Overview of the AGC-Opposed $1.75(?) Trillion Social Spending Bill

(“Reconciliation Bill” or Build Back Better Bill”)

AGC THE CONSTRUCTION ASSOCIATION

THE BILL’S PROS	THE BILL’S CONS
	Includes Elements of the PRO Act—#1 Threat to Open Shop & Union Construction The bill includes a provision of the PRO Act that would add civil monetary penalties for violations—up to $50,000 for first time violations; up to $100,000 for repeated—of the National Labor Relations Act (NLRA). This is an unprecedented extension of personal liability to company officers and directors to be assessed at the discretion of the NLRB and may be levied against them even if those individuals only established a policy that led to such a violation.
	Establishes Bankruptcy Inducing Fines; OSHA Fines Up to $700,000 For example, the bill would increase fines levied by OSHA for a willful or repeat violation from a maximum of $136,532 to $700,000 and a serious or failure-to-abate violation from a maximum of $13,653 to $70,000.
	Provides Federal Enforcement Agencies w/ Massive Resources to Issue Bankruptcy Inducing Fines Workforce, labor and employment enforcement agencies on average would see a 25% annual increase in budgets (totaling about $2 billion) for the OSHA, MSHA, Wage & Hour Division, NLRB, EEOC, and OFCCP which can be used for enforcement activities including, in some cases, enabling agencies to double the number of investigators.
Provides $134 Billion for Private Construction Tax Incentives These tax incentives are targeted to help spur construction of renewable energy infrastructure.	**Ties Labor Mandates to Private Construction Tax Incentives** For owners to receive federal tax credits for building solar, wind and other renewable energy projects, their contractors would have to meet 15% registered apprentice goals based on total labor hours performed and/or pay prevailing wages, expanding Davis-Bacon requirements to tax incentives for the first time, ever.
	Establishes a 3.8% Small Business Tax The bill would expand an existing 3.8% Obamacare tax to active business income for pass-through firms. The majority of construction firms—especially small firms—are pass-through business entities (e.g., LLC, partnership, etc.).
	Provides $44.9 Billion for IRS Enforcement & Audits This figure is almost four times more than annual IRS budget and would lead to more audits.
Provides $20 Billion for Workforce Development Programs These funds would go to workforce development programs with an emphasis on training people for clean energy jobs.	**Fails to Guarantee a Level Playing Field for Obtaining Workforce Development Funding** These funds would largely be available to apprenticeship, youth apprenticeship and pre-apprenticeship programs registered with the state or U.S. Dept. of Labor. While joint labor-management apprenticeship programs are the gold standard for training workers in the industry, high-quality unilateral programs should be eligible for government funding on a fair and impartial basis.
	New Federal Paid and Family Medical Leave Entitlement Program Establishes a four-week maximum paid leave benefit program that fails to align with or supersede any of the current and complex web of existing federal, state and local leave laws.
	Expands Electric Vehicle (EV) Subsidies Without Addressing Highway Trust Fund (HTF) Solvency The bill would further exacerbate the HTF deficit by greatly expanding subsidies for the purchase of EVs without establishing a method for these vehicles to contribute to the trust fund. The most generous credits would only be available to vehicles manufactured at domestic facilities operating under a collective bargaining agreement.

Updated November 16, 2021 (Subject to ongoing negotiations)