

THE FIRST WORD

June, 2005

2005 Legislative Wrap-Up

Highway Funding Increased; Worker's Comp in Limbo; Tort Reform Dead

Friday, May 27th, ended four months of work which House and Senate Leadership hailed as “historic.” While many major issues were addressed, two were left in limbo as the session concluded – Worker’s Compensation and Tort Reform.

As for Worker’s Compensation, long negotiations were held in the waning days of the session between Republicans and Democrats, with an agreement announced within hours of the constitutionally mandated 5:00pm adjournment on the last Friday of May. Unfortunately, with time being short and with the House and Senate Rules setting forth certain time requirements for passage of legislation, time did not allow for action on the agreement before adjournment.

Governor Brad Henry immediately called for a Special Session, which convened on Tuesday, May 31st. At the time of this writing, the Legislature is working on the Worker’s Compensation issue, and most expect that the bill will be sent to the Governor’s desk no later than Friday, June 3rd. It is estimated that the agreement will save Oklahoma businesses some \$100 million per year in Worker’s Compensation premiums, according to legislative leaders and the Governor’s office.

As for Tort Reform, while everyone “talked” a good game during the session, no action was taken in the final days, leaving that issue for next session.

Here’s a wrap up of the issues which ACEC OKLAHOMA followed during the final month of the session:

HIGHWAY FUNDING

As reported in the last edition of THE FIRST WORD, both the House and Senate had passed Rep. Jim Newport’s HB 1218, and the bill was headed to Conference Committee.

Additionally, we reported that the Leadership and Governor’s office had announced an agreement to provide an additional \$170 million per year in highway funding when fully implemented. However, at that time, details had not yet been released.

In the final days of the session, the Conference Committee Substitute for HB 1078 surfaced as the vehicle for providing the much needed additional funding.

Entitled the “Rebuilding Oklahoma Access and Driver Safety Fund” or “ROADS” for short, the measure increases funding to ODOT by \$170 million per year once the funding schedule is fully implemented for maintenance and repair of state highways and bridges. This represents an increase of 84.5 percent over the fiscal year 2005 state funding level.

The FY 2006 appropriation will include an additional \$15 million for roads and bridges, \$2 million for passenger rail service and \$500,000 for public transit, for a total of \$17.5 million in FY 2006.

Beginning in FY 2007, and for each fiscal year following, a maximum of \$35 million will be added to the previous year’s amount until total funding reaches \$170 million - an amount which will become the annual apportionment. Passenger rail and public transit will share \$5 million of the eventual \$170 million annual appropriation.

There’s one caveat though.....the \$35 million will only be added **IF AND ONLY IF** the growth in the General Revenue Fund exceeds 3 percent. In years where growth in the General Revenue Fund falls below 3 percent of the current fiscal year, the additional amount to be apportioned for roads and bridges will be set at \$17.5 million more than the previous year instead of \$35 million.

Three legislative “safeguards” were placed in the bill in an effort to “protect” the funding from diversion by future

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Legislatures. The bill calls for all monies apportioned to ODOT to be placed in a newly created “revolving fund” within the department and may be used only for the purposes of construction, repair or maintenance of roads and bridges. The measure also includes provisions which will not allow any funding resulting from the program to supplant existing funding for roads and bridges.

Also, the State Board of Equalization is charged with annually examining the funding structure for transportation to determine if funds have been supplanted. In that event, the Oklahoma Legislature is “required” to restore adequate funding prior to approving any other appropriations.

ACEC OKLAHOMA applauds the House and Senate Leadership and Governor for their positive action in directing much needed funds to repair Oklahoma’s crumbling highway infrastructure. While it will take a minimum five years to reach full funding levels, any influx of new revenue will begin making headway on the \$8 Billion backlog of maintenance and construction.

ACEC OKLAHOMA, however, cautions everyone not to get overly excited!!!! As we know from past actions by the Oklahoma Legislature.....WHAT THE LEGISLATURE GIVES, THE LEGISLATURE CAN TAKE AWAY!!!!

Everything in HB 1078 is “statutory” and can easily be undone by future Legislatures unless everyone in the design and construction industries are vigilant in holding future Legislatures to these promises. However, we also know that this is a very difficult task with the \$1 billion Capital Improvement Program being the prime example of promises broken.

At this time ACEC OKLAHOMA will give the Legislature the “benefit of the doubt”, but will hasten to add that the only “guarantee” of dedicated and uninterrupted funding for ODOT are the “constitutional” provisions contained in State Question 723, which will be voted upon in September.

REVERSE AUCTION – HB 1754

As reported in May, Senator Garrison had amended the bill on the Senate floor, at ACEC OKLAHOMA’s request, to remove “services” from the provisions of the bill. We also reported that the bill was now facing opposition from equipment dealers and others who did not like the idea of competing for county purchases through the “reverse auction” method.

The bill was sent to Conference Committee, where deliberations were held on the bill. However, the opposition was apparently too strong as the House/Senate Conference Committee could not come to an agreement on the bill.

With that, the bill “died” at the end of the session, but don’t be surprised to see the issue return in 2006.

As previously reported the State Board of Registration’s bill to update the current engineer and land surveyor licensing statutes easily passed the Legislature and was signed by the Governor.

Additionally, a “Good Samaritan” act for engineers and architects unanimously passed both the House and Senate, and has been signed by the Governor.

So, that’s the wrap up for the 2005 Session. Overall it was a good year, especially in that we didn’t get “hurt” by any bad legislation.

If you have any questions or want any additional information on these or any other issues, please feel free to give ACEC OKLAHOMA a call.

Congress Passes 30-Day TEA-21 Extension

Congress extended TEA-21 for an additional 30 days to give House and Senate conferees sufficient time to negotiate a final package. The extension will maintain the flow of federal funds to the states through the end of June, and represents the seventh extension Congress has passed since TEA-21 expired on Sept. 30, 2003.

While there was a desire among House and Senate leaders to complete the conference negotiations in May, the delay in getting the bill through the Senate, coupled with the debate over federal judges, prompted this latest extension.

Before leaving for the Memorial Day recess, House and Senate conferees were appointed. The conference committee is chaired by Rep. Don Young (R-AK), with Sen. Jim Inhofe (R-OK) as the lead Senate conferee.

First and foremost on their agenda will be agreement on the funding level between the \$284 billion House bill, which has the Administration’s support, and the \$295 billion Senate bill.

Get the Knowledge You Need About BIM

Building Information Modeling (BIM) is getting a lot of attention in the A/E/C industry today. Using BIM (also known as “virtual design and construction”), a computer model of a building links a three-dimensional, geometric description of the architectural elements to information about their properties and behavior.

The Promise of Building Information Modeling is a new briefing from ZweigWhite Research that will introduce you to this computer-supported design technology that may well transform the A/E/C industry over the next 10 to 20 years. This report will bring you up-to-speed on BIM and explain what it means for how your firm will do business in the coming years. It details the advantages that BIM promises to hold as well as the obstacles to its adoption.

This briefing will tell you how firms will need to “retool” to meet the challenges of BIM. Plus, more than a dozen case studies will show you how A/E/C firms are putting BIM to work on projects, from programming to design to construction to operations.

- Learn why Building Information Modeling (“virtual design and construction”) is attracting interest
- See the benefits of BIM that may propel your firm into adoption
- Review more than a dozen case studies of how other A/E/C firms have successfully used BIM at various phases of design and construction
- Learn what the next steps may be for your firm in approaching this exciting technology
- Understand the challenges and caveats in adopting BIM

The Promise of Building Information Modeling is available from ZweigWhite Research for only \$145.00. To **ORDER BY PHONE**, call toll free 1-800-466-6275 (M-F 8:30-5:30 ET). Please mention **Code F1940E**.

Zahl Reappointed to State Board of Registration

Bob Zahl, Zahl-Ford, Inc., Oklahoma City has been reappointed by Governor Brad Henry to the State Board of Registration for Professional Engineers and Land Surveyors, and will serve on the State Board through June, 2011.

ACEC OKLAHOMA congratulates Bob on his reappointment, and thanks him for his outstanding service to the profession.



Walt Disney World®, Florida, one of the nation’s premier vacation destinations, is the site for ACEC’s 2005 Fall Conference. Mark your calendar for this year’s meeting, which takes place September 21-24, 2005.

Your home away from home will be Disney’s Yacht & Beach Club Resort, where a nautical-themed hotel welcomes you and your family. Nestled along the shores of Crescent Lake, you are within walking distance to Disney’s Board Walk entertainment area, a leisurely stroll from Epcot®, and a short boat ride away from Disney-MGM Studios.

Bring your “family” - members, partners, managers, staff, and make it a “family” affair. Take full advantage of Disney’s various parks and adventures, play golf on one of five championship courses, or laze around a heated three-acre sandy bottom lagoon pool! There’s something for the entire family at this year’s meeting!

Of course, we’ll have a stellar line-up of educational programs and optional activities, you won’t want to miss! Book your spot early and make your travel plans NOW to attend this year’s Fall Conference.

Your home away from home will be [Disney’s Yacht & Beach Club Resorts](#), in Walt Disney World®, Florida.

The special ACEC room rate is \$189, single/double occupancy, plus tax. Make your reservations **early** by calling the Yacht & Beach Club directly at (407) 934 -3372 and reference ACEC. **The cut off date for reservations is August 19th.** ACEC’s discounted hotel rates are available through the cut-off date or until the rooms in the block are sold out, whichever occurs first.

Make your plans now for the ACEC Fall Conference at “The Happiest Place on Earth!”



Vote "YES" on State Question 723 in September

On September 13th, Oklahomans will have the opportunity to create a long-term solution to the transportation infrastructure crisis by approving State Question 723 (SQ 723).

While the Oklahoma Legislature provided additional funding this session (see Legislative Report on Page 1 for details), SQ 723 provides a secure, constitutionally protected influx of funding which can't be changed at the whim of future Legislatures.

WHAT THE LEGISLATURE GIVES TODAY, THE LEGISLATURE CAN TAKE AWAY TOMORROW!!!

But, what the PEOPLE provide through the Oklahoma Constitution, ONLY the PEOPLE can change at the ballot box!!!!

SQ 723 sets up safeguards that no Legislative action can change, such as:

- * SQ 723 is Oklahoma's "lock box" trust fund for the future. Creates a constitutional trust fund that locks current funding levels and all new money solely to bridges and roads maintenance. Unlike the so-called "lock box" created by the Legislature, this "lock box" can only be changed by a VOTE OF THE PEOPLE!!!!
- * Protects our road funding from the Legislature diverting it to the General Fund, OR, not living up to promises made.
- * Raise approximately \$150-170 million per year to be used solely for the maintenance, construction of Oklahoma's bridges and roads.
- * Fund allocation - 80 % state maintenance budget/10 % counties/10 % cities & towns.
- * When fully funded in 2008, roads and bridges will have \$344 million annually. This means significant progress and rebuilding of our roads!
- * Protects current and future funding from being used to pay off old bond debt.
- * 5-cent gas tax increase is minimal and gradual over three years. In 2008 when fully implemented it will cost the average motorist approximately \$2.50 per month—about the cost of a hamburger.



* 8-cent diesel tax is gradual over three years. It is more than fair to ask truckers to pay the same amount as motorist given their 18-wheel axels do far greater damage to roads than motorist traffic.

Just how bad are Oklahoma's bridges and roads?

- * They are the worst in the nation!
- * We have the worst bridges in the nation – 1,100 need to be replaced today!

* More than half our roads are listed in critical or poor condition. These roads are 56% more likely to cause traffic accidents!

* Oklahoma's traffic fatality rate is 7% higher than the national average!

* Oklahoma road fatalities *not* involving excessive speed or alcohol total more than 3,000 people in the last seven years. These are deaths that road design and condition played a direct role!

* Everyday more than 350,000 school children ride buses on our dangerous roads and bridges!

* Approximately one-third of Oklahoma's 6,728 bridges (1,116) need immediate repairs, 481 need to be replaced immediately. The average cost to replace one bridge is \$2 million. The average cost to repair one bridge is \$250,000.

* Vehicle travel on Oklahoma highways increased 38 percent from 1990 to 2002!

* Oklahoma is one of the few states in the nation with a diesel fuel tax that is lower than the tax on regular unleaded fuel. Large trucks do far greater damage to roads than regular motor traffic!

* Commercial trucking in Oklahoma is expected to increase 48 percent by 2020!

ACEC OKLAHOMA is a member of the coalition supporting the passage of SQ 723 and all members are encouraged to support SQ 723 both financially and by asking your employees, family, friends and neighbors to vote "YES" on September 13th!!!!