THE POLITICAL LANDSCAPE
Continued Progress

2017 marked the 5th consecutive year of split political control within our state government, and once again the team of building trades’ governmental advocates took steps to meet this challenge. Despite early success with passage of the transportation package two years ago, partisan gridlock this year led to three months of extended session, the state operating budget came within days of failing to pass and the capital budget did fail.

In 2016 our goal was to build bridges and test new relationships. We found that issues including economic development, industry-funded training, and the reintroduction of career and technical education in public schools are agreed to by lawmakers, regardless of their party affiliation. In order to build political support across the aisle, however, we needed to build stronger ties with our industry partners.

Prior to the 2017 session we met with representatives among the contractor community and developed industry supported legislation that set a new standard for cooperation between labor and business, as well as across party lines.

We took our new line of bills and met with Republicans and Democrats, educating them on the issues that matter to our members, and the relationships that we have with the contracting community that employs us. We spoke about our JATCs, how our CBA negotiations represent the true market, or industry wage for construction in our state and then demonstrated the extension of that industry cooperation in our joint legislative efforts.

At a time when the legislature struggled to pass legislation due to partisan friction, these efforts were duly recognized.

Your legislative advocates work diligently to analyze all introduced bills to assess their impact on the WSBCTC and its affiliates. The lobby team testifies at key legislative committee hearings and tracks scores of relevant bills to further our mission.
Unfortunately, all it takes is a single legislator to derail a bill, no matter how well prepared, if that person sits as Chair of an essential committee.

Five out of six priority bills failed to pass due directly to Senator Michael Baumgartner’s Commerce, Labor and Sports committee.

Our response to the RTW attack was talked about for months.

The Right to Work bill provided an excellent opportunity to contrast with our bi-partisan, business collaboration approach. We sent the message that the building trades can be great partners or formidable enemies.

“For Washington, we believe that all work is dignified and that people should be able to make a living, and to be able to provide for their families. Right to work is really a misnomer; it’s really about right to work for less or not having the right to actually work safely. In states where right to work has been on the books for many years, we have higher rates of injuries in the workplace and we have significantly lower wages particularly whether there’s a union or not a union.”

-Senator Rebecca Saldaña committee member & candidate in the 37th LD

SHB 1723—Creating the presumption of occupational disease for certain employees at the United States department of energy Hanford site (Haler)

This legislation would create a rebuttable presumption that certain occupational diseases common amongst workers at the Hanford site are related to the work. This is similar to the Firefighters presumption already in place.

The Hanford Nuclear Site is the most contaminated worksite in the western world. It is estimated that cleaning up Hanford’s 56 million gallons of toxic radioactive waste will take at least another fifty years. This means that for another five decades, Hanford workers will continue to be exposed to hazardous conditions.

Unfortunately, many of the chemical and radiological hazards at Hanford are unidentified, and the safety measures meant to contain these chemicals often fail. When exposed, the burden of proof is on the worker to connect their exposure to their disease. This is a nearly insurmountable obstacle given the secrecy of the materials stored there.
Despite the recognized uniqueness of the risks, Hanford workers’ claims are denied at five times the rate of other self-insured employers. The U.S. Department of Energy and its private contractors, have failed to ensure that workers’ claim files are complete and accurate and has used the lack of accurate worksite data as a reason to question the validity of Hanford workers’ claims.

That is why creating a presumption is so important. According to a DOE study, “a presumption of work-relatedness is consistent with Occupational Safety and Health Administration (OSHA) guidance. Previous medical determinations should be revisited based on a more thorough understanding of the uses and limitations of the monitoring data.”

SHB 1723 aims to establish a rebuttable presumption for DOE Hanford site workers. Due to the inability of the Department to identify and quantify the chemicals and substances present in the work area, workers are very sick, with few avenues for care. This bill only aims to get those affected workers the medical attention and treatment they are owed.

This bill received significant attention this session and was embraced by Democrats in the House as a banner issue. Thanks to all of the work that had been done prior to session by Nickolas Bumpaous, this legislation had perhaps the most powerful and moving testimony of any bill this session and the floor debate in the House was phenomenal.

While SHB 1723 was afforded a public hearing in the Senate, it does account for one of the five priority bills that died in Senate Commerce, Labor and Sports.

HB 1674/SB 5493—Using CBAs to Set Prevailing Wage Rates (Ormsby/Conway)

Collective Bargaining Agreement (CBA) wage rates agreed to between a construction trade and their employer base are adopted in place of the L&I prevailing wage survey in most state counties. Several other states utilize the CBA wage rate to establish local wages for consistent public works construction bidding purposes. Utilizing the CBA was also an efficiency measure suggested by the WA Transportation Efficiencies Cost Study in 2013-14. Because of the negotiations that take place between business and labor representatives, CBA figures offer the most accurate, market-determined value of the work being performed.

HB 1674 passed the House 50 to 48 and received a public hearing in Senate Commerce, Labor and Sports, but its progress ended there.

HB 1849/SB 5576—Apprenticeship Utilization Compliance (Sells/Keiser)

This year the building trades continued our work to improve outcomes for apprenticeship utilization compliance. House bill 1849 would add apprenticeship utilization compliance to responsible bidder criteria and as a prevailing wage strike toward debarment. As a product of discussions with some in the subcontracting world, we added a provision that would prohibit general contractors from requiring subcontractors to perform more than 15% of apprenticeship hours. This limitation would allow those contractors who want to perform greater amounts of apprenticeship hours to do so, but would give subs an out if they were to object. The legislation also added improved measures for tracking performance and
altered the way that AU is calculated from project-wide to contractor-specific.

With all these elements, this bill was a heavy lift from the start. As the session progressed we had discussions with House Republicans and others in the contracting community about amendments that could be applied to make the bill more favorable. Given the Senate majority and the divisiveness of the issue, we wanted to explore ways that we could get something passed.

Representative Melanie Stambaugh (R) was a valuable partner and advocated for compromise within her caucus and deserves recognition for her efforts.

We developed new language that was not added prior to House floor vote of 51 to 47, but instead proposed in public hearing in the Senate Transportation committee. Several business groups joined the negotiations late and lined up in opposition to the bill, which cost us the committee’s confidence.

HB 1849 remains a top priority for next year and business partners are already on board lining up support.

**HB 1672/SB 5491—Pausing the Statute of Limitations for Recovery of Wages when a Prevailing Wage Determination is in Process (Frame/Hasegawa)**

This bill was modeled on similar provisions in Washington’s Wage Payment Act for minimum wage and overtime issues that provide for the statute of limitations clock to be stopped while the department is in the process of making a prevailing wage determination. This bill was run last year under a different number and designed to be uncontroversial, a small policy win that even the diehard anti-labor legislators could not argue against. Though the bill did not pass out of the Senate, it received unanimous support coming out of the House Labor committee, passed from the House floor with a vote of 96 to 0 with two excused.

**SHB 1673/SB 5492—Requiring Contractors to Attend Training Prior to Bidding on Public Works (Doglio/Conway)**

Under this law a minimum amount (approximately four hours) of department provided or approved course instruction would be required for contractors prior to participating on public works construction. Complaints by some new contractors suggest public works project wage and certified payroll requirements are complicated. This legislation represents a common-sense approach that would help those new to public works contracting procedures avoid penalties while also reducing their ability to claim ignorance of the law. SHB 1673 passed out of the House 59 to 38 with 1 excused.

For this bill, we partnered members of the contracting community and included a grandfather clause for those contractors that have successfully completed three or more public projects and have had a Washington business license for at least three years from the training requirements.
Several stakeholders came to the table on this bill and a lot of time went into its crafting. Representative Beth Doglio, the bill’s sponsor, fought hard every step of the way on this bill and met with us on a regular basis throughout session to give the bill a chance in the senate. 

As a result of this shared effort, the bill picked up nine republican votes on the House floor, where last year the bill passed strictly along party lines.

**HB 1675/SB 5494— Adds a Penalty for Failure to Post Intents on a Public Works Jobsite (Sells/Hasegawa)**

This bill would add a $500 penalty for contractors that fail to post their prevailing wage intent on the construction site. This legislation was part of a continued strategy to run a wider range of proactive legislation. HB 1675 was simply about compliance with existing law. Posted intents increase transparency on a jobsite and provide an opportunity for workers to ensure that they are being paid appropriately for their work in advance while also displaying the appropriate L&I contact information for those with concerns.

This bill was a casualty in the senate and will be brought forward again next session.

**SSB 5301—Including repeat and willful violations of wage laws in responsible bidder criteria**

A victory in the fight against the underground economy, SSB 5301 was signed into law May 8th and took effect on July 23rd.

Under this new law agencies must consider whether a final and binding citation and notice of assessment has been issued by the Department of Labor and Industries or through a civil judgment that the bidder willfully violated any provision of the state’s wage laws in the three years before the date of the bid solicitation.

Bidders are required to submit a signed statement verifying under penalty of perjury that they are in compliance with the responsible bidder criteria requirement for the state’s wage laws. A contracting agency may award a contract in reasonable reliance upon such a sworn statement.

**SSB 5806/HB 2095— Concerning preliminary work to develop a process for planning for a new Interstate 5 bridge spanning the Columbia river (Cleveland/Wylie)**

Another victory this session was passage of SSB 5806, a bill intended to resurrect planning for a new bridge between Vancouver and Portland. Matters have gotten so bad that we are asked not to speak of the Columbia River Crossing any more, it is a new bridge, with the name pending. The bill took effect on July 23rd.

A joint Oregon-Washington legislative action committee is established regarding the construction of a new I-5 bridge. The committee is tasked with achieving the following purposes:

- works with both states’ departments of transportation, transportation commissions, and stakeholders to begin a process toward project development;
- reviews and confirms lead roles related to permitting, construction, operation, and maintenance of a future I-5 bridge project;
- establishes a process to seek public comment on the I-5 bridge project development plan;
• works to ensure that there are sufficient resources available to the state departments of transportation to inventory and utilize existing data to allow for non-duplicative and efficient decision-making regarding a new project;
• examines all potential mass transit options available for a new I-5 bridge project;
• utilizes design build procurement or better innovative project delivery method and determines the least costly, most efficient project management and best practices tools;
• considers the creation of a Columbia River bridge authority to review bridge needs and make recommendations to both states regarding financing, timing of improvements, and operations of the bridges; and
• reports to the Legislatures of each state the findings and recommendations of the legislative action committee by December 15, 2018.

The joint legislative action committee is comprised of sixteen members, eight from each state.

The Oregon legislature must agree to the proposal set forth in SSB 5806, but it represents a positive step forward for one of the most vital construction projects in our state.

**SHB 1086/SB5438—Promoting the completion of environmental impact statements within two years. (Blake/Braun)**

A small success this year came in the form of SHB 1086. This bill directs lead agencies undertaking a State Environmental Policy Act (SEPA) review to ‘aspire’ to finish an Environmental Impact Statement (EIS) as quickly as possible without compromising the integrity of the analysis. For complex government decisions, the lead agency must try to finish an EIS within 24 months of making a threshold determination that an EIS is needed.

Although SHB 1086 is far from a mandate that EIS completion happen within two years, and does not address changes to the process to help accelerate matters, it is a clear indicator from the legislature that the review process should not be continuously prolonged. Many have knowledge of this slow process and how individuals can interfere and make it take much longer. We regard SHB 1086 as a step in the right direction. The bill passed the House 98 to 0 and the Senate 44 to 5.
HOSTILE LEGISLATION
The Top Offenders
These bills did not pass, but demonstrate where some interests would like to take Washington

SB 5692 – Right-to-Work
Making Washington an anti-union “right-to-work” state that bans employers and unions from negotiating union-security agreements, which ensure all workers covered under a contract pay their fair share for representation. Instead, in “right-to-work” states, unions are required to represent workers who pay no dues for free.
SPONSOR: Sen. Michael Baumgartner

SB 5167/5168 – Prohibiting Mandatory PLAs
These bills, one broad and the other specific to regional transit authorities, would prevent Sound Transit from requiring contractors to participate under their Project Labor Agreements and undermine our work to require PLAs on any public works in the future.

This was a direct attack on the building trades and we quickly isolated both bills as ‘maximum resistance’ legislation and neither made it out of their original committee.
SPONSOR: Doug Ericksen

Sound Transit Attacks
A variety of problematic bills and amendments were brought forward over the course of session to attack ST3 and Sound Transit in general, in both the House and Senate, from Republicans and Democrats.

Politicians seized on the fact that a significant number of residents in King, Pierce and Snohomish counties were experiencing a case of buyer’s remorse. Responses from the legislature varied from the understandable efforts of Representative Pelliciotti (D), to the destructive from Republican Senator’s O’Ban and Fortunato.

SB 5892 – Fortunato – would require Sound Transit to seek reauthorization of projects if they go over budget within two years. This is an extremely short-sighted proposal that could leave projects unfinished.

SB 5893 – O’Ban – would require Sound Transit to adopt a new vehicle value schedule for the MVET which underwrites Sound Transit’s bonds. This bill significantly threatened the integrity of the financial structure of Sound Transit, and would only make future borrowing more expensive and delay projects.

SPONSOR: Doug Ericksen