

THE FIRST WORD

February, 2005

Legislative Session Begins February 7th Over 30 Bills of Interest to ACEC OKLAHOMA Introduced

The 50th Oklahoma Legislature begins what will be a historic session Monday, February 7th. For only the second time since statehood, Republicans control the House of Representatives which should make for an interesting year with Democrats controlling both the Senate and the Governor's office.

House Republicans have elected Rep. Todd Hiatt, R-Kellyville, as their first GOP speaker since 1921 with Republicans holding a 57 to 44 majority over the Democrats. On the Senate side, Senator Cal Hobson (D-Lexington) retained his position as President Pro-Tem by virtue of the Democrats holding a slim 26-22 majority in the upper chamber.

Both the Speaker and President Pro-Tem, along with the Governor, have expressed a strong desire to work closely together despite the shift in power in the House. While many hope for a fruitful bipartisan session, House Republicans will want to flex their newfound muscle while Senate Democrats will want to do everything possible to avoid being steamrolled by the House Majority Party.

The stakes are much higher for the Senate Democrats, and the Democratic Party as a whole. While it is still two years away, the 2006 elections will weigh heavily on the minds of the Democrats. In 2006, eight Senators will be "term limited" and all eight are Democrats. So, the next two years are very important for Democrats to show voters that they can work in a bipartisan manner in an attempt to avoid what many believe is a highly likely Republican takeover of the Senate in 2006.

The House and Senate bill filing deadline ended Thursday, January 17th with 2,133 new measures being filed for the first session of the 50th Legislature. The number included 1,059 House bills, 29 House joint resolutions and one House resolution. In the Senate, 1,009 Senate bills, 31 Senate Joint Resolutions and four Senate Concurrent Resolutions were filed.

Measures filed this year range from tax credits, exemptions and incentives for citizens and businesses to water rights; from ethics reform to health insurance; from school consolidation to testing requirements for graduation; from covenant marriages to legalizing prostitution. Workers' compensation, prescription drugs, Taxpayer's Bill of Rights, a \$500 million capital bond for higher education, teacher pay and job creation will also be major issues during the upcoming session.

Of the bills introduced, ACEC OKLAHOMA has placed some 35 bills on our "watch" list, and have identified some which would have immediate or direct impact on our members. Below is a brief overview of some of the more important bills which the Legislature will address beginning next week.

HOUSE BILLS

* **House Bill 1218 by Newport.** This bill would redirect funds derived from the state motor vehicle tax to pay for road and bridge maintenance and improvements.

The state motor vehicle tax is paid annually by each Oklahoman who owns a car when that person purchases a state-mandated sticker to be placed on their license plate. The tax raises approximately \$50 million per month and \$600 million per year, with about 55 percent of the funds going toward predetermined areas, including education and county and city government, and about 45 percent going to the State Treasury's General Revenue Fund.

During fiscal year 2006, the first \$5 million collected each month from the tax would go toward the state Highway Construction and Maintenance Fund. In FY07, the first \$10 million collected each month would go toward the fund, and starting in FY08 and continuing every subsequent year, the

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first \$15 million collected each month would go into the fund. All totaled, the change would deposit \$60 million, \$120 million, and \$180 million into the fund in fiscal years 2006, '07, and '08, respectively.

ACEC OKLAHOMA supports this and any other legislation effort to appropriately fund the Oklahoma Highway Construction and Maintenance Fund.

* **House Bill 1472 by Bengé.** Would allow the State Board of Registration to provide for a “waiver of registration” to any company desiring to include the word “engineer or surveyor or variation thereof” into their business name. Current state law prohibit the use of the term “engineer” or “surveyor” or any variation, i.e., engineering, engineered, surveying, etc., in a business name unless the business has a registered professional engineer or registered professional land surveyor on staff and in responsible charge of the businesses engineering/surveying work.

ACEC OKLAHOMA strongly opposes this legislation. For the public’s safety, health and welfare, the term “engineer” and “surveyor” are protected so that the public is assured anyone using those terms are properly qualified and licensed. Any effort to dilute the use of these words would have a severe negative impact on the profession.

* **House Bill 1511 by Worthen.** Would make changes to the practice of Landscape Architecture by further defining the “practice” of landscape architecture.

ACEC OKLAHOMA has some concerns regarding this legislation, and is working with AIA to determine a course of action.

* **House Bill 1564 by Miller, Kenneth.** Would allow political subdivisions to use the Design/Build or Construction Manager At Risk delivery systems without receiving prior approval from the Construction and Properties Division.

Under current statutes, D/B and CM at Risk can only be used on projects with the approval of the Construction and Properties Division. This safeguard was intentionally placed in the statutes to protect smaller communities who do not have professional staff familiar with these delivery systems and risks associated with their use on projects which may be inappropriate for D/B or CM at risk.

ACEC OKLAHOMA is attempting to determine the purpose of this legislation, and has not yet taken a position although ACEC OKLAHOMA would probably oppose the bill in its initial form.

* **House Bill 1607 by Miller, Doug.** This is the State Board of Registration’s update of the State Registration Law.

There are many revisions within the bill which update the Statute to bring it in line with the model law and current practice.

ACEC OKLAHOMA supports the bill.

* **House Bill 1659 by Covey.** This bill would create the State Office of Administrative Hearings which would be responsible for all administrative hearings for all state Boards, Agencies and Commissions.

The bill would staff the Office with Administrative Law Judges who would be assigned to hear all administrative hearings from the various state Boards.

This bill has been introduced by Representative Covey in previous sessions, and has received mixed support. And, in at least one case, then-Senator/now Governor Brad Henry was the Senate sponsor of the bill.

This bill would strip away all administrative hearing functions of the State Board of Registration for Professional Engineers & Land Surveyors. The State Board would be required to send ALL cases to the new agency, which would only serve to slow down the administrative process. Effectively, the profession would no longer “police itself” through the State Board.

ACEC OKLAHOMA believes that administrative hearings are best done by those closest to the profession, not an attorney/administrative law judge who has no background with the profession in question.

ACEC OKLAHOMA strongly opposes this bill, and urges all members to let their legislators know that this is simply a bad idea.

* **House Bill 1972 by Perry.** This bill provides for the Oklahoma Professional Geologist Practices Act, and would license and register “Professional Geologist” in much the same manner as engineers and land surveyors.

ACEC OKLAHOMA has asked for input from our member geotechnical firms to determine if there is any conflict or problem with geologists and geotechnical engineers and their practice and service. Initial feedback is that there is no conflict between the two professions and that licensure and registration of professional geologists should not create any problems.

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ACEC OKLAHOMA has suggested to the State Board of Registration that they may want to investigate bringing the Geologists under the Board.

ACEC OKLAHOMA will closely watch this bill and work to assure that licensure of professional geologist does not interfere or conflict with the lawful practice of engineering.

* **House Bill 2008 by Toure.** This bill would prevent the State Board of Registration the option to refuse to license a registrant or applicant who has been convicted of a Felony.

Representative Toure has introduced similar legislation in previous sessions, but the bill has never passed. His purpose behind the bill, which impacts a variety of different professions, has some merit but in our opinion goes too far. For example, apparently there is a “work study” program within the state prison system which allows inmates to learn a trade or skill such as cosmetology. However, in the Cosmetology Licensure Act, as in the Engineers/Land Surveyors Act, the Board has the option to refuse to license convicted felons. The problem as he sees it is that inmates learn a trade/skill while in prison, but then are not able to be licensed to practice that trade/skill, in this case cosmetology, once they are released from prison.

ACEC OKLAHOMA understands the problem and would not oppose removing the barrier in certain professions. However, engineering and land surveying is not a profession that can be learned while in prison and we strongly oppose taking away the Board’s ability to keep convicted felons out of the profession if the felony for which they were convicted jeopardizes the public’s safety, health and welfare.

SENATE BILLS

* **Senate Bill 0002 by Kerr.** This bill would modify the State Architectural Act to exempt cities and towns with a population of less than 5,000 from the requirements of the Act.

In other words, in cities of less than 5,000 in population, an architect would not be required for the design of a variety of public and business buildings regardless of the use or purpose of the building. Buildings in this exemption would include all municipal and county buildings, auditoriums, churches, gymnasiums, assembly halls, educational buildings, and many others.

ACEC OKLAHOMA is opposed to this legislation. As we see it, Oklahoma citizens in our small communities deserved the same protection for their safety, health and welfare as

the citizens in larger communities. Also, this is simply further erosion of the State Architectural Act which would allow non-licensed individuals to ply their trade on Oklahoma citizens.

* **Senate Bill 413 by Crutchfield.** This would enact the so-called “Good Samaritan Act” for engineers, architects, and land surveyors by providing immunity from tort claims during certain specified emergency situations.

ACEC OKLAHOMA strongly supports this bill.

* **Senate Bill 558 by Shurden.** This bill was introduced at the request of the Construction and Properties Division and would add “other professionals” (our word, not theirs) to the Qualifications-Based Selection procedure in the State Consultants Act.

Current statutes define architects, engineers and land surveyors as “Design Consultants”. This bill would add a definition for “Consultants” which would bring other professionals such as aerial mapping, appraisers, and scientists into the Act.

Construction and Properties Director David Brown tells ACEC OKLAHOMA that the state regularly has a need for these types of professionals that are not currently covered by the Act, and that the state would prefer to hire these professionals using Qualifications-Based Selection.

ACEC OKLAHOMA supports these changes. However, anytime the Qualifications-Based Selection process is discussed in the legislature, questions always arise from those not familiar with the process as to why these services are not “bid” out like any other state purchase. ACEC OKLAHOMA will closely watch this bill to assure that the Qualifications-Based Selection process is fully protected.

That’s a quick overview of some of the more important bills ACEC OKLAHOMA is tracking. This is not a comprehensive list, and as the session progresses there will probably be other bills that come to the forefront.

ACEC OKLAHOMA will keep members apprised of any changes or movement on these and other bills throughout the session. We ask that you watch for “LEGISLATIVE ALERTS” and respond immediately to any “CALLS FOR ACTION.”

And, as always, if you have any questions on these or any other bills which might interest you, please do not hesitate to contact us.

Fuel Tax Initiative Signatures Validated

The effort to force a statewide vote to increase the state motor fuel tax on gasoline and diesel fuel cleared its first major hurdle last week as the Secretary of State certified the signatures on the initiative petition which was submitted in early December.

Petition organizers submitted nearly 297,000 signatures to the Secretary of State's office while only needing approximately 219,000 valid signatures to force a vote. The Secretary of States office certified well over 250,000 valid signatures, well above the 219,000 required.

The measure has now been sent to the Oklahoma Supreme Court for authorization. Once that occurs, hopefully within the next 30-45 days, Governor Henry can then schedule an election for the initiative.

The Governor has several options including either scheduling a special election or placing the question on a scheduled statewide election ballot. Supporters of the initiative are hoping that the Governor will schedule a special election in April or May, rather than wait until a later date. Any delay in getting the initiative before the people will only make the current funding crisis that much worse.

The petition calls for an increase in the state motor fuel tax to 22 cents for both gasoline and diesel over a three year period from the current levels of 17 cents for gas and 14 cents for diesel. Oklahoma currently has the lowest fuel user fees in an eight-state region, and if adopted, the increase would raise an estimated \$150 million for bridge and road repair and construction.

Welcome New Members

ACEC OKLAHOMA is excited to welcome two new member firms.

SHEPHERD ENGINEERING DESIGN CO., INC. is a civil/geotechnical firm in Oklahoma City. The principal of the three person firm is Jeff A. Shepherd.

PROFESSIONAL SERVICE INDUSTRIES (PSI) is a geotechnical, testing, environmental consulting firm in Oklahoma City. James M. Smith is the principal of the 14 person branch office of an Illinois based firm.

Welcome to Shepherd Engineering Design and PSI!!!! We look forward to having both firms as active ACEC OKLAHOMA members.

ACEC Convention Set for Washington, DC in April

Neil Armstrong, the first man to walk on the moon, and the husband and wife political pundits James Carville and Mary Matalin, will highlight ACEC's 2005 Convention, April 10-13, in Washington D.C.

This year's Convention for the first time combines Consulting Congress Day, the Engineering Excellence Awards Gala, the Federal Markets Conference and the Annual Convention into one dynamic event.

Carville and Matalin, the odd-couple of American politics, will provide an entertaining and enlightening debate on the latest hot-button political issues at the Welcome Luncheon, Monday April 11. Armstrong will receive ACEC's 2005 Distinguished Award of Merit at the Chairman's Banquet on Tuesday April 12.

During the convention, outstanding educational opportunities will be offered covering a variety of tracks including Marketing, Business Management, Government Affairs, Human Resources, Information Technology, Finance, Leadership, Project Delivery, and Risk Management. In total, attendees can receive up to 31.5 professional development hours (PDHs).

The convention will be held at the Grand Hyatt Hotel, conveniently located in downtown Washington. Room rates for the convention are \$235 per night for single/double occupancy. For reservations, call the Grand Hyatt direct at (202) 582-1234 and reference the "ACEC" Convention. The convention will be held during the height of the Cherry Blossom Festival, which means that hotel rooms will be at a premium. If you are considering going to the Convention, make your hotel reservations immediately!!!!

Registration for the Convention is \$945.00 per person which includes all convention sessions, the Opening Reception, Chairman's Reception & Dinner, three breakfasts/luncheons, and one professional forum. Spouse/guest registration is \$325. Additional fees apply for optional activities and the Engineering Excellence Awards Gala.

This should be an outstanding Convention and we hope that many ACEC OKLAHOMA members take advantage of this outstanding opportunity.

