



# FRIDAY FACTS

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## **SURFACE TRANSPORTATION REAUTHORIZATION . . .**

**MAKE TRANSPORTATION**

**JOB # 1**

**WWW.AGC.ORG/ROADS**

Authority to operate the federal-aid highway program and to collect the federal gas tax **expires March 31.**

**AGC members are asked to:**

- 1. Send letters to your Representatives and Senators.**
- 2. Sign a petition expressing your support for passing a highway and transit bill.**
- 3. Use a complete grassroots toolkit – available on AGC of America’s website – with sample letters to the editor and guidance about arranging effective meetings with your Representative and Senators.**

There are signs of action from Congress:

- **Senate:** The Finance and Banking Committee convened February 2 to mark up a bill identifying \$12 billion in new revenue to support a two-year extension of the federal highway program at current funding levels.
- **House:** The House Transportation and Infrastructure Committee also met February 2 to work on a five-year bill at close to current funding levels through oil and gas royalties. Revenues estimated from energy taxes must be supplemented to reach current funding.

AGC members have submitted **600 letters to Congress** through the Legislative Action Center. However, **only 122 signatures** have been added to **AGC’s on-line petition**. AGC members are urged to send letters and sign the petition and urge suppliers, subcontractors, insurance, bonding, labor and non-construction businesses to send letters and sign the petition and ask employees, friends, neighbors and colleagues to do the same.

**To access resources in support of the campaign [CLICK HERE](#).**

The House and Senate are expected to approve the 23<sup>rd</sup> extension of the Federal Aviation Administration Program until February 29. SAFE TEA-LU is in its 14<sup>th</sup> extension. **Let’s get it done now!**

**BULLETIN: News reports indicate Congress passed a four-year FAA bill. It can be done!**

(AGC of America: [Highway Facts Bulletin](#), 1/23/12, 1/24/12; [Construction Legislative Week in Review](#), 1/26/12)



**NOTE: Missouri AGC members can be proud that according to AGC national they were among a half dozen states leading the way in “grass roots” lobbying to repeal the 3%. [Let’s do it again!](#)**



# 2011

<b>Number of Bills Introduced in Congress</b>	<b>5,793</b>
<b>Number of Bills Enacted Into Law</b>	<b>81 (&gt;2%)</b>
<b>AGC of America Priority Bills Enacted</b>	<ol style="list-style-type: none"> <li><b>1) Repeal of the 3% tax withholding mandate on local, state and federal government contracts for goods and services; and</b></li> <li><b>2) Repeal of the expanded Form 1099 requirement that was a part of Health Care “reform”.</b></li> </ol>

**Quite a record for AGC in a “Do Nothing” Congress.**

(AGC of America: [Construction Legislative Week in Review](#), 1/26/12)

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## UNDER THE MISSOURI CAPITOL DOME . . .

**Commercial Motor Vehicle/Use of City Streets:** *HB 1295 (Hough, R/Springfield)* was heard by the House Transportation Committee on Tuesday (1/31/12). HB 1295 prohibits any city from closing all city streets to commercial traffic and prohibits lawsuits for a “public or private nuisance” for lawful use of a public street or highway by a commercial motor vehicle. Missouri Limestone Producers Association and AGC of Missouri supported the bill. Other witnesses in support included Missouri Trucking Association, Missouri Chamber of Commerce, Associated Industries of Missouri and the Mining Industry Council. There were no witnesses in opposition, but the Missouri Municipal League testified “For Information” raising concerns about suburban “bedroom” communities where there is absolutely no commercial activity and trucks are prohibited.



The same provisions were passed in *HB 430 (2011)* but vetoed due to concerns about municipal control of outdoor advertising.

**Outdoor Advertising Bill:** *SB 607 (Stouffer, R/Napton)* was heard in Senate Transportation on Wednesday (2/1/12). SB 607 provides for the relocation rather than the purchase and removal of existing billboards by MoDOT due to reconstruction of interstates. However, SB 607 excludes the provisions regarding municipal regulation of billboards which invoked a veto by the Governor in 2011. MoDOT estimates SB 607 will save \$1.5 million by relocating rather than removing billboards due to construction.

### Labor Issues

**House:** On Monday (1/30/12) the House Workforce Development Committee heard *HB 1198 (Fisher, R/Richards)*. HB 1198 addresses a March 1, 2011 Missouri Supreme Court decision to the effect that painting of a municipal water tower was not excluded from prevailing wage as “maintenance.” The legislation changes the definitions of “construction” and “maintenance.” As introduced the legislation applies prevailing wage only to “new” construction or “major alterations.” To be a “major alteration” the construction must be a “structural change” which increases the “size, type or extent of the facility.” “Maintenance work” which is not major alteration is not subject to prevailing wage. AGC of Missouri testified “For Information” that as written 75% of MoDOT projects in the next five years would not be under prevailing wage. AGC made the same comments on the same 2011 legislation and provided the sponsor with language to address the scope of the Supreme Court decision. However, HB 1198 is the same language as the original 2011 bill.

The Missouri Municipal League, several individual cities and Associated Builders and Contractors testified in support of the bill. Organized labor testified in opposition. AGC of St. Louis and certain other contractor groups also opposed the bill.

**Senate:** Several labor related bills were placed on the Senate Calendar early this week:

- *SB 553 (Brown, R/Rolla)* – Restricts check-off of union dues for political contributions.
- *SB 439 (Mayer, R/Dexter)* – Revises the prevailing wage law.
- *SB 596 (Brown, R/Rolla)* – Revises prevailing wage and prohibits required Project Labor Agreements.
- *SB 438 (Mayer, R/Dexter)* – “Right to Work”.
- *SB 547 (Purgason, R/Caulfield)* – “Right to Work”.

SB 553 was debated on the Senate floor on Tuesday (1/31/12). However, all of the labor bills were laid on the “Informal Calendar” (meaning the bills will not be immediately taken up) during a Tuesday evening session. That action followed a Republican Senate Caucus at 5:00 pm Tuesday. The Senate is not expected to go back to the labor bills soon.

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## MISSOURI’S 2011 CONSTRUCTION EMPLOYMENT 46<sup>TH</sup> WORST . . .

AGC of America recently released analysis of US DOL data identifying construction employment gains and losses by state for calendar year 2011. Missouri is one of 25 states losing construction jobs in 2011. **Missouri ranked 46<sup>th</sup> worst among the fifty states and the District of Columbia with a loss of 4,400 construction jobs representing a -4.2% decline.**

All contiguous states except Kentucky and Nebraska showed construction job gains.

	Rank	Construction Job Gain	12 Mo/%
<b>Iowa</b>	7	3,100	+5.2%
<b>Kansas</b>	8	2,600	+4.8%
<b>Oklahoma</b>	10	2,900	+4.3%
<b>Illinois</b>	20	3,400	+1.8%
<b>Arkansas</b>	26	300	+0.6%



North Dakota led the nation in construction job growth (+5,100 jobs, +24.4%) and Indiana was #2 (13,600 jobs, +12.1%). (AGC of America: [Press Release](#), 1/24/12)

**STATE AUDITOR FINDS HIGHWAY PATROL IN COMPLIANCE ON USE OF ROAD FUNDS . . .**

Article IV, Section 30(b) of the Constitution of Missouri provides that revenue from highway users may be used in part for “*administering and enforcing any state motor vehicle laws or traffic regulations.*” For decades appropriations have been made from the state Highway and Transportation Department Fund to the Missouri Highway Patrol for that purpose. In **2002 legislation (HB 1196)** supported by AGC was passed to provide increased “accountability” for highway funds appropriated to the Patrol. The legislation:



- Provided that appropriations from highway funds “*shall only be used by the highway patrol to administer and enforce state motor vehicle laws or traffic violations.*”
- Provided that effective July 1, 2007 “*any activities or functions conducted by the highway patrol not related to enforcing or administering state motor vehicle laws or traffic regulations shall not be funded by the state highways and transportation department fund and shall be funded from general revenue . . .*”
- Requires that the “*state auditor annually audit and examine the appropriations made to the highway patrol to determine whether such appropriations are actually being used for administering and enforcing state motor vehicle laws and traffic regulations pursuant to the constitution.*”

In **November, 2011**, State Auditor Tom Schweich issued the required **audit for Fiscal Year 2011 through June 30, 2011**. The three page audit concluded that the Missouri State Highway Patrol “*appears to be in compliance with legal provisions related to the use of Highway Funds.*” MHSP expended \$196,068,444 from state road funds in FY 2011, including:

■ Crime labs personal service.....	\$3,474,407
■ Crime labs expense and equipment .....	\$868,524
■ Interoperable system highway * .....	\$18,568,382
■ Interoperable ongoing highway * .....	\$104,395

\* Interoperable emergency communications program.



The audit does not provide data on funds appropriated for those purposes from general revenue.

(Note: The exact division of shared expenses for a crime lab between highway funds and general revenue cannot be determined from the audit report.)

The conclusion of the Auditor was that the Missouri State Highway Patrol spent \$2,336,000 appropriated from State Road Funds which did not relate to traffic enforcement duties. However, the Auditor also reports that the Highway Patrol spent \$4,460,000 on crime lab expense and equipment from general revenue which should have been attributed to highway funds. Therefore, ***the Auditor concludes that the Patrol subsidized State Road Funds by \$2,124,000.*** (Article IV, Section 30(b), Constitution of Missouri; Section 226.200.3 RSMo; Associated Press, 12/2/11; Office of State Auditor: Missouri State Highway Patrol’s Use of Highway Funds, 2011 (Report No. 2011-108))

In response to a request for additional information from MoDOT, MoDOT informed AGC that “*in total, the State Highways and Transportation Department Fund expenditures accounted for 79 percent of total Patrol spending in fiscal year 2011.*”



**DEFENDING UTILITY DAMAGE CLAIMS . . .**

An excellent article recently appeared in Damage Prevention Professional magazine on seven “best practices” for contractors in defending against utility damage claims “**When the Excavator is Not At Fault.**” To access the article [CLICK HERE](#), then go to page 58. (Damage Prevention Professional, Winter, 2012)



AGC OF MISSOURI  
AND  
YOUNG EXECUTIVES CLUB



**ANNUAL SCHOLARSHIP PROGRAM**

Applications are currently being accepted through May 1 for this year's annual scholarship program. Three scholarships are available based on merit, in the following amounts:

- **AGC Scholarship: \$2,500**
- **Young Executives Club College Scholarship: \$2,000**
- **Young Executives Club Vo/Tech School Scholarship: \$1,500**

Details along with a poster and "payroll stuffer" to assist companies in alerting employees of this *member benefit*, has been mailed to all AGC members. Contact us at 573-636-3188 with questions or to obtain a copy of the application form. The application can also be found at [www.agcmo.org](http://www.agcmo.org) under "Benefits of Membership" and clicking on the link under "Chapter Services."

## FEBRUARY SPECIAL . . .

### 10% Off OSHA Standards for Construction

Compliance in the construction industry is made easy with the most up-to-date OSHA standards.

Save 10% With Code: **WeeklyFeature**

\* Not valid with any other offer. Expires 2/29/12.



Compliance in the construction industry is made easy with the most up-to-date OSHA standards. Included you will find the 1903 regulations on inspections, citations, and proposed penalties; the 1904 regulations on recording and reporting occupational injuries and illnesses; pertinent 1910 general industry regulations; and every 1926 construction industry regulation.

[CLICK HERE TO ORDER](#)

**AGC/MO YOUNG EXECUTIVES CLUB  
2012 SPRING SHOOT  
FRIDAY, MARCH 16, 2012  
11:30 REGISTRATION / 1:00 PM START TIME**



**Lenexa, KS, minutes from I-435 & 10 Hwy.  
4 trap fields - 3 skeet fields - Sporting Clays**

**Details available at [www.agcmo.org](http://www.agcmo.org)**



**April 11-12-13, 2012**

**AGC of Missouri Annual Convention**

**@ The Hilton Branson Convention Center**

**@ Branson Landing**

## Make Plans to Attend

### 32<sup>nd</sup> Annual PORTLAND CEMENT CONCRETE PAVEMENT CONFERENCE

February 29<sup>th</sup> - March 2<sup>nd</sup>, 2012  
Downtown Marriott/Muehlebach Hotel  
200 West 12<sup>th</sup> Street, Kansas City, Missouri 64105  
816-421-6800

This year's theme: *"Practical Pavement Solutions for Practical Times"*  
(9.5 PDHs Available)

Program, registration, sponsorship, and exhibitor information available at [www.moksacpa.com](http://www.moksacpa.com) or by emailing [Cindy@moksacpa.com](mailto:Cindy@moksacpa.com) or calling 913-381-2251.