



Labor and Employment Policy

AGC works to ensure that federal legislative and regulatory policies recognize the unique nature of the construction industry, create middle class jobs and limit burdensome restrictions on employer hiring practices. Although President-Elect Trump's policy positions on labor and employment issues has not always been clear or consistent, it is believed that his positions will ultimately be consistent with business interests.

The AGC issues that are likely to see legislative action in the first 100 days of the Trump Administration include restoring the Joint Employer standard, lowering the Overtime threshold, and permanently blocking the Blacklisting and Persuader rules that are currently stalled by the courts. The biggest question remaining is how the Justice Department will handle the pending lawsuits if the DOL regulations and Executive Orders in question are rescinded.

Looking beyond the first 100 days, Trump's positions on union organizing are unpredictable. He has no stated policy positions on collective bargaining or employee rights. Vice President-Elect Mike Pence has a longer track record of fighting to keep Indiana right-to-work as governor and opposing the Employee Free Choice Act while in Congress. The GOP platform has been very critical of the role unions play in the economy and will look to minimize their influence. Ideas include more transparency in how member dues are being used and limiting power of union officials. A national right-to-work law may take the centerpiece of any Trump labor agenda.

One of the few areas Trump has offered some details, albeit limited, is his plan for six week-maternity leave for mothers who don't already receive leave. The position conflicts with the GOP which has historically opposed federal government mandates for paid leave and Congress may resist this change. Trump would fund this program through enforcement of unemployment insurance fraud (which may need some additional thought). His plan also calls for changing the tax code to give deductions for stay at home parents and creating dependent care savings accounts.

Given the Congressional make up, any changes to Project Labor Agreements or Davis Bacon laws are unlikely to be enacted. An issue with limited AGC impact, but one that could occupy Congressional time, is raising the minimum wage, which has been one of Trump's most variable positions and one of his biggest breaks from the traditional GOP platform. Trump has recently said he supports a \$10 minimum wage but also states that anything additional should be left to states, making enactment of any federal legislation more difficult.

Health Care Policy

AGC supports replacing the Affordable Care Act with policies that expand employer and employee choice, reduce health care costs, reduce employer reporting requirements, and promote employee responsibility and accountability. Trump has made campaign promises to dismantle or repeal the Affordable Care Act. The GOP platform compliments this position by replacing the Act with a simplified system that reduces mandates and allows individuals and small business to pool together for coverage.

Since enactment of the law, there have been a dozen small changes made to the law, including the delay of three major tax provisions in 2015. Prior to the Election, the Lame Duck session looked to be one of the best opportunities for an additional round of small, incremental changes to the Act that could reduce burdens and costs on employers. Items high

on the list for consideration included the 30-hour workweek rule, arcane reporting requirements, HRA penalties, seasonal employee fix and others.

A review of the Affordable Care Act and attempts for major changes to the law will be a priority for the Trump Administration during the first 100 days. Trump and Congressional Republicans will try to repeal and replace the Act by expanding authority to states, promoting HSAs and HRAs, selling insurance across state lines and converting Medicaid to block grants. The other incremental changes mentioned above will be included in these discussions as well as the Cadillac Tax, which has already been delayed until 2020 but is a perennial piñata for both parties. It remains unlikely that major changes could pass the Senate without using the budget reconciliation maneuver, similar to what Obama vetoed last year, which can only target certain portions of the law and would not be full repeal. One bipartisan target remaining long after the election fallout will be both parties attacking drug pricing.

Immigration Policy

AGC supports immigration reform that strengthens national security, functions efficiently and fairly, and addresses future workforce needs. Immigration became a major issue in 2016 election, propelled by Trump in the GOP Primary and continued throughout the general election. The cornerstone of his campaign was the building of a southern border wall followed by deporting a segment of the undocumented workers from the labor force. The 2013 Senate “Gang of Eight” bill could be a model for Trump with its pathway to legalization for undocumented immigrants, reforms to the legal immigration system for high- and low-skilled workers, and border security. The bill’s path to legalization will have to be modified before it can garner Trump’s support.

Trump’s priorities include mandating e-verify to check the employment eligibility for all new hires, altering the temporary work visa programs, boosting prevailing wage for high skilled workers, and increasing border security and screening. Small, incremental changes to immigration law are possible, but a wholesale reform package in one bill remains unlikely.

Workforce Policy

AGC supports increased training opportunities to meet the skilled worker shortage. In recent years, Congress has reauthorized several important pieces of education and workforce training legislation including the Every Student Succeeds law and the Workforce Innovation and Opportunity Act. Federal education policy is slowly being updated to match the skills needs of employers and help address worker shortages.

One issue that was in contention for Lame Duck action was the re-write of the Perkins bill, which authorizes career and technical education (CTE). The bill overwhelmingly passed out of the House earlier this year and is currently being negotiated between House and Senate leaders. If an agreement is made, the reforms would encourage more employer alignment and collaboration, expand work-based learning, promote industry recognized credentials and include modest funding increases.

If Perkins fails to move in the Lame Duck it is expected to pass early next year and would offer an early bipartisan victory. The Higher Education Act is the next large education policy bill that is due to be reauthorized in the next Congress. The bill offers one of the greatest opportunities to tap into the large federal funding for education by expanding eligibility for Pell grants to non-traditional degrees. However, the future of CTE and education policy is more of the same with the continued threat of budget austerity, which will likely limit the opportunities to chip away at the funding inequalities between CTE and other education programs.

Labor & Employment Related Ballot Initiatives (Statewide only)

Of the statewide ballot measures on November 8, several were labor and employment related initiatives that will impact individuals and employers in at least 14 states. Legalizing marijuana, increasing the minimum wage, and expanding paid sick leave were among the biggest winners Tuesday.

Efforts to either legalize recreational and medical marijuana or decriminalize the use of marijuana passed in 8 states, covering 75 million people, while failing by a narrow margin in Arizona. California being the most populous state which legalized recreational marijuana for individuals over 21 years old as did Massachusetts, Maine and Nevada passing similar provisions. Voters in Florida, North Dakota, Montana and Arkansas approved medical marijuana initiatives. The results yesterday brings the total to 28 states where it's legal for recreational or medical marijuana use.

Four states (Arizona, Colorado, Maine and Washington) voted to increase their minimum wage with two of the state's initiatives (Arizona and Washington) including paid sick leave mandates. Voters in South Dakota rejected an attempt to lower the minimum wage for minors. A federal increase under a Trump administration would be unlikely.

Other employment-related initiatives include two states voting on "right-to-work" constitutional amendments to add to their states current "right to work" policies. Alabama voters passed it while voters in Virginia rejected it. South Dakota voters rejected a vaguely worded initiative to overturn their right-to-work laws. Since 2011, Indiana, Michigan, Wisconsin and West Virginia have passed right-to-work laws.

Finally, voters in Colorado rejected the creation of what would have been the first single payer state health care system in the country and would have cost employers billions of dollars a year while California voters rejected a cap on drug prices.