Girardeau) Bars employers from requiring employees to engage in or cease engaging in certain labor practices.	Same as SB 1, except provisions are subject to a referendum at August, 2012 election.	02-08-11 S Committee hearing cancelled Senate-General Laws
SB 175*	Brian Munzlinger (R/Clarence) Modifies restrictions on the use of organized labor on public contract projects.	Revises Fairness in Public Construction Act (anti-PLA). See HB 319. Co-Sponsors: Nieves, Lager, Richard and Ridgeway.	3-30-11 S Set on the Senate Calendar
SB 176*	Brian Munzlinger (R/Clarence) Modifies Missouri's prevailing wage law.	Revises Prevailing Wage Laws. See HB 320 Co-Sponsors: Nieves, Lager, Richard and Ridgeway.	3-17-11 S Set on the Senate Calendar
SB 197*	Luann Ridgeway (R/Smithville) Bars employers from requiring employees to engage in or cease engaging in certain labor practices.	Same as SB 1, except SB 197 submits the statute to a referendum in August, 2012.	02-08-11 S Hearing conducted
SB 202*	Jason Crowell (R/Cape Girardeau) Requires authorization for certain labor unions to withhold fees from paychecks or make political contributions.	Another anti-labor initiative. Prohibits employee withholding for a public employee union PAC. <u>SS/SB 202 (Perfected)</u> : Applies to public employee unions. Requires annual authorization for deductions from dues for political contributions or expenditures. <u>HCS/SS/SB 202</u> : Requires annual authorization from employee for payroll deduction to political funds. Does not apply to trade associations.	5-13-11 S Set on the Senate Calendar
SB 206*	Chuck Purgason (R/Cauldfield) Bars employers from requiring employees to engage in or cease engaging in certain labor practices.	Same as SB 1.	02-15-11 S Superseded by - see SB 1

Bill #	Sponsor / Bill Title	AGC Summary	Bill Status
SB 249*	<p>Ryan McKenna (D/Crystal City) Creates the "Political Subdivision Construction Bidding Standards Act".</p>	<p>This legislation is initiated and supported by the SITE Improvement Association. SB 249 provides:</p> <ul style="list-style-type: none"> • Definition of “contract for construction” is essentially the same as HB 566 (Denison) supported by AGC of Missouri. • Exemption of engineering, project management and “design/build” (as authorized by statute) from competitive bidding provisions are the same in SB 249 and HB 566. • Exempts other state statutes specifying bidding requirements for specific political subdivisions and local policies as long as such requirements are “equivalent or stricter” than the legislation. • SB 249 sets the bid threshold at \$25,000 but requires that the threshold must be adjusted annually for inflation by the Consumer Price Index for Urban Consumers. <ul style="list-style-type: none"> ➢ Does not specify the entity responsible for calculating the annual adjustment or informing political subdivisions of the new threshold. ➢ Apparently even towns, villages and small districts are responsible for adjusting the dollar amount themselves. • The Office of Administration is to develop an electronic “bid repository” of information on all political subdivision construction projects in Missouri. Political subdivisions must continue to advertise projects in newspapers until the OA repository is operational. • Provides for award of contract to “lowest and best bidder.” (If a political subdivision has a “lowest responsible bidder” standard by existing statute or their own policy they must determine if the existing standard is “equivalent or stricter.”) • Political subdivision may reject any or all bids. • Utilizes the same “bid handling” requirements as HB 566. • Provisions for monetary violations or equitable relief as in HB 566. However, would allow a political subdivision to totally ignore the requirement to advertise and solicit bids with the only remedy being that a court could order the contract to be rebid. • Suits to challenge bid award must be filed with the court within fifteen days of bid award. • Provides for award of contracts without competitive bidding due to a defined “emergency.” <p>Co-Sponsors: Green, Callahan, Richard, Engler and Schmidt</p> <p>SCS/SB 249: (Not turned in as original or Substitute on another bill.)</p>	4- 6-11 S Voted do pass as substitute from committee on Senate-Jobs, Eco. Devo. and Local Government

Although SCS/SB 249 has not achieved status as a bill, the following is AGC's analysis of problems with the bill:

- Construction contracts exceeding \$25,000 *“shall”* advertise for bids in the following manner:
 - Through a central repository developed by the Office of Administration (OA), or a private firm contracted to OA, *“at no cost to the state”*;
 - On the political subdivision's website, with a link to the OA central repository;
 - In a newspaper of general circulation;
 - Through publication in a central repository sponsored by an organization of political subdivisions (i.e., Missouri Municipal League, Missouri Association of Counties). The organization may charge a fee for the solicitation.

In addition to the above methods of advertising, the political subdivision *“may”* also advertise in business, trade or minority newspapers.

A potential result of “advertising provisions” may be state run plan rooms or plan rooms run by associations of political subdivisions such as the Missouri Municipal League.

- **Authorizes “sole source” contracting for construction contracts over \$25,000.** Advertising or solicitation of bids is not required when a political subdivision has publicly stated in writing that because of the *“unique nature of limited availability of material, equipment or skills for a construction project”* a “sole source” contract is authorized.
- **Creates numerous conflicts between the legislation and existing statutes and local government procurement procedures or policies and procedures enacted in the future.** SCS/SB 249 requires statutes or local policies be *“equivalent to or stricter than”* the legislation, to be excused from compliance.
 - The legislation directly conflicts with numerous state statutes.
 - Creates confusion as to what would be considered *“stricter”* or *“equivalent.”*
 - Who decides?
- **Provides that failure to comply with any provision of the legislation “voids the contract awarded” and requires rebidding.**
- **Only persons “who would have submitted a bid” except for violations of the legislation have standing to seek a remedy. The only remedy which may be imposed by a court is rebidding the contract.**
 - Persons submitting a bid who were not awarded a bid due to violations of state law or local policy would have no standing to seek a remedy.

CONTRACTOR OPERATIONS

Bill #	Sponsor / Bill Title	AGC Summary	Bill Status
HB 299*	Donna Lichteneger (R/Jackson) Allows the Land Reclamation Commission to deny a mining permit if the affected land is within one mile of a school, child care facility, church, nursing home, public building, or cemetery.	<p>HB 299 amends the Land Reclamation Law to allow the Commission to DENY A PERMIT “if the affected land is within one mile of any school, child care facility, church, nursing home, public building or cemetery.” Distance from the named structures or areas are to be considered in the hearing conducted by a court appointed judge in making a recommendation to the Commission as to whether to grant or deny a permit for mining.</p> <p>Current law already allows the Commission to deny a permit based <i>“on an interested party’s health, safety or livelihood [which] will be unduly impaired by the issuance of the permit . . .”</i> (444.773.4 RSMo). However, the legislation would allow denial of a permit based solely on the distance from the named structures and locations without any finding of impairment of a negative impact on “interested parties.”</p> <p>AGC of Missouri and the Missouri Limestone Producers Association are working cooperatively on this legislation with other construction and mining industry representatives.</p>	4-19-11 H Voted do not pass from committee House-Transportation
HB 678*	Dave Schatz (R/Sullivan) Changes the laws regarding excavation notification centers.	<p>Proposes the following changes in the One Call statute:</p> <ul style="list-style-type: none"> • Extends the date at which MoDOT can “opt-out” of maintaining membership in the One Call notification center from December 31, 2011 to December 31, 2014. • Deletes the requirement that the notification center obtain from the excavator making notice whether the excavation is on the right-of-way of a public roadway. <p>These provisions were passed in 2009 as a condition of MoDOT being required to join One Call. However, MoDOT has no objection to changes proposed in HB 678.</p>	4-26-11 S Voted do pass as substitute from Senate General Laws
HB 686*	Todd Richardson (R/Poplar Bluff) Changes the laws regarding the denial of a mining permit.	<p>Legislation is proposed by Missouri Limestone Producers Association. If the Land Reclamation Commission authorizes a public hearing on a mining permit, the burden of proof regarding impact on “health, safety or livelihood” is placed on the interested party challenging the permit. Current law places responsibility on the applicant to show there is not a negative impact.</p>	4-22-11 H Set on the House Calendar

Bill #	Sponsor / Bill Title	AGC Summary	Bill Status
HB 696*	Don Gosen (R/Chesterfield) Changes the laws regarding contracts for public or private construction work.	See SB 290. The only substantive change from 2010 legislation is: <ul style="list-style-type: none"> • Addition of “design’ and “development” work to the definition of construction work; and • Changing the effective date to August 28, 2011. 	4-21-11 H Voted do pass as substitute from committee on House-Insurance Policy
HB 991*	Donna Lichtenegger (R/Jackson) Modifies Section 429.016 relating to mechanic's liens.	Comprehensive revision of 2010 lien legislation, including providing attorneys’ fees to lien claimants.	4-12-11 H Referred to House Committee on House-Judiciary
SB 220*	Jay Wasson (R/Nixa) Modifies liens for certain design professionals.	Expands the scope of design professional liens from one to three acres. Does not include land surveyor provisions of Rep. Diehl’s bill. HCS/SB 220: No changes in subject matter of bill. TAFP: <ul style="list-style-type: none"> • Expands mechanic’s lien for design professionals from one to three acres. • Established a “peer review” process for design professionals. 	5-11-11 S Truly Agreed to and Finally Passed
SB 290*	Jim Lembke (R/St. Louis) Modifies the law that limits indemnity agreements in construction work contracts.	Current Missouri law (434.100 RSMo) essentially holds that a contractor or subcontractor of any tier cannot be required to indemnify an upper tiered contractor or owner for the upper tiered party’s own negligence except where the lower tiered party has the opportunity to recover the cost of insuring the upper tiered party as an additional insured. SB 290 is similar to SB 1013 (2010) and SB 311 (Goodman) from 2009. SB 290 makes the following changes in current statute: <ul style="list-style-type: none"> • Prohibits clauses requiring lower tiered parties to “insure or defend” up the contracting chain. Current law only prohibits requirements to “indemnify” or “hold harmless”. • Excludes from “insurance” prohibition: <ul style="list-style-type: none"> ➤ “Project specific insurance policies”; ➤ “Owners or contractors protection liability insurance”; ➤ “Project management protective liability insurance”; ➤ “Builders risk insurance”. • Expands the definition of “construction work” covered by the statute to include the following terms not specifically listed in the current law: <ul style="list-style-type: none"> ➤ “Reconstruction, renovation”; ➤ “Shafts, wells, water or sewer systems, gas or other distribution systems”; ➤ “Appliances”; ➤ “Supervision, testing, operations, development.” 	02-17-11 S Referred to Senate Committee on Senate-Small Bus./Insurance/Industry

		<p>Many of these types of “construction” are covered by current law because the statute uses the term “shall include, but not be limited to . . .”</p> <ul style="list-style-type: none">• Provides that the Missouri statute is controlling if “a substantial portion of the construction work is to be performed in the State of Missouri . . .” Litigation or arbitration is to be conducted in Missouri. <p>Would be effective August 28, 2011 if passed.</p> <p>The 2010 and 2011 legislation excludes work on “utility poles or transmission lines” utilized by municipal utilities, public utilities or rural electric cooperatives or telecommunications or cable television facilities from the definition of “construction work.”</p>	
--	--	---	--

ENVIRONMENTAL REGULATIONS

Bill #	Sponsor / Bill Title	AGC Summary	Bill Status
HB 089*	<p>Darrell Pollock (R/Lebanon) Extends the public notice requirements of the Clean Water Commission when listing any impaired waters and extends the commission's authority to charge specified fees related to water pollution control.</p>	<p>Current statutory provisions for the Missouri Department of Natural Resources designating impaired waters and collecting fees for clean water permits have expired. HB 89 extends both provisions.</p> <p><u>TAFP:</u> Omnibus Natural Resources Bill. Provisions include:</p> <ul style="list-style-type: none"> • “Full transparency” required of state agencies. • Provisions regarding Sullivan County drinking water lake authority. • Department of Health “real time” water testing program required. • Water district management and training requirements. • State park earnings fund balance shall not revert to General Revenue. • “Private Landowner Protection Act” authorizes “conservation easements” for environmental, historic or other purposes. • Changes in Land Reclamation Law: <ul style="list-style-type: none"> ○ New mine permit plan boundary not allowed within 1,000 feet of “accredited school” established for five years, excluding permits for expansion and underground mines. ○ “Burden of proof” regarding “health, safety or livelihood” is transferred from applicant to person contesting permit. • “Cleansfield Renewable Energy Demonstration Projects” (Power plants and facilities.) • Permit automatically issued if permit decision not made by statutory deadline. • Provisions drafted in negotiation between business groups, including AGC of Missouri, and the Missouri Department of Natural Resources to expedite the review of engineering plans in relation to applications for environmental permits. <ul style="list-style-type: none"> ➤ The language requires a chief engineer for each DNR permitting authority to make a final decision on “engineering issues” relating to a permit application within thirty days of a request by the applicant, when plans have been prepared by a licensed Professional Engineer. Nothing requires preparation by an engineer unless otherwise required by state or federal law. MoDNR participated in the negotiation and supports the new provision. • Provisions regarding “bio-mass facilities” for electric power generation. • Provisions regarding hearings and appeals from DNR environmental commissions: <ul style="list-style-type: none"> ➤ Decisions of Commissions may be appealed to Administrative Hearing Commission (AHC). 	<p>5-12-11 H Emergency Clause Adopted (Vote: Y:138 / N:1)</p>

		<ul style="list-style-type: none"> ➤ AHC must make recommended decision within sixty days. ➤ Final decision of the environmental commission based on AHC recommendation must be made within ninety days of the date the appeal was filed. ➤ No legal action may be taken during the period of an appeal. <ul style="list-style-type: none"> • Appeals from most environmental commission final decisions are to be made directly to court of appeals rather than circuit court. • Extensive revision of asbestos abatement and licensing statute. • Potential permit applicant under a water pollution control General Permit may appeal the terms and conditions to the Clean Water Commission within thirty days of the issuance of the template for the General Permit. • DNR is to implement “permit shield” protections which are equivalent to protections equivalent to US EPA and federal law. • Sunset of 8/28/10 on DNR authority to designate “impaired waters” (303(d) list) is repealed. (No “sunset.”) • Water permit fees are extended from expiration December 31, 2010 to September 1, 2013. • DNR is to study water permit fee structure and report to General Assembly by December 31, 2012. • “Finding of affordability,” is required in enforcing any federal law and clean up mandates against a publicly owned wastewater treatment facility. • Provisions regarding privately owned on-site septic systems. <p>Emergency Clause applies to several sections including mining permits, environmental permits, judicial review and appeals end clean water permits.</p>	
HB 428*	<p>John Cauthorn (R/Mexico) Requires all facility plans submitted to the Department of Natural Resources as part of the permitting process for all environmental programs to be certified by a licensed professional engineer.</p>	<p>Apparently applies to all DNR permits:</p> <ul style="list-style-type: none"> • Water Discharge • Stormwater • Air • Land Reclamation-Mining • Hazardous Waste • Corps Related (401) <p>Not sure how this would be applied if the application is to come under a General Permit, when no engineering is required. For example, a SWWP for a project for a stormwater permit is not required to be prepared by an engineer and would already be prepared when an application to come under a General Permit is made.</p> <p>Note: AGC and other business groups worked with DNR on a substitute which requires chief engineer of DNR Divisions to render a final decision on engineered plans within thirty days. Plans not required to be prepared by engineer unless required by state or federal law. See HB 89 and SB 135.</p>	3-17-11 H Public hearing completed

Bill #	Sponsor / Bill Title	AGC Summary	Bill Status
HB 578*	<p>Mike Thomson (R/Maryville) Allows the state, any agency, or political subdivision to give used tires, scrap tires, or tire shred to any in-state private entity to be disposed of or recycled under certain conditions.</p>	<p>See HB 192 & HCS/SB 135.</p> <p><u>SCS/HCS/HB 578</u> No provisions have been added in House or Senate in addition to original bill on disposal of scrap tires</p> <p><u>TAFP:</u> Same as Senate Committee Substitute.</p>	5-10-11 H Truly Agreed to and Finally Passed
SB 135*	<p>Kurt Schaefer (R/Columbia) Modifies provisions pertaining to the storage and dispensing of motor fuel and extends the expiration date to August 28, 2022 for environmental laws relating to dry-cleaning facilities.</p>	<p><u>TAFP:</u> Provisions include:</p> <ul style="list-style-type: none"> • Balance in State Parks Earnings Fund does not revert to general revenue. • Lead-acid battery fee extended from June 30, 2011 to December 31, 2013. • Provisions for public entities donating scrap tires for beneficial uses. (See HB 578.) • Extends hazardous waste generator statute from August 28, 2012 to August 28, 2017. Hazardous waste generator fees are extended from December 31, 2011 to December 31, 2013. • Repeal of ban of certain plastic products in proximity to rivers in the state. • Provisions relating to Petroleum Storage Tank Insurance Fees. • Provisions relating to Missouri Department of Agriculture inspections of motor fuel pumps. • Provisions relating to water systems serving charitable organizations. • Expedited review of engineering plans in relation to permit applications from DNR agencies: <ul style="list-style-type: none"> ➤ The language requires a chief engineer for each DNR permitting authority to make a final decision on “engineering issues” relating to a permit application within thirty days of a request by the applicant, when plans have been prepared by a licensed Professional Engineer. Nothing requires preparation by an engineer unless otherwise required by state or federal law. <ul style="list-style-type: none"> ○ Initial review of plans by DNR must be by a professional engineer or an engineer intern. ○ A chief engineer must be designated by DNR for each division. ○ Permit applicant receiving comments on an engineering plan may request a determination from the chief engineer. Chief engineer must make a preliminary decision within fifteen days and a final decision within thirty days of request. ○ SB 135 (640.905) does not include language about automatic issuance of a permit if decision is not made by statutory deadline as included in HB 89 (640.018.1). HB 89 includes same language on “engineering plans” as in Subsections 2 and 3 of 640.905 in HB 89. ▪ Missouri Department of Natural Resources sets motor fuel vapor recovery fees for motor fuel retailers. 	5-13-11 H Emergency Clause Adopted (Vote: Y:148 / N:1)

Bill #	Sponsor / Bill Title	AGC Summary	Bill Status
SB 423*	Brad Lager (R/Savannah) Modifies various provisions pertaining to the regulation and protection of natural resources.	Transfers certain functions of the Department of Natural Resources to the Department of Health and Senior Services. Also revises various permit requirements and provisions, including clean water permits.	3-29-11 S Hearing conducted

EMPLOYMENT

Bill #	Sponsor / Bill Title	AGC Summary	Bill Status
HB 061*	Jerry Nolte (R/Gladstone) Prohibits the state minimum wage from exceeding the federal minimum wage.	Proposal under "Fix the Six." HCS/HB 61 (Perfected): State minimum wage cannot exceed federal minimum wage. Adjusts state minimum wage for tipped employees.	4-13-11 S Set on the Senate Calendar
HB 163*	Barney Fisher (R/Richards) Changes the laws regarding unemployment compensation benefits in order for Missouri to receive recently approved additional federal funds.	<p>HCS/HB 163 (Perfected): Original purpose of the bill is to extend federally funded unemployment benefits for the long-term unemployed. Removes March 3, 2011 expiration date in current law. HB 163 provides authorization ends based on the last day such benefits are funded under federal law.</p> <p>HB 163 was amended on the House floor on January 31, 2011 to add provisions for bonding to repay federal borrowing to pay regular unemployment benefits. However, the provision was changed (see HB 135) to allow an unlimited repayment period for bonds rather than extending the period from ten years to twenty years.</p> <p>Truly Agreed and Finally Passed (TAFP): Enacts the following provisions relating to payments of <u>state</u> unemployment benefits:</p> <ul style="list-style-type: none"> • Claimant is ineligible for benefits under a new claim if there is a penalty from overpayment of previous benefits. • Maximum total <u>state</u> benefits for the newly unemployed is reduced from 26 weeks to 20 weeks. <p>Extends <u>federally financed</u> unemployment benefits under the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010 by twenty weeks. State authorization for this federal benefit program is extended from March 3, 2011 to August 28, 2013.</p> <p>NOTE: Bonding to repay federal borrowing for paying state benefits was removed on the Senate floor due to objections of several Senators.</p>	4-13-11 G Signed by the Governor

Bill #	Sponsor / Bill Title	AGC Summary	Bill Status
HB 893*	<p>Todd Richardson (R/Poplar Bluff) Requires all employers and business entities to enroll and actively participate in a federal work authorization program.</p>	<p>Similar to SCS/SB 420</p> <p>HCS/HB 893</p> <ul style="list-style-type: none"> • End Second Injury Fund (SIF) effective 7/1/11. • After July 1, 2011: <i>“compensation for the balance of the combined permanent disability herein described shall be payable by the employer or its insurer in addition to the permanent disability attributable to the last injury alone.”</i> • Attorney General may enter into compromise settlements for existing claims. • SIF continues to cover un-insured employee claims prior to July 1, 2011. • Existing claims are paid until no liabilities remain. Annual study on solvency to set surcharge on employers. • Sets out priorities of fund expenses (claims prior to 7/1/11): <ul style="list-style-type: none"> 1) Legal defense. 2) Permanent total disability. 3) Permanent partial disability. 4) Medical expenses. • Claims on or after July 1, 2011: <i>“shall be subject to adjudication under the workers compensation system.”</i> • Surcharge collected until liabilities satisfied. Any balance at end transferred to Workers Compensation Fund. • Provides for a supplemental surcharge of up to 4% in 2012 and for each year thereafter based on Division of Workers’ Compensation estimate of revenue required to pay claims filed prior to July 1, 2011. 	4-22-11 H Set on the House Calendar
SB 008*	<p>Jack Goodman (R/Mt. Vernon) Restricts co-employee liability in workers' compensation cases.</p>	<p><u>SS/SCS/SB 8 (Perfected) (Reconsidered)</u> As originally introduced SB 8 dealt with “occupational disease” claims under work comp. However, the Senate Substitute combines both “co-employee” and “occupational disease” issues under work comp.</p> <p>“Occupational Disease”: “Fix the Six” legislation supported by the “Open for Business” Coalition in which AGC participates sought to bring claims back under the work comp law. A recent court decision (<i>Franlin v. Certain Teed Corp</i>) ruled that such claims could be pursued through civil suit rather than under workers compensation benefits.</p> <p>SB 8 was changed through the Senate Substitute to cover all “occupational disease” claims under work comp with the exception of claims from “toxic exposure”, which is defined as:</p>	5-13-11 S Third read and passed (Vote: Y:32 / N:1)

		<ul style="list-style-type: none"> • “Prolonged chemical, substance or material exposure that can cause death, abnormalities, disease, mutations, cancer, deformities or reproduction malfunctions . . .” • Defined as a injury from substance being “consumed, inhaled or absorbed . . .” <p>As revised in the Senate Substitute the “occupational disease” provisions of SB 8 would cover only such work related claims from repetitive motion, hearing loss, radiation disability, or communicable disease.</p> <p>“Co-Employee”: Co-employee provisions of SB 8 are essentially the same as the “Fix the Six” proposal. Employees collecting under work comp are prohibited from suing the employer or a fellow employee for additional compensation except when the employee “engaged in an affirmative negligent act that purposefully and dangerously caused or increased the risk of injury.”</p> <p>After initially being “Perfectred” (i.e., given initial approval) the vote was “Reconsidered” and the Senate Substitute remains on the Senate Informal Perfection Calendar for further consideration.</p> <p>HCS/SS#2/SCS/SB 8: Co-Employee Liability: Co-employees are released from liability at tort for death, injuries or occupational disease compensated under work comp except where the employee “engaged in an act which <i>intentionally</i> caused or increased the risk of injury.” The word “intentional” was added in House Committee.</p> <p>Occupational Disease: Occupational disease claims are solely under work comp. Subrogation by the employer paying an occupational disease claim under work comp to an employee’s claim relating to exposure to toxic substances is prohibited. The House Committee added language which limits the prohibition on subrogation to “when the employer <i>intentionally</i> caused the occupational disease.” “Intentional” exposure to a toxic substance is problematic in applying this provision.</p>	
SB 110*	<p>Jason Crowell (R/Cape Girardeau) Prohibits the state minimum wage from exceeding the federal minimum wage.</p>		2-22-11 S Hearing conducted

Bill #	Sponsor / Bill Title	AGC Summary	Bill Status										
SB 188*	<p>Brad Lager (R/Savannah) Modifies the law relating to the Missouri Human Rights Act and employment discrimination.</p>	<p>“Fix the Six” Legislation.</p> <p><u>Truly Agreed and Finally Passed:</u> Makes the following changes in state law prohibiting unlawful discriminatory practices:</p> <ul style="list-style-type: none"> • Requires that the criterion in determining a discriminatory act be the “motivating factor.” Plaintiff has the burden of proving the criterion was a motivating factor. (Current law is a “contributing” factor.) • Statute applies to persons “engaged in an industry affecting commerce” who employs six or more employees over a defined period. • Abrogates several state court decisions and directs the courts to interpret the law as consistent with Title VII of the Civil Rights Act of 1964. • Sets out two frameworks for an employer responding to a discrimination suit, specifically citing court decisions in determining if the employer is guilty of a discriminatory act. • Any party to a discrimination suit may demand a trial by jury. • Actual damages awarded by a court shall be actual back pay, interest and equitable relief and punitive damages not exceeding: <table data-bbox="688 751 1220 919" style="margin-left: 40px;"> <thead> <tr> <th style="text-align: left;"><u>Employer</u></th> <th style="text-align: left;"><u>Damages</u></th> </tr> </thead> <tbody> <tr> <td>5 – 99 employees</td> <td>\$ 50,000</td> </tr> <tr> <td>100 – 199 employees</td> <td>\$100,000</td> </tr> <tr> <td>200 – 499 employees</td> <td>\$200,000</td> </tr> <tr> <td>500 or more employees</td> <td>\$300,000</td> </tr> </tbody> </table> <ul style="list-style-type: none"> • Punitive damages may not be awarded against a state agency or political subdivision. <p>Also establishes the “Whistleblowers Protection Act”:</p> <ul style="list-style-type: none"> • Provides protection to persons reporting unlawful acts or serious misconduct that violates a clear mandate of public policy set out under statute or regulation. • Codifies “at will” employment doctrine. • Prohibits employers from discharging or retaliating against protected persons. • Protected persons have a private right of action for damages. • Any party to the action may require a trial by jury. • Actual damages and punitive damages shall not exceed designated limits for each complaining party. (Limits are the same as in discrimination cases. See above.) 	<u>Employer</u>	<u>Damages</u>	5 – 99 employees	\$ 50,000	100 – 199 employees	\$100,000	200 – 499 employees	\$200,000	500 or more employees	\$300,000	<p>5-13-11 Vetoed by Governor (Calendar)--SCS for SB 188-Lager, et al</p>
<u>Employer</u>	<u>Damages</u>												
5 – 99 employees	\$ 50,000												
100 – 199 employees	\$100,000												
200 – 499 employees	\$200,000												
500 or more employees	\$300,000												

Bill #	Sponsor / Bill Title	AGC Summary	Bill Status
SB 417*	Jason Crowell (R/Cape Gir.) Modifies the law relating to the Second Injury Fund.	Ends claims under the Second Injury Fund effective July 1, 2011 without a supplemental surcharge in addition to the 3% authorized by current law. Director of Division of Employment Security is to quarterly withhold sufficient funds to meet quarterly legal expenses estimated by the attorney general until benefits awarded prior to July 1 are paid off.	3-29-11 S Committee hearing cancelled Senate-Small Bus./Insurance/Industry
SB 420*	Robert Mayer (R/Dexter) Modifies the operation and maintenance of the second injury fund.	<ul style="list-style-type: none"> • Permanent disability claims, where there has been previous disability, will continue to be compensated by the Second Injury Fund (SIF), if the current claim occurred prior to July 1, 2011. <ul style="list-style-type: none"> ➤ Such claims must be filed prior to July 1, 2013. • For injuries after July 1, 2011 the balance of combined permanent disability from the current and prior injury is payable by the employer or its insurer. • Compromise settlements for eligible injuries may be up to 100 weeks of the employee's total average weekly wage. • Employees of employers who fail to insure or self-insure are covered by the SIF for injuries or death occurring before July 1, 2011. • Division of Workers Compensation is to contract for an actuarial study in 2012 and every year thereafter until no liabilities against the SIF remain. Division sets a supplemental surcharge to be paid by employers. • Sets priorities for payments from the SIF: <ol style="list-style-type: none"> (1) Expenses for legal defense; (2) Permanent total disability (PTD) claims in order settled or adjudicated; (3) Permanent partial disability (PPD) awards in order settled or adjudicated; (4) Medical expense incurred prior to July 1, 2011. <p>Any unpaid amount remains an ongoing liability of the fund until satisfied.</p> • Claims where there has been previous disability occurring after July 1, 2011 are subject to adjudication under the workers compensation system. • The 3% surcharge required by current law continues to be collected until all liabilities of the SIF have been paid. • A supplemental surcharge on employers is created by the legislation to be 	4- 7-11 S Set on the Senate Calendar

		<p>paid in FY 2012 and each subsequent year until SIF liabilities are satisfied. (Supplemental surcharge for 2011 collected in 2012 is estimated as 3.8%. Total surcharge of 6.8% for 2011.)</p> <ul style="list-style-type: none">➤ The supplemental surcharge is not capped for 2012 or future years.• Funds collected from employers shall be the sole source of funds to the SIF. (No state revenues may be obligated.)	
--	--	--	--

GENERAL BUSINESS

Bill #	Sponsor / Bill Title	AGC Summary	Bill Status
HB 045*	<p>Denny Hoskins (R/Warrensburg) Changes the laws regarding the Big Government Get Off My Back Act and provides an income tax deduction for certain small businesses that create new full-time jobs.</p>	<p>HCS/HB 45 (Perfected): Provisions include:</p> <ul style="list-style-type: none"> • Any federal mandate must be implemented by authorization of General Assembly. • Extends through 2014 requirement that any agency rule having an adverse impact on “small business” must exempt small business. Redefines small business from less than 25 to less than 50 employees. • Provides for tax credit for jobs created by small businesses for 2011 through 2014. <p><u>SCS/HCS/HB 45</u></p> <p>TAFP: Same as HCS</p>	4-27-11 H Truly Agreed to and Finally Passed
HB 116*	<p>Tom Flanigan (R/Carthage) Authorizes an amnesty from the assessment or payment of all penalties, additions to tax, and interest on delinquencies of unpaid taxes which occurred on or prior to December 31, 2010.</p>	<p>SS/SCS/HCS/HB 116 & 316: This legislation has become an “Omnibus Tax Bill.” Includes numerous provisions, including provisions relating to tax credits.</p>	5-2-11 Passed by Senate with Senate Amendments (Died in Conference)
HB 316*	<p>Chris Kelly (D/Columbia) Changes the laws regarding the collection of money owed the state and establishes the State Debt Collections Act.</p>	<p>Governor’s tax amnesty proposal. Applies to period of August 1, 2011 to October 31, 2011.</p>	2-21-11 H Superseded by - see HB 116
HB 364*	<p>Mark Parkinson (R/St. Charles) Changes the determination of a defendant’s liability in a tort action for damages by specifying that the liability of each defendant for compensatory or punitive damages must be several and cannot be joint.</p>		4-18-11 H Set on the House Calendar

Bill #	Sponsor / Bill Title	AGC Summary	Bill Status
SB 019*	Eric Schmitt (R/Glendale) Phases-out the corporate franchise tax over a five year period.	<p>SCS/SB 19 (Perfected): Cap on franchise tax at 2010 tax as provided in SB 18. However, also reduces tax rate gradually between 2012 and 2015. Franchise tax is repealed effective January 1, 2016.</p> <p>Truly Agreed and Finally Passed: Phases out corporate franchise tax between tax years 2011 and 2016:</p> <ul style="list-style-type: none"> • For Tax Year 2011 (Jan. 1 – Dec. 31, 2011) the corporate franchise tax cannot exceed the 2010 tax. Current .30% tax rate. • For subsequent years: <ul style="list-style-type: none"> ➤ Tax Year 2012 – one-thirtieth of 1% ➤ Tax Year 2013 – one-fiftieth of 1% tax rate. ➤ Tax Year 2014 – one seventy-fifty of 1% tax rate. ➤ Tax Year 2015 – one-hundred fiftieth of 1% tax rate <p>Tax is applied only to companies exceeding \$10 million in assets as under current law.</p> <ul style="list-style-type: none"> • Effective January 1, 2016 no franchise tax shall be imposed. 	4-18-11 G Sent to the Governor
SB 211*	Jim Lembke (R/St. Louis) Modifies how damages are assessed in certain lawsuits.	<p>“Fix the Six” proposal. Eliminates “joint and several liability.” SB 211 provides:</p> <ul style="list-style-type: none"> • Compensatory or punitive damages may only be allocated to a defendant in direct proportion to each defendant’s percentage of fault. • The fault of all persons contributing to damages shall be considered, including non-parties to the suit and parties which have entered into a settlement agreement. 	02-07-11 S Referred to Senate Committee on Senate-Judiciary Civil/Criminal Jurisprudence

MISCELLANEOUS

Bill #	Sponsor / Bill Title	AGC Summary	Bill Status
HB 108*	<p>Jason Smith (R/Salem) Allows a political action committee to receive a contribution from any corporation, association, or partnership instead of from only those formed under Chapters 347 - 360, RSMo.</p>	<p>Removes references to specific sections of Missouri statute under which corporations must be incorporated to contribute to a state PAC. Any corporation may contribute.</p> <p><u>HCS/HB 108 (Perfected)</u></p>	<p>4-19-11 Passed by Senate with Senate Amendments</p>
HB 193*	<p>John Diehl (R/Town & Country) Establishes the basic format for dividing Missouri into eight Congressional districts based on the 2010 census estimates.</p>	<p>Major issue for the session.</p> <p><u>TAFP</u></p>	<p>5-4-11 S Passed over Veto</p>
SB 350*	<p>Bob Dixon (R/Springfield) Requires the sunset of all administrative rules proposed, adopted or amended after August 28, 2011, and allows an agency to repromulgate a rule that is set to sunset.</p>	<p>All rules adopted after 8/28/11 sunset in six years.</p>	<p>3- 3-11 S Referred to Senate Committee on Senate-Judiciary Civil/Criminal Jurisprudence</p>