

# Project Labor Agreement Toolkit

## Table of Contents

04	<b>Gov. Kotek’s Executive Order and the Problem with Mandated PLAs</b> A document that explains what PLAs are and how they become an issue in public contracting when they are mandated by the government
06	<b>PLA Executive Order Digest by Schwabe</b> Schwabe attorneys Paige Spratt & Josh Dennis explain the key points of Governor Kotek’s Executive Order mandating PLAs on nearly all state construction projects in Oregon
08	<b>AGC Press Release on EO 24-31</b> AGC’s Response to Governor Kotek’s Executive Order (Dec. 20, 2024)
10	<b>NAMC Press Release on EO 24-31</b> NAMC’s Response to Governor Kotek’s Executive Order (Jan. 2, 2025)
11	<b>ABC Press Release on EO 24-31</b> ABC’s Response to Governor Kotek’s Executive Order (Dec. 24, 2024)
13	<b>OBI Press Release on EO 24-31</b> OBI’s Response to Governor Kotek’s Executive Order (Dec. 20, 2024)
15	<b>Sen. Bonham Press Release on EO 24-31</b> Sen. Bonham’s Response to Governor Kotek’s Executive Order (Dec. 20, 2024)

# Project Labor Agreement Toolkit

## Table of Contents (Cont.)

16

---

### Rep. Drazan Press Release on EO 24-31

Rep. Drazan’s Response to Governor Kotek’s Executive Order (Dec. 20, 2024)

17

---

### Oregonian Editorial: “Merry Christmas, labor unions! Love, Gov. Kotek”

Editorial published January 12, 2025 where the editorial board calls on Governor Kotek to rescind her Executive Order on PLAs

20

---

### DJC Article “Oregon Construction Groups Blast Union Labor Rule”

Article published Jan. 9, 2025 reflecting the contracting industry’s perspective on EO 24-31

23

---

### Willamette Week Article “Contractors Blast Kotek’s Executive Order Requiring State-Funded Projects to Include Labor Agreements”

Article published Jan. 2, 2025 reflecting the contracting industry’s perspective on EO 24-31

25

---

### Boston Globe Editorial: “Project Labor Agreements are Bad Policy”

Boston Globe Editorial Board articulates why PLAs are problematic

28

---

### California Governor Newsome’s PLA Veto Letter

Governor Newsome explains why he issued a veto on a bill that would have required PLAs on California University and Judicial Projects

# Project Labor Agreement Toolkit

## Table of Contents (Cont.)

29

---

### Impacts of PLAs on Newberg-Dundee Bypass Project

ODOT Director Kris Strickler requests additional funds for the project after a PLA increased the estimated project cost by 22%

31

---

### Industry One-Pager on Previous PLA Legislation

Construction industry's argument against SB 850 (2023) which would have required PLAs on state projects over \$1M

32

---

### Opposition Testimony on Previous PLA Legislation

Written testimony from Industry, Local Government and other impacted entities by the use of PLAs on SB 850 (2023)

46

---

### Executive Order 24-31 Language

Governor Tina Kotek's Executive Order issued December 18, 2024 which requires PLAs on almost all state-funded projects

# Gov. Kotek's Executive Order and The Problem with Mandated PLAs

## **What are Project Labor Agreements (or PLAs)?**

Project Labor Agreements (PLAs) are pre-hire collective bargaining agreements that require the use of union labor for on-site construction work, along with other terms and conditions of employment for construction projects. There have been successful voluntary PLA negotiations on large and complex projects in Oregon in recent years, however when they are mandated by the government, it restricts the number of contractors that are able to bid on the projects and makes the public contracting process less open and competitive.

## **Governor Kotek's Executive Order – December 18, 2024**

Oregon Governor Tina Kotek signed an executive order on December 18, 2024, that requires the use of mandated PLAs on projects awarded by state agencies, or where a state agency is obligating funds. This will apply to most all contracts from the state, as the threshold requires that projects have 15% labor costs (almost all construction projects hit this threshold). This mandate is effective *immediately*.

## **Why are mandated PLAs a problem?**

**Increased Costs:** Studies have shown that PLAs increase the cost of projects between 15% to over 22%, as compared to projects without PLAs.<sup>1</sup> This cost increase doesn't mean higher wages for the workers on the projects – everyone on a public works project must be paid prevailing wage, so all will be receiving that rate regardless of whether there is a PLA on the project.

Oregon has a recent example of this cost increase, with the Newberg Dundee Bypass project. There was only one bidder on the project, and the cost of the bid was 22% above the budgeted amount for the project.<sup>2</sup> When mandated PLAs are put on public projects, the costs increase, meaning less can be built with the same public funds.

**Liability for Contractors:** PLAs require the use of union labor on construction projects, regardless of the union status of the contractor. If an open shop contractor wanted to work on a project with a mandated PLA, they would not be able to use their own labor force. Rather, they would need to hire people from the union hiring hall opening themselves up to

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<sup>1</sup> [Learn More - Build America](#)

<sup>2</sup> Agenda item K – Oregon Transportation Committee Meeting, October 10, 2024

risks associated with an unknown workforce and subject themselves to liability in the union health and welfare funds.

### **PLAs Conflict with Oregon’s Fair, Open, and Competitive Contracting Requirements**

Oregon’s public contracting code was created to ensure a fair, open, and competitive playing field in construction where public funds are used. Mandating PLAs by the state government creates a public contracting environment that is anything but fair and open. It forces non-union contractors into choosing whether to engage in a business model they do not want or not competing for the work at all. This is at odds with the spirit of Oregon’s public contracting laws, and does not ensure the best use public funds or protect the interests of Oregon taxpayers.

### **Opposition to Mandated PLAs is not a Union vs. Non-Union Issue**

The master agreements that have been negotiated between the state and labor representatives, without the input of contractors in past attempts to mandate PLAs have required all contractors, including subcontractors to sign the agreements. This is also a problem for union contractors who utilize open shop subcontractors that will not be able to employ their own workforce on the construction project and will be unlikely to want to bid on these projects.

### **Opposition to the PLA Mandate Continues to Grow**

A wide range of associations, businesses, and others have expressed this opposition to this mandate, noting the cost implications and the unlevel playing field it creates. Construction and business organizations whose memberships will be significantly impacted by this order were not included in the discussion or given the opportunity to provide feedback and concerns before the order was finalized.

### **Concerned? Join us.**

We are continuing to fight against this harmful executive order, to ensure that all contractors in Oregon have the ability to bid on projects in their communities and that Oregon’s fair and open public contracting laws are protected. If you’re concerned about the impacts of this order and want to join the coalition, please reach out to Kirsten Adams, Mike Salsgiver or Tanner Lloyd at AGC. We look forward to adding your voice to ours as we push back against mandated PLAs.

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Mike Salsgiver – [mikes@agc-oregon.org](mailto:mikes@agc-oregon.org)

Tanner Lloyd – [tannerl@agc-oregon.org](mailto:tannerl@agc-oregon.org)

## Resources

# Kotek Signs Executive Order Mandating PLAs on State Projects

December 20, 2024



**Paige Spratt**  
Shareholder



**Josh Dennis**  
Shareholder



On December 19, 2024, Oregon Governor Tina Kotek publicly announced Executive Order No. 24-31 (“PLA Executive Order”), requiring Project Labor Agreements (PLAs) on *nearly all* state construction projects in Oregon. Here’s a breakdown of its key points:

**1. Mandatory Use of PLAs, where labor costs represent 15% or more of total costs.**

- Contractors and subcontractors must agree to a PLA for these projects, ensuring the involvement of labor organizations.
- The PLA Order requires “every contractor and/or subcontractor engaged in construction of the project to agree, for that project, to negotiate or become a party to a project labor agreement with one or more appropriate labor organizations.”

## 2. Equity in Contracting *Through PLAs*

- State agencies must set goals for using certified diverse businesses, tracking progress, and reporting data to promote racial and gender equity.
- There are requirements to track labor data to ensure inclusivity by utilizing a payroll system or equivalent for reporting.

## 3. PLA Required Terms

- The PLA must guarantee no strikes, lockouts, or other disruptions, with mechanisms in place to resolve disputes quickly.
- It should promote cooperation on productivity, safety, and quality issues.
- PLAs must comply with all relevant federal and state laws.
- Must not exclude open-shop or local firms.

## 4. Exemptions to PLAs

- Certain projects are exempt from PLAs, such as those where no public funds are used; emergency projects, minor repairs, and maintenance; or short-duration projects with limited complexity, or involve one craft or trade.
- Agency directors can request an exemption from the Governor before the contract is advertised.

## 5. Implementation:

- The order is effective immediately for contracts awarded from this date onward.
- Solicitations and contracts that are planned for advertisement but have not been awarded can opt for the exemption until March 31, 2025.

*This article summarizes aspects of the law and opinions that are solely those of the authors. This article does not constitute legal advice. For legal advice regarding your situation, you should contact an attorney.*

FOR IMMEDIATE RELEASE  
December 20, 2024

## AGC Oregon-Columbia Chapter Criticizes New Executive Order Mandating Union-Only Project Labor Agreements

**SALEM, OR** — The AGC Oregon-Columbia Chapter voiced strong opposition today to Governor Tina Kotek’s recent executive order mandating the use of union-only project labor agreements (PLAs) on significant state-funded construction projects.

“While we respect the right of workers to organize and collectively bargain, mandating union-only agreements on every major project adds costs, reduces competition, and shuts out small minority and emerging contractors who are vital to Oregon’s economy,” said Mike Salsgiver, Executive Director of the AGC Oregon-Columbia Chapter.

The order, issued December 18, requires union collective bargaining agreements and that non-union workers join a prescribed union and pay dues on taxpayer funded construction projects. [Studies have shown](#) that PLAs needlessly increase construction costs, while not increasing wages or worker benefits.

With the state already struggling to pay for basic road, highway, and other public works construction costs, Salsgiver says the order couldn’t come at a worse time for Oregon taxpayers. “This order comes at a time when our state faces an infrastructure funding crisis,” Salsgiver said. “PLAs inflate project costs, meaning taxpayers will get less for their money, either through higher taxes or fewer completed projects Oregon needs smart solutions, not mandates that create more barriers for businesses and workers.”

California Governor Gavin Newsom [recently vetoed legislation](#) that would have expanded the use of PLAs in California citing the “additional cost pressure” the mandate would create in the state budget.

The order came with no heads up to many of Oregon’s largest affected contractors. “To say we are disappointed in this action is an understatement,” Salsgiver said. “This is a sweeping decision made without consulting the construction industry or the state legislature, without including affected contractors in discussions before the order was issued. Additionally, it is based on a variety of incorrect statements and half-truths.”

While the order promises “quality, efficiency and the lowest possible cost,” numerous studies have documented cost overruns on PLA projects as well the fact that the agreements often mean significantly higher overall costs. The order also suggests that

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union programs are the only available training opportunities in the state -- glossing over the fact that non-union contractors sponsor some of the largest and fastest growing apprenticeship training programs in the state at lower cost.

“Excluding contractors from discussion about the work they will be required to build is a growing practice in Oregon that leads to unsupportable decisions like this. AGC has no problem with project labor agreements — when they are mutually agreed upon by project owners, public agencies, organized labor, and contractors,” Salsgiver said. “We strongly oppose government-mandated PLAs and will be working to reverse this expensive and unnecessary order,”

The governor’s order will cover projects where onsite labor costs account for at least 15% of total costs—a threshold that applies to virtually all state-funded construction. The executive order bypasses the legislature and ignores its significant impacts on taxpayers, small businesses, and non-union contractors.

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*Since 1922, the AGC Oregon-Columbia Chapter has served as the voice of the commercial construction industry. With nearly 830 member companies, AGC Oregon-Columbia Chapter is the only trade association representing the full range of commercial construction companies, from industrial to building, heavy highway to multi-family residential. The organization provides its members with a forum for the exchange of ideas and services designed to enhance the professionalism of the construction industry, including workers’ compensation and health insurance, legislative and governmental representation, safety management consulting, professional education, and training and workforce development programs.*

**Subject:** Re: Executive Order and Its Impact on Businesses of Color in Construction

### **NAMC Oregon Opposes Union-Only PLA Mandate**

SALEM, OR — The Oregon Chapter of the National Association of Minority Contractors (NAMC-Oregon) strongly opposes Governor Tina Kotek’s recent executive order mandating union-only project labor agreements (PLAs) for most major state-funded construction projects.

For decades, NAMC Oregon has raised concerns about PLAs, citing their exclusionary nature and negative impact on contractors of color and other emerging contractors. While supporting workers’ rights to organize, the blanket union-only mandate increases costs, reduces competition, and disproportionately affects non-union, small, and contractors of color—key contributors to Oregon’s economy.

This order compels non-union contractors to join unions and pay dues, forcing them into a system that should remain voluntary. It limits their participation in publicly funded projects, undermines their autonomy, and stifles their potential for growth. Furthermore, it dismisses the significant role non-union apprenticeship and workforce development programs play in training Oregon’s workforce, programs that are often more accessible, cost-effective, and inclusive of diverse communities.

The lack of transparency and stakeholder engagement in issuing this order compounds inequities highlighted in [Oregon’s Disparity Study](#). Sweeping changes like this harm minority contractors, exacerbating systemic disparities and leaving many businesses shut out of opportunities they’ve worked hard to access.

At a time when Oregon faces critical infrastructure funding challenges, prioritizing inclusivity and cost-efficiency is essential. Policies like this hinder progress by increasing costs, reducing available resources for public projects, and excluding a significant portion of the workforce.

NAMC Oregon urges the Governor to reverse this order and engage in a collaborative, inclusive process with all stakeholders—including small businesses, minority-owned firms, union, and non-union contractors—to develop equitable solutions. Oregon cannot afford to deepen existing inequities under the guise of progress. The state needs policies that foster innovation, fairness, and inclusivity to truly strengthen its economy and communities for all.

Respectfully,

  
Nate McCoy

President & CEO – NAMC Oregon

[nate@namc-oregon.org](mailto:nate@namc-oregon.org)

## **ABC: Gov. Kotek’s Inflationary Project Labor Agreement Scheme Is More Bad News for Oregon Taxpayers**

**SALEM, Oregon**, Dec. 24—The Associated Builders and Contractors Pacific Northwest chapter released the following statement in response to Gov. Tina Kotek’s Dec. 18, 2024, [Executive Order 24-31](#) requiring controversial union-only [project labor agreements](#) on virtually all state and state-assisted construction contracts:

“Gov. Kotek’s misguided policy will needlessly [inflate the cost of state government-procured and -funded construction projects by 12% to 20%](#) and discourage competition from local quality contractors and their skilled workforce who have successfully built public works projects in Oregon for decades,” said Laurie Kendall, president of ABC Pacific Northwest. “Kotek’s anti-competitive and inflationary executive order ensures that taxpayer-funded construction projects are steered to union-signatory firms and will be built by union labor—including out-of-state union labor—even though only [14.9% of Oregon’s construction workforce is unionized](#). The new policy is expected to exacerbate Oregon’s infrastructure funding crisis, persistent construction industry skilled labor shortage and anti-small business reputation.”

Despite the Kotek administration’s [misguided claims](#) that PLAs must be “non-exclusionary to open-shop and local firms” and “state agencies are advancing gender and racial equity in their contracting through PLAs,” government-mandated PLAs have a long history of doing just the opposite across the country.

In fact, prominent Democrats like California Gov. Gavin Newsom, Maine Gov. Janet Mills and District of Columbia Mayor Muriel Bowser [recently opposed proposed PLA policies](#) because government-mandated PLAs “raise costs” on [schools, infrastructure](#) and [affordable housing](#), and “could end up favoring out-of-state unions in the region” over local companies and workers.

Even a *Boston Globe* editorial board recently declared that [PLAs are bad policy](#).

“The bottom line is that PLA mandates are anti-worker, anti-small business and anti-taxpayer,” said Kendall. “This scheme benefits special interests at the expense of everyone else. ABC Pacific Northwest and a coalition of local stakeholders will fight to ensure that all Oregonians have a fair shot to compete to build our infrastructure, energy, manufacturing and affordable housing.”

A PLA is a jobsite-specific collective bargaining agreement unique to the construction industry that typically requires all general contractors and subcontractors to agree to recognize unions as the representatives of their employees on that job, use the union hiring hall to obtain most or all construction labor, hire apprentices from union-affiliated

apprenticeship programs, follow union work rules and pay into union benefit and multiemployer pension plans that nonunion employees cannot access. This forces employers to pay “double benefits” into their existing plans and union plans, puts them at a significant competitive disadvantage and exposes them to unfunded [multiemployer pension plan liabilities](#).

In addition, PLAs typically require construction workers to pay union dues and/or join a union if they want to receive union benefits and work on a PLA project. If they do not satisfy these stipulations, any token nonunion workers permitted on a PLA project [lose an estimated 34% of their wages and benefits to union coffers and benefits plans](#)—making them the victims of wage theft. PLA mandates result in more money for labor unions and unionized contractors, who then contribute to pro-PLA lawmakers to further this cycle of costly government corruption.

Earlier this year, [ABC filed a lawsuit in federal court](#) challenging a similar pro-PLA executive order favoring unions enacted by the Biden administration, which requires PLAs on all federal construction projects of \$35 million or more.

Earlier this month, ABC announced that Oregon ranked 35th in its 10th annual [Merit Shop Scorecard](#) ranking state construction environments.

## Executive Order Requiring Project Labor Agreements is Harmful



On Dec. 18, Gov. Kotek issued [an executive order](#) that requires the use of project labor agreements (PLAs) on significant construction projects funded by the state. Oregon Business & Industry is deeply disappointed by this action. It was made without consulting affected businesses, without involving the state Legislature and seemingly without considering the inflationary effects of PLAs on taxpayer-funded projects or the impacts on smaller and emerging contractors.

In effect, the governor's executive order requires the use of collective bargaining agreements for most state-funded projects for which onsite labor costs will make up at least 15% of total costs. Anyone who operates a business knows that labor costs will always exceed 15%, so this means this effectively applies to all projects using state funds with only very minor exemptions. The requirement will apply to all contractors and subcontractors even if their employees are not themselves represented by a union. OBI supports the right of workers to organize. It is inappropriate, however, for the governor's office to impose de facto union representation on employees who have not sought union representation themselves. It is also inappropriate to do this by sweeping executive fiat.

[Executive Order 24-31](#) will be particularly harmful for small and local contractors, who are much less able to absorb additional costs associated with PLAs. That means that small and emerging contractors will almost certainly either be outbid for these projects or opt not to bid for them at all.

The executive order will be costly for taxpayers as well. Imposing collective-bargaining requirements on all businesses participating in state-funded projects will reduce the buying power of Oregonians' hard-earned tax dollars. This will require more tax revenue to complete the same number of projects, increasing the chances of tax hikes, or reduce the work that can be done with existing revenue, leading to fewer outcomes for a state with significant infrastructure needs. The executive order couldn't have come at a worse time given Oregon's ongoing transportation funding crisis.

OBI is disappointed that the governor made a decision with such profound consequences on taxpayers and businesses without consulting them or, better yet, placing the issue before the Legislature, which will convene in only a matter of weeks. Legislative deliberation would have ensured an open, public discussion about the costs as well as the benefits of PLAs. It also would have allowed affected employers and taxpayers to share their views.



# OREGON SENATE REPUBLICAN LEADER PRESS RELEASE

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## FOR IMMEDIATE RELEASE

**Date:** December 20, 2024

**Contact:** Ashley Kuenzi, Communications Director

[Ashley.Kuenzi@oregonlegislature.gov](mailto:Ashley.Kuenzi@oregonlegislature.gov)

## Senate Republican Leader Daniel Bonham Criticizes Likely Unconstitutional Executive Order from Governor Kotek

**SALEM, Ore. – Senate Republican Leader Daniel Bonham (R-The Dalles)** issued a sharp rebuke of **Governor Tina Kotek’s** latest [executive order](#) mandating project labor agreements (PLAs) on state-funded construction projects, calling it an unconstitutional power grab and an insult to Oregon’s contractors.

“The Legislature has debated PLAs for years and has deliberately chosen a different path,” said **Leader Bonham**. “The proper branch to make this decision—the branch that represents the people—decided not to legislate on this issue for good reasons. If the Legislature, which better represents Oregonians, determined PLAs were inappropriate, how is a governor who only won with 46% of the vote in a better position to unilaterally legislate? Does she not trust the Democrat supermajority to govern?”

PLAs typically require contractors to abide by union-negotiated terms and conditions, effectively excluding many merit-based contractors and small businesses from state projects. The order’s sweeping mandate is expected to drive up construction costs and limit opportunities for non-union businesses statewide. In fact, the Governor’s unilateral action will potentially inflate transportation costs by 20 to 30%. Additionally, the executive order contradicts current contracting statutes in ORS 279A.015, which require fair, open, and impartial competition for state contracts.

**Bonham** also highlighted that Governor Kotek’s justification for the order—promoting diversity and inclusion—is contradicted by minority contractors’ longstanding opposition to PLA mandates.

“Merry Christmas to her special interest friends, but this executive order is nothing more than a stocking full of coal for contractors across the state, especially non-union shops now excluded from competing for state projects,” **Bonham** added. “It’s bad policy, bad governance, and probably unconstitutional.”

The **Senate Republican Caucus** is committed to exploring all avenues to challenge this executive overreach and ensuring decisions affecting Oregon families and businesses are made through the proper legislative process.

###



*from the*  
**OREGON HOUSE REPUBLICAN CAUCUS**

**For Immediate Release**

Date: Friday, December 20, 2024

Contact: Sam Herscovitz

Email: [Sam.Herscovitz@oregonlegislature.gov](mailto:Sam.Herscovitz@oregonlegislature.gov)

**KOTEK PICKS WINNERS AND LOSERS, OVERREACHES EXECUTIVE AUTHORITY,  
WITH NEW PUBLIC WORKS EXECUTIVE ORDER**

**SALEM, Ore.** – Today, House Republicans leaders criticized Governor Tina Kotek’s overreach of executive power with [Executive Order 24-31](#), while affirming their support for apprenticeships and workforce development.

“Governor Kotek’s short-sighted leadership picks winners and losers and abuses the role of the executive branch by inappropriately sidelining the legislature,” said **House Republican Leader Christine Drazan (R-Canby)**.

“House Republicans are committed to increasing apprenticeship opportunities and developing Oregon’s workforce, but the Governor’s out-of-touch approach adds layers of bureaucracy that increase costs while reducing opportunities for hardworking Oregonians,” added Drazan. “Oregon’s leaders should do all we can to follow existing laws that protect fair competition while providing the highest quality workmanship with public funds,” concluded Drazan

The executive order raises questions as to whether Governor Kotek has the legal authority under [ORS 279A.015\(5\)](#) to implement this executive order.

“I appreciate that Oregon law explicitly confirms our commitment to open and fair competition in statute, giving Oregon’s small and emerging businesses an opportunity to work on public projects,” said Co- Vice Chair of the Joint Committee on Transportation, **Rep. Shelly Boshart Davis (R-Albany)**.

“It is critical that Oregon continues its commitment to these principles in all projects in our state,” added Boshart Davis. She concludes by stating that “Governor Kotek’s executive order systematically denies BIPOC and women owned open shop small businesses and contractors of these opportunities.”

###



# The Oregonian

## Editorial: Merry Christmas, labor unions! Love, Gov. Kotek

Updated: Jan. 12, 2025, 3:25 p.m. | Published: Jan. 12, 2025, 7:00 a.m.



The governor's December executive order requiring "project labor agreements" on most state-owned construction projects is a gift to her labor union backers that will come at a cost to the public, the editorial board writes.

By [The Oregonian Editorial Board](#)

In the week before Christmas, Gov. Tina Kotek delivered quite the gift to her labor union allies. Kotek issued a surprise [executive order](#) requiring contractors on major state-funded projects to collectively bargain with labor unions over wages, benefits and other conditions for their workers on these projects – even if their workers aren't unionized.

Unfortunately, Kotek's generosity comes at a cost for Oregonians. Such mandates for "project labor agreements" undermine the open and competitive process that state law

and good governance call for. [Research](#) and experience show they also typically add costs for public projects, which already face increasing prices for materials. And the governor's poorly-worded order, made without input from contractors, has generated questions about whether the requirement applies to local affordable housing efforts, university projects and school renovations. Her office is now clarifying that it will only apply to projects owned by the state. With Oregon facing so many deep crises that need the governor's focused attention and pragmatic leadership, Kotek should listen to contractors' many legitimate criticisms, avoid the potential for drawn-out legal battles and reverse course on her sweeping order.

As written, the order calls for all state agencies awarding contracts or providing funds for significant construction projects to require project labor agreements – PLAs – between contractors and labor unions representing electricians, plumbers and other trades. Under such a requirement, contractors must commit to negotiating a comprehensive set of terms with labor unions in order to bid on the work. These agreements cover far more than wages, which already must meet state minimums for projects of a certain size. Rather, they can include provisions that contractors hire workers only through union-controlled processes, require union dues from workers and mandate contributions to the union's health and retirement plans – even if those workers, who are otherwise not union members, will likely never benefit from them. In fact, the [vast majority of contractors](#) and subcontractors are not unionized, with estimates of 75% or [more](#) being nonunion shops.

There are certainly instances in which contractors and labor unions have voluntarily set up project labor agreements, particularly for time-sensitive, complex projects. But there's been an ongoing battle over the state's attempts to force contractors to accept labor union participation in major transportation contracts – a legal dispute [currently under consideration by the Oregon Supreme Court](#). Kotek's order mandating PLAs for state projects in which labor accounts for at least 15% of the cost not only escalates that battle, but appears to go beyond what any other state has in place. Oregon once again is at the forefront of an economic experiment that shows little, if any, upside for the public.

Kotek contends that her executive order will provide more certainty and help control expenses because the project labor agreements will prohibit strikes and other costly work stoppages. However, her office could not point to a single such incident that shows this is a problem needing to be solved. Rather, when asked for an example, her office wrote that Kotek “was not looking backwards but ahead to several large infrastructure projects that will need stable and sufficient skilled labor to complete. Broad adoption of PLAs across the enterprise will help build a pipeline of skilled workers in Oregon so that contractors do not need to pull in workers from out of state.” Kotek's order also explicitly notes the labor agreements will help advance the goal of gender and racial equity in contracting by including specific targets.

But the governor's action ignores the work contractors are already doing to build the workforce and fails to consider the cost impacts. California Gov. Gavin Newsom vetoed a bill last year that would have mandated project labor agreements for state projects of at least \$35 million, specifically calling out the "[significant fiscal implications](#)."

Oregon has its own first-hand experience. The Oregon Department of Transportation issued a bid last September for companies interested in work on the Newberg-Dundee bypass and imposed a project labor agreement requirement. Only one firm submitted a bid, [which came in 22% above the agency's projections](#), prompting the Oregon Transportation Commission to forward an additional \$5.9 million for that phase of the project. While some of the increase stemmed from higher materials costs, [ODOT also noted](#) higher employee costs for missing the estimate.

The governor's office concedes that "the state's inconsistent and infrequent use of PLAs in the past also lent itself to receiving fewer bids on projects where PLAs were required." But the solution Kotek offers is baffling. Her office contends that "broad usage and acceptance of the tool will address this issue moving forward."

So, increasing the cost of doing business on more projects will somehow result in a lot more bids and lower estimates? That's some funky math.

Contractors – even those whom Kotek contends will benefit – aren't buying it. Nate McCoy, president of the Oregon chapter of the National Association of Minority Contractors, said his organization strongly opposes the executive order. Many members are small firms unable to absorb the added administrative and operational costs that come with project labor agreements, he said. "We believe that creating opportunities for minority-owned businesses to thrive in an open and competitive environment, with equitable access to resources and support, is the best way to achieve racial equity," he told the editorial board.

Similarly, Mike Salsgiver, executive director of Associated General Contractors' Oregon-Columbia chapter, questioned what benefits Oregon will derive. "PLAs inflate project costs, meaning taxpayers will get less for their money, either through higher taxes or fewer completed projects," he said in a statement. AGC, which is already involved in the case before the Oregon Supreme Court, is evaluating its options on how to respond to the order, he said.

But Kotek can end this by doing the sensible thing and rescinding her executive order. This is one gift she should take back.

## Oregon construction groups blast union labor rule



*The Oregon State Capitol is shown in 2021. An executive order issued by Gov. Tina Kotek requires project labor agreements for most state projects. (Depositphotos)*

### **Oregon construction groups blast union labor rule**

By: [Chuck Slothower](#)//January 7, 2025

#### **At a glance**

- Oregon Governor Tina Kotek has issued an executive order mandating project labor agreements (PLAs) for nearly all state construction projects.
- The order requires contractors and subcontractors to negotiate or become a party to a project labor agreement with one or more appropriate labor organizations.

Oregon Gov. Tina Kotek is facing backlash from the construction industry after she issued an executive order requiring project labor agreements for nearly all state construction projects.

Kotek's Dec. 19 order mandates project labor agreements, or PLAs, for all state contracts where labor represents 15 percent or more of total costs — the vast majority of state projects, according to construction experts.

The governor's order requires contractors and subcontractors to "negotiate or become a party to a project labor agreement with one or more appropriate labor organizations."

Oregon construction industry groups blasted Kotek's order.

"In our view, this is bad policy for the state," said Mike Salsgiver, executive director of the **Associated General Contractors'** Oregon-Columbia chapter, in an interview.

The executive order took immediate effect. It's likely to apply to most large-scale construction projects in the state and projects that receive state funding, including city and county infrastructure projects and affordable housing projects.

"While we respect the right of workers to organize and collectively bargain, mandating union-only agreements on every major project adds costs, reduces competition and shuts out small minority and emerging contractors who are vital to Oregon's economy," Salsgiver stated in a news release.

Construction groups said the agreements add unnecessary costs. The potential for added costs comes at a time when the **Oregon Department of Transportation** faces a projected \$354 million budget shortfall in 2025-27.

The PLA policy "will needlessly inflate the cost of state government-procured and -funded construction projects by 12 percent to 20 percent and discourage competition from local quality contractors and their skilled workforce who have successfully built public works projects in Oregon for decades," Laurie Kendall, president of **Associated Builders and Contractors'** Pacific Northwest chapter, stated in a news release.

To some observers, Kotek's order demonstrated the sway of organized labor on the state's Democratic leadership.

"Kotek's anti-competitive and inflationary executive order ensures that taxpayer-funded construction projects are steered to union-signatory firms and will be built by union labor — including out-of-state union labor — even though only 14.9 percent of Oregon's construction workforce is unionized," Kendall stated.

The construction industry groups noted that one of Kotek's blue-state peers, California Gov. Gavin Newsom, in September vetoed a bill that would have required the California State University system and the state Judicial Council to require at least three projects each to adopt project labor agreements.

"While I am generally supportive of PLAs as an option for public works projects, the new requirements proposed in this bill could result in additional cost pressures that were not accounted for in this year's budget," Newsom wrote in his veto letter.

In addition to requiring PLAs, Kotek's order requires state agencies to set targets for utilizing firms certified by the **Certification Office for Business Inclusion and Diversity**, known as COBID. These firms are owned by racial minorities or other disadvantaged groups. Labor participation data must be tracked.

Oregon's largest group representing minority contractors, however, said it is not on board.

“Sweeping changes like this harm minority contractors, exacerbating systemic disparities and leaving many businesses shut out of opportunities they’ve worked hard to access,” Nate McCoy, president and CEO of the **National Association of Minority Contractors**, Oregon, stated in a news release.

The governor’s office did not respond to a message seeking comment on Monday. In December, Kotek portrayed PLAs as widely beneficial.

“Oregon will soon embark on multiple large-scale infrastructure projects across the state,” she stated in a news release. “... With the broad use of PLAs across state projects, Oregonians will know that public dollars are spent efficiently and benefit the communities in which they’re spent.”

When asked if legal action is an option, Salsgiver said Monday that he’s considering what steps the AGC chapter should take.

“We’re evaluating the situation and determining what our options are,” he said. “I don’t think there’s much I can or should say before that process is completed.”

# WJ WILLAMETTE WEEK

## Contractors Blast Kotek's Executive Order Requiring State-Funded Projects to Include Labor Agreements

Associated General Contractors says the pre-holiday order came as a surprise and will reduce competition and raise costs.



A road crew works on an Oregon Department of Transportation project in Medford. (ODOT)

By [Nigel Jaquiss](#)

January 02, 2025 at 6:17 pm PST

Associated General Contractors, the trade group that represents more than 800 Oregon construction firms, pushed back hard today on an executive order Gov. Tina Kotek issued just before the holidays.

That [order](#) requires that construction projects that receive state funding and for which labor is more than 15% of total costs include project labor agreements.

Such agreements require the general contractor to engage in collective bargaining with labor unions and establish apprenticeship programs, pay into benefit trusts, and adhere to minority-contracting requirements.

Kotek said project labor agreements are in the public's interest and will result in higher quality, lower costs and more timely completion and will help train a skilled workforce.

“Oregon will soon embark on multiple large-scale infrastructure projects across the state. With these projects, we have a generational opportunity to lift up Oregon workers and reinforce public trust in our ability to do big things, and do them well,” Kotek said Dec. 19. “With the broad use of PLAs across state projects, Oregonians will know that public dollars are spent efficiently and benefit the communities in which they’re spent.”

But AGC executive director Mike Salsgiver took issue with the governor’s reasoning—and noted that she issued her order without consulting his organization, which represents a broad spectrum of contractors, from the state’s largest builders to mom-and-pop operations. He says AGC is not opposed to all project labor agreements; it objects to Kotek requiring them in all instances that meet what AGC believes is a modest threshold.

“While we respect the right of workers to organize and collectively bargain, mandating union-only agreements on every major project adds costs, reduces competition, and shuts out small minority and emerging contractors who are vital to Oregon’s economy,” Salsgiver said.

Although many of the contractors who erect large buildings or work on publicly funded projects, such as the renovation of the state Capitol or Portland International Airport, are union shops, Salsgiver says many of the firms that build highway projects are non-union.

“About 80% of the contractors on the highway side are non-union,” Salsgiver adds.

That’s a big deal because the Oregon Department of Transportation has an ambitious slate of projects on the drawing board. And although that agency is currently in dire financial trouble, it will be asking the Legislature for a major funding increase in 2025.

Salsgiver disputes Kotek’s assertion that project labor agreements result in cost savings. “This order comes at a time when our state faces an infrastructure funding crisis,” he said. “Project labor agreements inflate project costs, meaning taxpayers will get less for their money, either through higher taxes or fewer completed projects Oregon needs smart solutions, not mandates that create more barriers for businesses and workers.”

He cited [studies to buttress his claims](#).

A least one West Coast governor agrees with AGC. In September, California Gov. Gavin Newsom vetoed a bill that would have mandated some project labor agreements, writing in his Sept. 29 veto letter, “While I am generally supportive of [project labor agreements] as an option for public works projects, the new requirements proposed in this bill could result in additional cost pressures that were not accounted for in this year’s budget.”



# The Boston Globe

## Project labor agreements are bad policy

As a judge says, they unfairly limit competition, which is bad for the public.



*(A construction worker stood on scaffolding at Brockton City Hall on April 10, 2024.)*

It's one of the most predictable of economic impulses. Facing competitive pressure? Then try to limit the competition.

With labor unions in Massachusetts, one oft-attempted approach has been to pressure public-sector decision-makers to impose so-called project labor agreements on public projects. Although they don't say so explicitly, PLAs in effect limit public work only to firms whose workers belong to trade unions.

Such agreements usually drive up costs for the taxpayer.

In broad terms, the public policy dance goes this way. In deciding what candidates to endorse and help in their bid for office, labor unions solicit their support on various labor issues, one of which is usually PLAs. Democratic politicians almost reflexively sign on. Then, when a sizable project comes up, unions urge their friends in public office to press the decision-makers to impose a PLA on the project. Since offering such a public statement is easy, the electeds usually do. If the contracting agency then does as urged, a PLA is imposed — and nonunion firms' only resort is to go to court to fight it.

All that just happened in Western Massachusetts. After the urging of an array of elected officials, the Springfield Water and Sewer Commission imposed a PLA on a \$325 million water-filtration project in Westfield. Several umbrella organizations for nonunion construction firms filed a lawsuit challenging the PLA.

This month, Hampden Superior Court Judge Michael Callan blocked the competition-constricting requirement, noting that the state's Supreme Judicial Court has said that for a PLA to be permissible, a project must be of "such size, duration, timing, and complexity that the goals of the [public] bidding statute cannot otherwise be achieved" and that the awarding authority must have undertaken "a careful, reasoned process" to assess the effects of a PLA in regard to the intent of that law.

Those standards simply weren't met, Callan ruled.

In fact, Callan noted, the firm that the water and sewer commission consulted with had concluded a PLA would delay the project by several months and hike its costs by \$15.5 million. Indeed, there really hadn't been any strong policy argument for the PLA. The commission's own legal counsel, before having a late-in-the-process change of mind, had advised that he didn't think the project met the SJC's threshold for the imposition of a PLA.

The judge's clear-eyed decision also pierced through much of the disingenuous rhetoric about PLAs, writing that "for all intents and purposes, the PLA excludes open shops from bidding, as it essentially requires bidders to ... use union laborers on the project."

That's exactly right. And limiting the bidding only to union labor hikes project costs. Such a price-increasing effect is a generally recognized impact of constricted competition. It pertains in particular when nonunion firms have been eliminated from even bidding on the project; if unionized firms know their only rivals for a project are other union firms, they will feel significantly less pressure to take a sharp pencil to their bid.

Various studies have estimated the added cost of PLA-ed projects in the 10 percent to 20 percent range (though other analyses contend there is no significant price effect). In part, nonunion firms say, that's because their work teams aren't bound by union work rules that, say, require a laborer to perform one task, a carpenter a second, an electrician a third, and a plumber a fourth. Nonunion firms usually have their own teams, with developed and

complementary specialties. If one worker can perform two or more of those tasks, it saves time and makes work at the job site go more smoothly, with fewer delays.

Although PLAs are sometimes portrayed as necessary to keep nonunion contractors from undercutting trade wages, in fact, the state's prevailing wage law already mandates that nonunion firms pay the prevailing wage on public projects. That wage is essentially the rate set in union collective-bargaining contracts.

Thus there really is no strong policy argument for imposing a PLA. Further, it is unfair to the many Massachusetts construction workers who are not union members. It means that those workers are paying taxes to help fund projects that PLAs would exclude them from working on.

As a result of Callan's ruling, the water and sewer commission has decided to move forward with the project without a PLA.

"The Commission is proceeding with the procurement of the new West Parish Water Treatment plant pursuant to the established schedule and the recent Superior Court ruling in accordance with its primary goal of completing the new plant as quickly as possible," commission communications manager Jaimye Bartak said via email. (The local labor council appears to be attempting a last-gasp Hail Mary intervention.)

That's good news. But honestly, this whole exercise was a waste of judicial time. In the future, when faced with union lobbying for PLAs, elected officials and public decision-makers should cite Callan's lucid ruling on the matter and say a firm and emphatic no.

Why, they might even want to quote the judge, who pithily summed things up this way: "The public benefits from an open, fair, competitive, and robust bidding process. The PLA requirement unnecessarily curtails that without legal justification."

*Editorials represent the views of the Boston Globe Editorial Board. Follow us @GlobeOpinion.*



## OFFICE OF THE GOVERNOR

SEP 29 2024

To the Members of the California Senate

I am returning Senate Bill 984 without my signature.

This bill would require, beginning January 1, 2027, the Judicial Council and the California State University (CSU) to each identify and select a minimum of three major construction projects and subject those projects to a Project Labor Agreement (PLA).

While I am generally supportive of PLAs as an option for public works projects, the new requirements proposed in this bill could result in additional cost pressures that were not accounted for in this year's budget.

In partnership with the Legislature this year, my Administration has enacted a balanced budget that avoids deep program cuts to vital services and protected investments in education, health care, climate, public safety, housing, and social service programs that millions of Californians rely on. It is important to remain disciplined when considering bills with significant fiscal implications that are not included in the budget, such as this measure.

For these reasons, I cannot sign this bill.

Sincerely,

Gavin Newsom





# Oregon

Tina Kotek, Governor

## Oregon Transportation Commission

Office of the Director, MS 11

355 Capitol St NE

Salem, OR 97301-3871

**DATE:** September 26, 2024  
**TO:** Oregon Transportation Commission

**FROM:** Kristopher W. Strickler  
Director

**SUBJECT:** **Agenda Item K** – Amend the 2024-2027 Statewide Transportation Improvement Program (STIP) to add construction funds to the *OR18: Newberg-Dundee Bypass Phase 2a* project in Yamhill County.

**Requested Action:**

Approve amending the 2024-2027 Statewide Transportation Improvement Program (STIP) to add \$5,876,032.75 to the construction phase of the *OR18: Newberg-Dundee Bypass Phase 2a* project.

These funds will be transferred from the preliminary engineering (PE) phase of the OR18: Newberg-Dundee (Phase 2) project.

**Project to increase funding:**

<b>OR18: Newberg-Dundee Bypass Phase 2a (K22523)</b>			
<b>PHASE</b>	<b>YEAR</b>	<b>COST</b>	
		<b>Current</b>	<b>Proposed</b>
Preliminary Engineering (19909)	2017	\$22,200,000.00	\$ 16,123,967.25
Right of Way	2022	\$10,000,000.00	\$10,000,000.00
Utility Relocation	2024	\$0.00	\$0.00
<b>Construction</b>	<b>2024</b>	<b>\$40,000,000.00</b>	<b>\$45,876,032.75</b>
<b>TOTAL</b>		<b>\$72,000,000.00</b>	<b>\$72,000,000.00</b>

**Background:**

This is Phase 2a of the Newberg-Dundee Bypass which will realign OR 18 and Wynooski Road, provide a new connection at OR 219, and widen OR219 to include an additional travel lane, sidewalk, ADA ramps, and drainage. The realignment will also include an interchange with a new bridge structure to carry eastbound traffic. The decommissioned Wynooski Road and OR18 segments will be removed as part of the project.

The project went to bid in late September with a competitive process resulting in one bid. Wildish Standard Paving, the only bid, was approximately 22% over the region estimate. Based on the bid analysis, rebidding this project would likely result in a similar outcome.

To cover the funding shortfall, we will transfer funds from the PE phase. The PE phase has sufficient funds to complete this transfer, while maintaining our commitment to design Phase 2b.1 to the Design Acceptance Phase and move forward with right-of-way acquisition.

We recommend awarding the contract.

**Project Schedule**

Project design start	01/29/2020
DAP complete	02/28/2022
PS&E due	08/05/2024
Project bid opening	09/24/2024

**Outcomes:**

With approval, the project will be awarded to Wildish Standard Paving and construction would start early next year.

Without approval, we would rebid the project in attempt to receive additional competitive bids.

**Attachments:**

- Attachment 01 – Location Map
- Attachment 02 – Vicinity Map

# **OPPOSE EXCLUSIONARY MANDATES: NO on SB 850**

SB 850 would require the use of project labor agreements on all public works over \$1 million, that use \$750,000 in public funds. This would mean that all projects done by local districts, cities, counties, and the state that meet that threshold will be required to use project labor agreements (PLAs).

## **What are project labor agreements, or PLAs?**

Project labor agreements require the use of union labor on the jobsite. This means that non-union contractors will not be able to use their workforce to complete jobs. Instead, they will be forced to hire from the union hiring hall. Such a requirement opens them up to liability for unfunded union trust liability. It also puts the finger of the state on the scale in favor of union contractors and discriminates against open shop contractors, purely because of their choice of business model.

## **PLAs go against open and competitive contracting**

- The public contracting code was created to ensure an open, competitive playing field in construction where public funds are used.
- Implementing mandated PLAs flies in the face of open and competitive contracting, by clearly stacking the deck against open shop contractors.

## **This is NOT a Union/Non-Union Issue**

- The impacts will especially be felt by smaller, newer businesses, particularly contractors of color
- Contractors (even union contractors) rely on subcontractors to complete projects, and many of those subcontractors are non-union
  - So this makes PLAs an issue even for contractors who already are union

## **Project Labor Agreements are not the answer**

- This is not the answer for diversifying and growing the construction workforce
- Forcing these requirements is not the answer because it will not bring diversity in to the workforce the same way that proactive workforce development will
  - Instead, this will keep out certain contractors (including minority contractors) from bidding on public projects

**Protect the open and competitive nature of public contracting, and oppose mandated project labor agreements and SB 850.**



*February 22nd, 2023*

Chair Taylor, Vice-Chair Bonham, Senator Hansell, Senator Jama, and Senator Patterson,

The Oregon Chapter of the National Association of Minority Contractors ("NAMC") is our State's largest organization representing contractors of color. NAMC is an industry leader who supports and advocates for our over 140 Members, allowing them to focus on the hard work of growing their businesses. NAMC and our Members have forged and maintained strong relationships with our community partners, such as the Associated General Contractors (AGC) and the Black Business Association of Oregon, as well as our public and private partners, such as Raimore Construction, the City, and Port of Portland and many others to ensure that the needs and priorities of contractors of color are not just heard but met and addressed.

It has been our Member's experience that project labor agreements (PLAs) do not work for them. Despite being one tool that, in some instances, can help increase the workforce's diversity, PLAs are not the only mechanism, nor the best mechanism, to ensure that people of color and women get to work on a project. Contractors of color, whether Union or open shop, have far more success ensuring that their workforce is diverse because they actively recruit from their own communities of color. They provide an environment that supports and validates their workers' experiences as people of color. On the contrary, while PLAs focus on workforce, they are not required, nor does the statutory language mandate, that the PLA's terms focus on providing opportunities for people of color and women. How will diversity be effectuated without being intentional and overt around whom the project seeks to employ? Furthermore, PLAs ignore the real and substantial impacts on companies owned by people of color who, for various legitimate business reasons, have elected not to sign collective bargaining agreements with the unions. Instead of an environment where a business owner's choice is honored and where anyone can participate, Union and open shop alike, a mandatory PLA provides only a single path to project participation which dismisses, ignores and marginalizes contractors of color who have not chosen that same path.

NAMC's mission is to support and advocate for businesses owned by People of Color in the design and construction industries by empowering them in ways that uplift their businesses. NAMC does not supplant its own determination of what is in the best interest of a business, but rather it walks alongside our members to intimately learn about their journey, their challenges, and their successes. This model of empowerment and self-determination extends to education, training, technical assistance, business supports, and relationship building. That is why, at its core, NAMC believes that each business owner has carved their own path to ownership and that there are multiple ways for businesses to be successful- there is no single right path.

If our experiences had been sought, we would have explained how PLAs forcefully remove the ability of a small business owner to choose what is right for their business. How imposing a PLA requirement would be disastrous for small businesses because the PLAs exclusively require



union labor on the job site. This means that non-union contractors, ***which the vast majority of our members are***, will not be able to use their workforce to complete jobs. Instead, they will be forced to hire from the union hiring hall. As a person of color, building a successful business in a state like Oregon is extremely difficult in the best of times; to force small businesses to use whatever unknown employee shows up at the union hall that day is unconscionable and unnecessarily burdensome. Furthermore, by imposing such a requirement, the State is putting the finger on the scale in favor of union contractors and discriminating against open shop contractors and contractors of color purely because of their choice of business model.

Whatever the choice and whatever the reasons, all companies should be supported and empowered to choose what business model is right for them. With respect to unionization and signing on to a union's collective bargaining agreement, we support our companies that benefit from the workforce that a union can provide, and the costs associated with being a union contractor fit within their business model. We also support companies that do not benefit from being signatory to a union's collective bargaining agreement, who access their workforce through various methods that work better for them and those who are simply too small to bear the costs.

In addition to the business impacts described above, some Black and Brown business owners do not wish to enter into union agreements because of the treatment they experienced when they were part of the workforce in those trades. Many of these company owners describe ongoing and blatant racism day in and day out on the jobsite, with no avenues for recourse or accountability without themselves facing backlash and retaliation. This is not a new issue, nor is it unknown. One simply needs to look at the number of nooses that have shown up on public projects in the Portland area to see that racism continues to thrive. The industry has responded by imposing jobsite culture standards and workforce trainings but widespread culture change takes time and ongoing efforts. Black and Brown contractors who have specifically chosen to distance themselves from unions because of the racism that runs rampant through their halls should be supported in doing so.

One of our members describes "daily hate crimes" as part of his experience as one of the few Native Americans within the union. Once becoming a business owner, he made the choice to remain open shop and has recruited and trained his workforce in ways that have been true to his culture and to the mission of his company—uplifting his community and ensuring its well-being through economic prosperity. With an entirely Native crew on several large public projects, his efforts have been successful.

Despite the persistent failing of our construction unions to ensuring the wellbeing of People of Color, **we do not believe that this is a binary union vs. non-union issue.** The issue is the development of a contractual specification that imposes a mandate that will affect *all* contractors because it will force the implementation of unachievable policies around project apprenticeship and participation requirements. It will impact *all* contractors, with even harsher impacts on contractors of color who are predominately small, newer businesses.

NAMC's members (including union contractor members) believe that a contractual specification mandating PLAs is not the answer to diversifying and growing the construction workforce needed to build the projects before us. We would very much appreciate the opportunity to work with the Legislature to develop impactful, meaningful, and lasting methods to grow Oregon's workforce and to increase the participation of women and men of color in our workforce; however, we can confidently state that PLAs are not the answer to the issue.

Respectfully,

A handwritten signature in black ink that reads "Nate McCoy". The signature is written in a cursive, slightly slanted style.

Nate McCoy,

President & CEO, NAMC-Oregon

Submitter: George Carrillo

On Behalf Of:

Committee: Senate Committee On Labor and Business

Measure: SB850

As the executive director of LatinoBuilt, former executive at the Oregon Health Authority, community activist, and Latino, I have witnessed firsthand how Oregon's government continues to struggle with implementing equitable policies and laws. The Latino community is the largest minority group in Oregon. We account for almost 20% of the total population, more than 50% of the construction workforce, and yet, less than 1% of Oregon's wealth. We are the majority in the construction workforce but lack in opportunity to grow within the industries because of oppressive systems in place.

We are easily taken advantaged of as we have limited avenues of accountability, but we push forward, we do more with less, and do so with little to no recognition of the contributions we commit to every day.

Our elected officials and government agencies must understand our struggles and how SB 850 is another barrier that does not help us a community. Senate Bill 850 would require the use of project labor agreements through labor unions. The intention of the bill is commendable as it's trying to protect workers that receive public funds, however, the impact on the Latino community will not align with the intent as there are serious current and ongoing issues within labor unions that must be addressed. Institutions throughout Oregon continue to struggle with implementing fair and equitable practices. As a state we are not yet up to par with bringing resolution to issues raised by the Latino workforce.

The lack of construction workforce development must be called out and learning institutions must be held accountable. Apprenticeship programs via labor unions throughout the state have an approximate 30% graduation rate, with less than 10% of it representing Latino men and less than 1% for Latina women. These graduation rates do not meet the need of this industry and do not offer an environment where Latino's want to participate.

For current Latino owned construction businesses, implementing SB 850 will require they convert their operations towards unions which comes at a high financial cost. SB 850 solely financially benefits labor unions and financially punishes and harms Latino owned construction businesses. SB 850 also gives unions more power without proper representation, silencing thousands of Latino voices instead of empowering them as the majority population within this workforce.

Implementing SB 850 and forcing Latino-owned construction businesses into unions

that lack the infrastructure will impact the lives of all Oregonians, as we will see continued workforce issues, major delays in completing projects, and most importantly the government will continue to oppress the Latino community. SB 850 translates to less Latinos being able to open and/or keep open their construction businesses, fewer opportunities to get into higher paying trades, and the perpetuation of generational poverty. SB 850 is an example of systemic oppression within our state law. As our state representatives I implore you to see past the cover letter of a bill and understand the impact of your decision on the Latino community. Passing SB 850 will be a testament to the inability to move past special interest groups and reinforcing discriminatory practices. As a loud advocate I promise to hold all branches of government accountable, especially if you continue to oppress the Latino community. For these reasons I am asking the legislature to vote NO on SB 850. Thank you.



## Asphalt Pavement Association of Oregon

5240 Gaffin Road SE, Salem, Or 97317  
Phone: 503-363-3858 Fax: 503-363-5571

March 20, 2023

Senate Committee on Labor and Business  
Oregon State Capitol  
900 Court St NE  
Salem, OR 97301

**RE: Senate Bill 850**

Dear Committee Members:

The Asphalt Pavement Association of Oregon (“APAO”) represents Oregon companies that range in size from international corporations to small family-owned companies. APAO is not a lobbying organization, and it is neither for nor against unionization – APAO is for promoting high quality asphalt pavements regardless of company type or model. Although there are union asphalt pavement contractors in Oregon, most are open shop. A commonality among all pavement contractors is that public improvement projects are very important to their businesses. APAO opposes SB 850 because we believe there will be unintended consequences that would cause significant harm to companies large and small and greatly outweigh any potential benefit.

SB 850 initially would have required project labor agreements (“PLAs”) on public improvement projects of at least \$1 million, and the -2 amendments allegedly provided an option to allow open shop contractors to perform such projects without PLAs. The feedback to me from APAO members is that the -2 amendments do not provide a practical alternative because of the burdens associated with becoming a training agent and meeting the required apprenticeship requirements, among other reasons. However, because others have and will cover the problems with those aspects of the bill, I will focus on other important points.

**Workers Are Not Looking for Unions:** I know the people who own and operate asphalt pavement companies across the state. I have been to their projects, and I have met the men and women who work on their crews. I have come across individuals who are closely connected to their communities and who treat their employees like family. On public projects they already pay prevailing wage rates and do whatever they can to treat their employees well. I have not come across an open shop crew anywhere where I felt as though they needed or wanted to be part of a union and I know of no case where the -2 requirements would have changed how employees were recruited or trained.

**Public Procurement is Already Too Complex:** Contractors need to be prequalified, have bonding capacity, meet special insurance requirements, keep certified payroll records, and more. We are already seeing some of the family-owned companies shift away from public work because of the trickiness – and having fewer local companies competing for public work is not good for the industry or the local community. Adding project labor agreements or training agent requirements will make the process even more complex. That added complexity will further deter open shop contractors from competing for public projects – especially with respect to the smaller family-owned companies.

**Knife River Corporation – Northwest**  
32260 Old Hwy 34  
Tangent, OR 97389-9770  
Ph: (541) 918-5100

**Ethan Hasenstein**  
Contracts, Risk, and Government Affairs  
[ethan.hasenstein@kniferiver.com](mailto:ethan.hasenstein@kniferiver.com)

February 23, 2023

**Subject: SB 850**

Chair Taylor, Vice Chair Bonham, and Members of the Committee:

Knife River Corporation is one of Oregon's largest heavy civil and highway contractors. Knife River is two companies: an open-shop paving, aggregates, ready-mix concrete, and prestress concrete company of approximately 1,200 employees and our Southern Oregon union affiliate with approximately 400 employees. Knife River opposes SB 850 and respectfully urges a "no" vote.

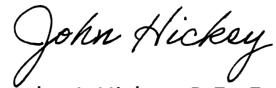
Oregon suffers from a critical shortage of skilled construction labor. Even as a BOLI-certified training agent that has made a generational investment in our state-of-the-art training center outside of Albany, Knife River struggles to recruit enough qualified applicants to meet apprenticeship, OJT, and DBE requirements on public works projects. Oregon's construction workforce is insufficient to deliver on the substantial state and federal infrastructure commitments that are in the funding pipeline. Oregon's unions are unable to provide enough skilled labor to meet the needs of Oregon's contractors. SB 850 will do nothing to change this. Instead, the PLA requirements of SB 850 would decrease the pool of subcontractors that can participate in public works projects, force open-shop companies to pay into struggling union health and welfare benefit plans, and shrink, not grow, Oregon's construction workforce.

Thank you for the opportunity to testify.

**Less Competition is Bad for Oregon:** Competition is essential for reasonable pricing. Construction is a highly competitive industry. Contractors are constantly trying to figure out how to build projects more efficiently than their competitors. Without healthy competition, there is less of a need to figure out better ways to build projects and that increases costs. Because SB 850 would increase direct costs, add complexity to an already complex process, and deter open shop contractors from competing for public improvement projects, there will be a smaller pool of public improvement project pavers – and that would increase costs for all public agencies.

For most Oregon asphalt pavement companies, the open shop model has served them, their communities, and their employees well. Based on my interactions and my experience, I do not believe that SB 850 would solve the problems its proponents purport it would solve and I believe that the unintended consequences would be significant. For the reasons stated above, APAO opposes SB 850.

Sincerely,

A handwritten signature in cursive script that reads "John Hickey".

John J. Hickey, P.E., Esq.

Executive Director



March 7, 2023

**TO:** Members of the Senate Committee on Labor and Business

**FR:** Derek Sangston, Oregon Business & Industry

**RE:** Opposition to SB 850

---

Chair Taylor, Vice-Chair Bonham, members of the Senate Committee on Labor and Business. For the record, I'm Derek Sangston, policy director and counsel for Oregon Business & Industry.

OBI is a statewide association representing businesses from a wide variety of industries and from each of Oregon's 36 counties. Our 1,600 member companies, more than 80% of which are small businesses, employ more than 250,000 Oregonians. Oregon's private sector businesses help drive a healthy, prosperous economy for the benefit of everyone.

Thank you for the opportunity to testify in opposition to SB 850. For OBI, this is not a union or nonunion labor issue. OBI opposes SB 850 because by requiring project labor agreements (PLA) on any public contract valued at \$750,000 or more, as the base bill would, or allowing a public body the unilateral choice to accept one, as the dash-two amendment would, the bill would unfairly exclude many of Oregon's local contractors from bidding on public projects.

The Oregon legislature passed the public contracting code to, among other things, ensure open and competitive bidding on public projects and promote the efficient use of state and local government resources. The PLA provisions contained in both the base bill and the dash-two amendment would disrupt those goals by excluding open shop companies, which comprise a large portion of Oregon's locally owned contractors, from public bids. Even when a contractor is a union contractor, its subcontractors may be open shop and thus still excluded from these bids.

Under the public contracting code, public projects should generally be awarded to the company that best serves the public - by providing a good or service at the price that maximizes the public's economic investment. By favoring PLAs so extensively, SB 850, even as potentially amended, would increase the costs for taxpayers and the state instead of using government resources efficiently.

Finally, it is also important to note how SB 850 could impact Oregon's ability to capitalize on federal money earmarked for infrastructure investments. For instance, hundreds of millions of dollars will be coming to the state to invest in broadband infrastructure projects through a grant process that will potentially include additional private investment and public/private partnerships. If passed, OBI is concerned SB 850 would have a negative impact on that investment, which is key for Oregon communities lacking access to broadband.

Thank you for your consideration.

Contact: [dereksangston@oregonbusinessindustry.com](mailto:dereksangston@oregonbusinessindustry.com)





**House Committee on Housing  
Letter of Opposition SB 850**

March 7, 2023

Chair Taylor, Members of the Committee,

The Oregon Home Builders Association is writing to oppose SB 850 in its current form.

The Oregon Home Builders Association (OHBA) represents nearly 3,000 members engaged in the residential construction industry and dedicated to affordable homeownership opportunities for all.

As this Committee knows, Oregon is in a housing supply crisis. There is a high demand for housing across the income spectrum and a limited supply of homes on the market. This dynamic drives up the cost of housing for more Oregonians and increases their cost burden. Developing affordable housing is a math problem, not a will problem. If the cost of construction exceeds what consumers can afford, it's impossible to bring an affordable product to market. Builders need assistance offsetting development costs and removing arbitrarily expensive regulations that prevent them from building. We must pull all levers available to bring down the cost of housing for consumers and get creative to offset construction and development costs.

To meet the Governor's goal of 36,000 units per year for the next ten years, there will be private/public partnerships. SB 850 would have significant impacts on affordability and workforce for needed housing.

Thank you for the opportunity to provide these comments.

Jodi Hack  
CEO, Oregon Home Builders Assoc.  
[jodi@oregonhba.com](mailto:jodi@oregonhba.com)

Samantha Bayer  
Housing Policy Director, Oregon Home Builders Assoc  
[samantha@oregonhba.com](mailto:samantha@oregonhba.com)



March 20, 2023

*Sheila Stiley, Board  
chair – NW Coastal  
Housing*

*Kymerly Horner,  
Vice-chair - Portland  
Community  
Reinvestment Inc.*

*Rachael Duke,  
Secretary -  
Community Partners  
for Affordable  
Housing*

*Kristy Rodriguez,  
Treasurer - Housing  
Authority of Malheur  
& Harney Counties*

*Trell Anderson –  
Northwest Housing  
Alternatives*

*David Brandt -  
Housing Works*

*Wakan Alferes -  
Homes for Good*

*Rita Grady – Polk  
CDC*

*Maria Elena Guerra -  
Farmworker Housing  
Development Corp*

*Nkenge Harmon  
Johnson – Urban  
League of Portland*

*Brad Ketch –  
Rockwood CDC &  
Community Dev.  
Corp. of Oregon*

*Erica Mills –  
NeighborWorks  
Umpqua*

*Shannon Vilhauer –  
Habitat for Humanity  
Oregon*

Senator Kathleen Taylor  
Chair, Senate Committee on Labor and Business  
900 Court St NE, S-423  
Salem, OR 97301

**Re: Senate Bill 850 impacts on affordable housing production**

Dear Chair Taylor and Members of the Committee:

Housing Oregon wants to express our concerns about Senate Bill 850, which would require affordable housing development projects that procure construction services using \$750,000 or more in sources from public agencies to provide payment of wages at or above the prevailing rate. We ask you to maintain the existing prevailing wage exemption for affordable housing projects.

Housing Oregon is a membership-based statewide association of over eighty affordable housing community development corporations (CDCs) and ally organizations committed to serving and supporting low-income Oregonians across the housing needs spectrum – from homeless to homeowner.

While we don't expect that increasing the cost of affordable housing production was the intent of SB 850, that is what would happen with incorporation of this requirement. A 2019 study from the Oregon Housing and Community Services Department found that prevailing wage rules at that time added about 9 percent to the total cost of each regulated-affordable home. Members report current cost estimates for prevailing wages would drive up costs significantly higher. During a statewide affordable housing crisis, we cannot afford this additional expense.

We urge you to expand the current exemption from prevailing wage requirements for affordable housing to apply to the affordable housing portion of mixed-use projects, which both SB 847 and SB 979 propose to do.

P.O. Box 8427, Portland, OR 97207

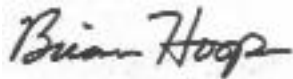
The Bureau of Labor & Industries currently requires affordable housing developers to pay the higher prevailing wage rate for any development -- including an affordable housing project -- that includes commercial space. As a result, commercial spaces are rarely included in affordable housing developments, even when those developments are located in mixed-use zones. In addition, construction workers lose out on the higher prevailing wages they could have earned on those commercial spaces because they never happen.

SB 847 and SB 979 would expand options for affordable housing developers to consider projects they otherwise would likely turn down due to this requirement. By extending the exemption to the affordable housing portion of mixed-use projects, these bills would enable affordable housing developers to incorporate childcare facilities, small business storefronts, and other community-identified priorities that are classified as commercial uses – while creating more work that *does* pay prevailing wages for the construction of those commercial spaces.

We call on this committee to both defend the current prevailing wage exemption for affordable housing projects, and expand that exemption to the affordable housing component of mixed-use projects.

Thank you very much for your consideration of our comments. You can reach me at 503-475-6056 or [brian@housingoregon.org](mailto:brian@housingoregon.org).

Sincerely,

A handwritten signature in black ink that reads "Brian Hoop". The signature is written in a cursive, slightly slanted style.

Brian Hoop  
Executive Director  
Housing Oregon



# Marion County

OREGON

## Board of Commissioners

February 22, 2023

(503) 588-5212  
(503) 588-5237-FAX

Senator Kathleen Taylor, Chair  
Senator Daniel Bonham, Vice-Chair

### RE: Marion County Opposes SB 850

#### BOARD OF COMMISSIONERS

Dear Chair Senator Taylor, Vice-Chair Senator Bonham, and Members of the Committee:

Colm Willis, Chair  
Kevin Cameron  
Danielle Bethell

The Marion County Board of Commissioners opposes Senate Bill 850. SB 850 will delay and increase the cost of several infrastructure projects funded by American Rescue Plan Act (APRA) dollars.

#### CHIEF ADMINISTRATIVE OFFICER

Marion County received \$66,559,569 of ARPA dollars and funded thirty-seven community projects. Of those, seventeen will improve water, sewer, or broadband. The investment in these projects will have lasting economic improvements for our residents for generations. However, the design and construction of these projects have been fraught with setbacks such that Marion County is advocating for an extension of the federal deadline. Under the proposed language in SB 850, eleven of our projects will now meet the 1-million-dollar threshold imposing another onerous requirement, adding costs, and further complicating the project delivery.

Jan Fritz

Oregon public contracting rules already require public bodies to pay the prevailing wage, use the state apprenticeship program, and employ underrepresented individuals for projects. Changing the estimated project cost threshold from \$10 million to \$1 million will only serve the special interest groups already benefiting from the current law. It will increase the number of projects that must comply with the cumbersome laws and delay the economic improvements these projects have in our community.

We believe ARPA intended to provide large amounts of reasonably flexible dollars to communities without unnecessary rules and restrictions from the state bureaucracy. SB 850 contradicts that intent and will exacerbate the delays we are encountering with our current ARPA projects. The Marion County Board of Commissioners urges the committee to vote no on SB 850.

Sincerely

Colm Willis

Kevin Cameron

Danielle Bethell



**SB 850 Testimony in opposition on behalf of AOC- Association of Oregon Counties**

Senate Committee on Labor and Business

February 23, 2023

Dear Chair Taylor, Vice Chair Bonham, Vice Chair and members of the Senate Committee on Labor and Business:

My name is Anna Braun with Dalton Advocacy on testifying on behalf of the Association of Oregon Counties. **AOC strongly opposes SB 850.**

SB 850 adds additional requirements for public improvement projects. Projects that cost one million and use \$750,000 of ARPA funds must enter into project labor agreements. Those agreements require payment at the prevailing wage rate and use of apprenticeships for 15 percent of the work. There are also expanded outreach requirements for recruitment and retention of workers. In addition, the bill removes the exemption for rural areas.

Counties are particularly concerned about this requirement because of the huge need for county projects which runs directly counter to the requirements of this bill. Counties provide many services. Any project that costs more than a million dollars will trigger the enhanced prevailing wage and apprenticeship requirements. Currently, the trigger amount is ten million. In addition, the bill adds requirements if ARPA funds are used. As a result, the costs for these projects will increase.

Well paid laborers and apprenticeships are valuable goals but unfortunately the requirements of this bill will result in fewer projects and fewer services provided by counties. This concern is particularly heightened right now when counties are being asked to provide more and more critical services to Oregonians.

Thank you.

Anna Braun

On behalf of AOC Governance, Revenue and Veterans subcommittee

**UNITED COUNTIES. UNITED OREGON.**

1212 Court St. NE | Salem, OR 97301-4181 | 503.585.8351 | [www.oregoncounties.org](http://www.oregoncounties.org)



**EXECUTIVE ORDER NO. 24-31**

**ESTABLISHING PROJECT LABOR AGREEMENTS FOR STATE  
CONSTRUCTION PROJECTS**

**WHEREAS**, the State of Oregon has a compelling need to ensure that all construction project contracts awarded adhere to the highest standards of quality and efficiency at the lowest responsible cost and,

**WHEREAS**, a project labor agreement, a form of pre-hire collective bargaining agreement covering all terms and conditions of a specific construction project, can ensure a construction project will have the highest standards of quality and efficiency at the lowest responsible cost and,

**WHEREAS**, on February 4, 2022, the President of the United States declared it is the policy of the Federal Government for agencies to use project labor agreements in connection with large-scale construction projects to promote economy and efficiency in Federal procurement and,

**WHEREAS**, project labor agreements provide for peaceful, orderly and mutually binding procedures to resolve workforce issues without labor disruption which can result in significant lost time and additional expense on a construction project and,

**WHEREAS**, project labor agreements provide the State with assurance that public construction projects will be completed by highly skilled workers and,

**WHEREAS**, the use of highly skilled workers will further reduce costs over the lifetime of the completed project for repairs and maintenance, and

**WHEREAS**, a project labor agreement helps to ensure equal employment opportunity and uplift economically disadvantaged workers, and

**WHEREAS**, the State of Oregon has a unique role in the construction industry to ensure that public dollars spent benefit the community they serve and do not indirectly or passively perpetuate discrimination against minorities, women, and low-income people in the construction industry, and

**WHEREAS**, the State of Oregon enacted ORS 279C.308 to authorize public agencies to include specific elements in public improvement contracts.

**NOW, THEREFORE, I, TINA KOTEK**, Governor of the State of Oregon, by virtue of the power and authority vested in me by the Constitution and statutes of the State of Oregon, do hereby issue this order to become effectively immediately:



**EXECUTIVE ORDER NO. 24-31  
PAGE TWO**

**IT IS HEREBY ORDERED THAT:**

1. All state agencies awarding any contract or obligating funds in connection with a construction project as defined below shall require every contractor and/or subcontractor engaged in the construction of the project to agree, for that project, to negotiate or become a party to a project labor agreement with one or more appropriate labor organizations.
2. A project labor agreement will be required to be negotiated and executed for public improvement projects where labor costs constitute fifteen (15) percent or more of the total construction, reconstruction, or major renovation project costs.
3. To ensure that state agencies are advancing gender and racial equity in contracting through project labor agreements, state agencies shall:
  - a. Set targets for the utilization of Certification Office for Business Inclusion and Diversity (COBID) certified firms that meet or exceed the baseline utilization rate reported in the 2023 State of Oregon Disparity Study, or an approved, agency specific disparity study.
  - b. Track the utilization of COBID and/or Disadvantaged Business Enterprise firms and report utilization data annually to the Department of Administrative Services.
  - c. Utilize a payroll system or equivalent tool to track labor data for the purpose of reporting.
4. The Governor's office will conduct a biannual review of all relevant data to assess how the state is performing against the stated goals of the order and provide recommendations for corrective measures if needed.
5. A project labor agreement required to be negotiated and executed pursuant to this order shall:
  - a. Contain guarantees against strikes, lockouts, and similar job disruptions.
  - b. Set forth effective, prompt, and mutually binding procedures for resolving labor disputes arising during the term of the project labor agreement.
  - c. Provide other mechanisms for labor-management cooperation on matters of mutual interest and concern, including productivity, quality of work, and safety and health.



## EXECUTIVE ORDER NO. 24-31 PAGE THREE

- d. Fully conform to all Federal and State statutes, laws, rules, and regulations.
  - e. Be non-exclusionary to open-shop and local firms.
6. An agency director may petition the Governor to exempt a specific contract by not later than the solicitation date. Additionally, a project labor agreement is not required on projects:
- a. for which no funds of a contracting agency are directly or indirectly used, except for participation that is incidental or related primarily to project design or inspection, or
  - b. that constitute necessary emergency construction work, minor alterations, repairs, or maintenance necessary to preserve a public improvement, or
  - c. that are of short duration, lack operational complexity, or involve only one craft or trade.

This Order shall be effective immediately and shall apply to all solicitations for contracts and contracts awarded on or after the effective date.

Solicitations and contracts that are planned for advertisement but have not yet been awarded may exercise the exemption in Section 6 of this order through March 31, 2025.

Done at Salem, Oregon, this 18<sup>th</sup> day of December, 2024.



Tina Kotek  
GOVERNOR

ATTEST:

LaVonne Griffin-Valade  
SECRETARY OF STATE