

THE FIRST WORD

June, 2007

2007 Session Closes with No Resolution of Tort Reform

The 2007 session of the Oklahoma Legislature came to a quiet close on Friday, May 25th, marking the end of a relatively quiet session for engineering profession and ACEC OKLAHOMA.

After all was said and done, there were no major "hits" for the profession, even though at least one bill we would have liked to see passed was vetoed by the Governor.

Here's a recap:

ENGINEERS & SURVEYORS EXEMPTION

Senate Bill 95 would have eliminated the exemption for Engineers and Land Surveyors from the state's trespassing statutes. Several years ago, statutory language was enacted to provide engineers and land surveyors, in the normal course of their professional services, to enter property without permission of the owner unless specifically forbidden by the land owner either orally or in writing.

This exemption got caught up in a dispute this session which really dealt more with trespassing by hunters and fishers and "private property rights" than anything to do at all with engineers/land surveyors performing their professional duties.

As reported last month, after a flood of calls from engineers and land surveyors across the state, the House amended the bill to reinstate the exemption for engineers/land surveyors which had been removed by the Senate.

Eventually, the Senate concurred with the House amendments, and passed the bill. But then, the Governor vetoed the bill.

Normally, one would think that a veto would be a bad thing, but in this case, the veto had absolutely no impact on engineers and land surveyors. In fact, at that point we didn't really care what he did with regards to the bill.

Here's where it gets a little tricky to explain and why the Governor's veto was a "mute point":

1. The Exemption has been in Statute for several years.
2. The Senate version of SB 95 removed the exemption.
3. The House added the exemption back into SB 95 (remember, the exemption is already in Statute, so in effect, the House was saying "leave the existed Statute in place."
4. The Senate agreed with the House and left the exemption in place.
5. The Governor vetoes SB 95 and the Legislature does not attempt a veto override.
6. With the veto of SB 95, all current law remains in place, meaning that the exemption is still there since it was already in Statute.

So, as you can see, the veto of SB 95 had no impact whatsoever. After all of that, the exemption is still in Statute, and absolutely nothing has changed.

It was a big victory, however, for ACEC OKLAHOMA as the Legislature listened to our objections and agreed that the exemption should be left in place.

TORT REFORM

As reported last month, the Governor vetoed the comprehensive tort reform package which included many issued which ACEC OKLAHOMA strongly supported.

While the Governor indicated that he agreed with well over

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Legislative Session Wrap-Up (Cont)

90% of what was included in the bill, he had a problem with two major components, most significantly, the issue of "hard caps" on non-economic damages.

In the waning days of the session, attempts were made to reach a compromise with the Governor, including an increase in the "cap". However, efforts failed, and tort reform died for the session.

HIGHWAY FINANCE

The agreement from last session which provided huge increases in the funding levels for ODOT were preserved, and ODOT will receive an increase over last years levels, the increase will not be as big as hoped.

As you will remember, the agreement last year provide that ODOT will receive \$17.5 million in new revenues each year, with the caveat that if state revenues grow by more than 3% in the fiscal year, ODOT would receive an additional \$35 million above the \$17.5 guarantee.

Unfortunately, in February when the budget estimates were released, state revenue growth fell short of the 3% threshold, meaning that the additional revenues for ODOT for this budget year would be held to \$17.5 million.

Late in the session, it looked like there might be an opportunity to recapture the additional \$35 million, as the budget estimates had grown beyond the 3% threshold. However, that opportunity didn't come to pass, and ODOT's funding was only increased by the "guaranteed" \$17.5 million.

So, it's a good news/bad news situation.....The good news is that ODOT gets an additional \$17.5 million, but the bad news is that the ODOT repair and maintenance program will not be accelerated since the additional funding did not come through. That just means that it will take a little longer to reach the long-term repair and maintenance objectives.

That's the wrap on the 2007 session.

We thank all ACEC OKLAHOMA members for their continued support, and for responding to the "Calls for Action" we issued during the session.

Your voice was heard at the Capitol and because of your efforts the engineering community safely weathered another Legislative Session.

ACEC OKLAHOMA Visits Congress

ACEC OKLAHOMA leaders and members spent Tuesday, May 8th and Wednesday, May 9th on Capitol Hill visiting the members of the Oklahoma Congressional Delegation during ACEC's annual Consulting Congress Day activities.

ACEC OKLAHOMA's delegation included Chairman-Elect Darold Davis, ACEC National Director Mike Homan, Alan Soltani, Mike Vahabzadegan, and ACEC OKLAHOMA President Jim Sullins.

During the visits ACEC OKLAHOMA met personally with Senator Jim Inhofe, Congresswoman Mary Fallin, and Congressmen Frank Lucas and Dan Boren. There were several Congressional Committees meeting which preclude personal visits with Senator Coburn and Congressmen Sullivan and Cole. However we did have productive meetings with their key staff members, all of whom expressed apologies for the Committee meeting conflicts.

Several important issues on ACEC's Legislative Agenda were discussed including the Shortage of Engineering Graduates, Transportation Funding Shortfall, and the Water Infrastructure Crisis.

The #1 issue on the agenda, however, is overturning the 3% Withholding Mandate which requires that federal, state, and local governments withhold 3% of payments for goods and services.

ACEC OKLAHOMA expressed our deep concerns with the Mandate which will have major negative impact on all firms which do government projects, and will be especially harmful to small firms.

Upon hearing our concerns, Senator Jim Inhofe and Congressman Dan Boren immediately instructed their staff to have them added as co-sponsors of the bills to repeal this onerous mandate (S 777 & HR 1023). Additionally,



Congresswoman Fallin and Congressman Lucas are strongly considering co-sponsorship.

Overall, ACEC OKLAHOMA had very productive meetings with the Oklahoma Congressional Delegation.

And, a special THANKS to Darold, Mike, Alan, and Mike for taking time away from their firms to represent all members of ACEC OKLAHOMA!!!!

State Board of Licensure Sets Public Hearing on Residential Foundations

The State Board of Licensure for Professional Engineers and Land Surveyors will be holding a Public Meeting regarding the problem with some residential foundation systems that do not meet the minimum requirements of local residential building codes.

The public meeting will be held Friday, July 6, at 1:00 p.m. at the Oklahoma Engineering Center, 201 NE 27th St., Oklahoma City. NOTE: The meeting was originally scheduled for Friday, July 13th but was changed to July 6th due to a scheduling conflict.

For reference, an article regarding this issue was published in the First Quarter 2007 newsletter, entitled "A Dilemma in Residential Foundations", which may be found on the State Board's website at <http://www.pels.state.ok.us/admn/newsletter.html>.

Remove Barriers and Get the Highest Fees

If you catch yourself doing any of these three things, you are making it harder for yourself to make money on your current projects and grow your business from future work:

1. Reacting to cash flow problems. Once you begin working for the client at a substandard rate, it will be difficult if not impossible, to significantly raise fees for that particular client.
2. Using lower fees to build/grow your client base. This strategy may increase the size of your client list, but can create problems along with it.
3. Discounting fees for smaller businesses. Successful A/E firms base their fees on the economic value they provide as opposed to the economic status of the client. You're running an A/E firm, not a charity.

Getting Paid What You're Worth from PSMJ gives you the tools and guidance you need to promote, position, and package your services so that client will pay the price you ask on every project.

Through June, get this valuable resource for just \$187. You save more than 25% off the regular price of \$257! To get your copy, visit <http://www.psmj.com/publication/?id=28>, e-mail customerservice@psmj.com or call (800) 537-7765. Be sure to mention Priority Code 352993 to get your special price.

Campaign Underway To Support Critical Study On QBS

Member Firms Urged to Submit Projects

Continued challenges to Qualifications-Based Selection (QBS) recently led ACEC to commission a university research initiative on QBS, and your help is needed to assure that sufficient accurate data is available for the research. Researchers from the University of Colorado and Georgia Tech are conducting important empirical research on the value of QBS that will clearly illustrate the benefits for public and private owners. Researchers are seeking data on as many projects as possible, including life-cycle costs, client satisfaction, schedule, and the achievement of community/societal goals such as sustainability.

ACEC OKLAHOMA strongly encourages members to participate in the study which will involve data collection on projects from throughout the nation. Members can submit projects to the research effort by going to www.qbsstudy.com. The process takes only a few minutes, and all information will remain strictly confidential. Both successful and unsuccessful projects are needed.

To date, response to the call for projects has been less than stellar! ACEC's research team needs at least 500 different projects of all "shapes and sizes" for the data to be sufficient, and to date they are less than half way to that goal.

Colorado University Professor Paul Chinowsky, who is leading the research effort, is available to answer questions about the study at paul.chinowsky@colorado.edu. Further information is available by contacting ACEC's Steve Hall, shall@acec.org or Jeffrey Beard, jbeard@acec.org.

Welcome New Members

ACEC OKLAHOMA welcomes two new member firms to the Council:

JAG Engineering, LLC is a one-person firm headed by Orin Johnston, III. JAG provides Structural engineering design, inspections and reports from their offices located at 6600 N. Meridian in Oklahoma City.

Shepherd Geotechnical Engineering, Inc., has been opened by Jerry Shepherd. The two-person geotechnical engineering firm is located at 4308 N. Classen in Oklahoma City.

ACEC OKLAHOMA is excited to have both JAG Engineering and Shepherd Geotechnical Engineering as our newest member firms.

PRESIDENT'S MONTHLY UPDATE

David Raymond, ACEC President & CEO

June, 2007

General

- A record 1200 members participated in ACEC's May Convention in Washington, which featured: guest speakers George Will and Chris Matthews; the Engineering Excellence Awards gala; successful lobbying on Capitol Hill; and introduction of a popular new video titled, "ACEC- — The Voice of the Engineering Industry," which is being sent to all MOs for use in membership recruitment and general meetings.
- The Board of Directors unanimously passed ACEC's new budget for FY 2007-2010; addressed the issue of extending the Council's reach further into the employee base of member firms; and the need for additional project examples to be contributed by MOs to an important QBS study being conducted by the University of Colorado and Georgia Tech.
- The ACEC Life/Health Trust announced that it was replacing Trustmark and Health Plan Services with United Healthcare as the insurer and service provider for Trust programs effective August 1, 2007 (See *Last Word*, June 1, for further information).

Government Affairs

- ACEC's lobbying efforts at the Spring Convention added new congressional co-sponsors for repeal of the 3% withholding mandate (co-sponsors now number over 100); the bill's sponsor, Rep. Kendrick Meek (D-FL), briefed ACEC members prior to their Hill visits.
- Sponsored and participated in the *Vision and Strategy for the 21st Century Conference*, in Cambridge, MD., with AASHTO, ARTBA, AGC and others, in an effort to shape a long-term plan for the nation's transportation system.
- Rep. Dave Reichert (R-WA) introduced the Good Samaritan Protection for Construction, Architectural, and Engineering Volunteers Act (H.R. 2067), which ACEC helped to draft to provide needed liability relief for engineering firms that volunteer in the aftermath of a declared disaster.

Other

- ACEC's 2007 Professional Liability Insurance Survey of Member Firms received a record 700 responses, and findings will be summarized in the July/August issue of *Engineering Inc.*

ACEC Life/Health Trust Announces New Carrier

By now, all member firms who carry their health insurance program through ACEC's Life/Health Trust have been notified that effective August 1, 2007, the official national healthcare insurer for the Trust will be UnitedHealthcare.

UnitedHealthcare will be responsible for all services and products presently provided by HealthPlan Services and Trustmark.

According to an e-mail from Pat Feyen, President of the ACEC Life/Health Insurance Trust, this transition will allow all ACEC Life/Health Trust member firms to have access to UnitedHealthcare's affordable, quality health benefit plans for their employees and dependents. The long-term partnership with United will also allow the Trust to improve its ability to manage rising healthcare costs.

The Trust's agreement with UnitedHealthcare establishes dedicated customer service, sales, and resolution teams which are committed to improving the experience and satisfaction of our members.

In addition, the Trust will expand the sales distribution system to include all UnitedHealthcare Platinum brokers and agents—United's top performing network.

Finally, ACEC member firm's employees and dependents will have access to "Options Plus"—United's premier network of physicians, hospitals, and ancillary providers.

While there are a lot of questions yet to be answered, the Trust has put together an FAQ which can be accessed at http://www.healthplan.com/user-docs/003920_UHC_Transition_FAQs.pdf

As more information becomes available, both the Trust and ACEC OKLAHOMA will pass it along.