

THE FIRST WORD

March, 2006

Legislative Session In Full Swing

The 2006 Legislative Session is in full swing and the first major deadline of the session has passed in the Senate and is looming in the House. As reported last month, nearly 2,200 bills were introduced and when combined with “carry over” bills, the Legislature faced some 3,400 measures. But last Thursday when the Senate deadline for bills to be out of Committee in their “house of origin”, nearly 1,000 bills failed to move and “died” for the session. The House deadline is Thursday, March 9th, and a similar number of bills will probably “die” at that time. While several bills ACEC OKLAHOMA was watching failed the deadline, there are still many issues facing the 2006 Legislature which we are tracking closely. Here’s an update:

HIGHWAY FINANCE – While there are still a myriad of proposals alive at the Capitol, things are starting to “shake out” a little.

HB 2940, by Rep. Mark Liotta, R-Tulsa, reduces the percentage of vehicle license and registration fees apportioned by the Tax Commission to the General Revenue Fund to 29.84 percent, down from 44.84%. The measure directs that 15 percent of fees collected by the Tax Commission be apportioned to a new County Transportation Improvement Fund. It apportions funds generated by gasoline taxes to a new High Priority Bridge Replacement Fund and determines the total apportionment to the Rebuilding Oklahoma Access and Driver Safety Fund to be \$200 million annually.

By redirecting some the vehicle license and registration fees that go to the General Fund, the State Transportation Fund would receive approximately \$100 million in additional money each year, with counties getting a portion of the redirected funds.

There are also several very important changes which are implemented in this bill, which should not get lost by just “looking at the dollars!” Those are:

1. Creation of two new funds – The County Transportation Improvement Fund and High Priority Bridge Replacement Fund to be used for only very specific purposes.

2. Increases from \$35 million to \$50 million the annual apportionment from the General Fund.

3. Specifies that the funds can ONLY be used for the construction and maintenance of state roads, bridges and highways; direct expenses of operating and maintaining the state highway system, including bridges; direct expenses incurred in constructing, repairing, and maintaining state highways, farm-to-market roads, county highways and bridges as authorized by law; matching federal funds; and purchase of materials, tools, machinery, motor vehicles, and equipment necessary or convenient for the construction and maintenance of the state highway system and bridges. The money will only be used for “hard assets”, not for administration and/or additional personnel.

HB 2940 has passed out of Committee and is awaiting action by the full House of Representatives where passage is virtually assured.

SB 1028, by Sen. Daisy Lawler, D-Comanche and Rep. Ryan McMullen, D-Burns Flat, modifies apportionment of taxes on gasoline and diesel to delete the requirement that certain funds be deposited in the general revenue fund; modifying apportionment of taxes on special fuels.

This is another very important piece of the various funding proposals as it removes the motor fuel taxes from the apportionment process by directly depositing the taxes into the State Transportation Fund. Under current law, the taxes are deposited into the General Fund, and then appropriated annually by the Legislature to the Transportation Fund. SB 1028 takes the Legislature out of the process and sends the money directly from the Tax Commission to ODOT.

SB 1028 has passed the Senate, and has been sent to the House.

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Legislative Report (Cont)

SJR 0058, by Sen. Kenneth Corn, D-Poteau and Rep. Danny Morgan, D-Prague, proposes a constitutional amendment to create an Oklahoma Safe Roads Trust Fund and prohibit the use of motor fuel tax revenue except for construction and maintenance of state roads, bridges and highways; the direct expenses of operating and maintaining the state highway system, including bridges; direct expenses incurred in constructing, repairing and maintaining state highways, farm-to-market roads, county highways and bridges; matching federal funds, and the purchase of materials, tools, machinery, motor vehicles and equipment necessary or convenient for the construction and maintenance of the state highway system and bridges. The legislature would be prohibited from using the trust fund to replace other funds supporting transportation purposes.

SJR 0058 is similar to SB 1028 except that it creates a Constitutional Trust Fund (Lock Box) rather than a statutory fund. If passed, the proposal would require a “vote of the people” to create the Trust Fund. The upside of SJR 0058 is that the Trust Fund could not be changed without another vote of the people unlike SB 1028 which could be changed at anytime by future Legislatures.

SJR 0058 is awaiting action by the full Senate.

There are a few other proposals still alive that may come into play as the session progresses. And, these three bills are FAR from becoming law! There’s a lot of work and negotiation yet to be done, which may not happen until the end of the session. But, needless to say, these are very good “first steps.”

PROFESSIONAL LICENSURE – HB 2530, by Rep. Doug Miller, R-Norman and Sen. Cliff Branan, R-Oklahoma City, was requested by The State Board of Licensure for Professional Engineers and Land Surveyors making amendments to last year’s rewrite. ACEC OKLAHOMA is following this closely and supports the amendments. The bill has passed the full House and is now in the Senate.

USE OF THE TERM “ENGINEER” BY NON-LICENSED ENTITIES – SB 1881, by Sen. Charlie Laster, D-Shawnee and Rep. Shane Jett, R-Tecumseh, exempts from state regulation the use of the term “engineer” in the name of any manufacturing company that does not engage in the practice of engineering.

This bill was requested by a constituent of the Senate sponsor whose company name has the word “Engineering” in the title, even though the company is a manufacturing

company that does not offer engineering services. The company moved to Oklahoma from out of state, had a registered professional engineer on staff, and, acquired a “Certificate of Authorization” as required by statute. However, since that time, the registered professional engineer has left the company, and the company could not renew their “CA” since they had no one in “responsible charge.” This also put the company in conflict with the prohibition of using the term “engineer” as the company name still includes “engineering.”

The company wants to maintain the word “engineering” in their name without having to meet the requirements of the statutes, and is asking for an “exemption”.

The State Board has attempted to work with the sponsor and the company to reach a solution without changing the statutory requirements and opening up the use of the term “engineer” for anyone and everyone to use. Negotiations are ongoing, and hopefully a solution will be reached without damaging the protections of current law.

SB 1881 had the “title stricken” in Committee by the sponsor who stated that they were working with the State Board to try to reach a solution. Without the “title” a bill cannot become law and generally means that the bill will end up in a Conference Committee. The “crippled” bill passed the Committee, and is awaiting action by the full Senate.

ACEC OKLAHOMA opposes any dilution in the protection of the use of the term “engineer” and believes that only properly licensed individuals and companies should be able to use the terminology. In our opinion, it’s no different than someone calling them self a Doctor or Attorney without being properly licensed as such. ACEC OKLAHOMA will monitor the State Board’s continuing negotiation, and will only call for action by our members and the engineering profession as a whole if it looks as though the bill will pass in its current form.

Additionally, there are two other bills which have the potential of impacting the Licensing statutes and/or Board. ACEC OKLAHOMA will be working with the sponsors to determine the intent of their bills, and then will take appropriate actions.

WORKER’S COMPENSATION – ACEC OKLAHOMA is watching three bills which address the “third party liability” issue which ACEC OKLAHOMA championed in the early 1980’s. These bills, at least at this time, don’t negatively impact the current statute, but we will keep a very

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Legislative Report (Cont)

close eye on these as things can change very quickly. The bills have made it out of their initial committees and are awaiting floor action. ACEC OKLAHOMA continues to watch these closely.

QUALIFICATIONS-BASED SELECTION – SB0558, by Sen. Frank Shurden, D-Henryetta and Rep. Mark Liotta, R-Tulsa, was requested by the Department of Central Service's Construction and Properties Division to make changes in both the State Consultants Act (QBS) and the Competitive Bidding Act. The bill is a "carry-over" from last session, and seems to have picked up some momentum. ACEC OKLAHOMA has been involved in this since last session, and supports the modifications in the State Consultants Act. There is no negative impact of the changes, and in fact, the DCS proposal expands the use of QBS and clears up some "grey" areas, such as with regards to aerial surveying.

This bill is awaiting action by the full Senate.

ARCHITECT'S ACT – SB1991, by Sen. Mike Morgan, D-Stillwater, creates an Oklahoma Interior Designers Act and providing that certain building Code Use Groups are subject to act; providing that certain Code Use Groups and buildings are exempt from act.

This bill addresses two long-standing issues concerning the State Architectural Act as well as with the licensure of Interior Designers. These issues have been around for several years without resolutions, but there are hopes that some agreements can be reached this session to solve at least some of these issues.

If passed, the bill would attempt to resolve the long-standing dispute between "building designers" and Architects as to when an Architect is required on a project. As you might remember, the Architects Act specifically defines a variety of "buildings" for which an Architect is required. If a "building" is not on the list, such as a strip mall, then "building designers" contend they can design them in lieu of an architect regardless of a variety of health, safety and welfare questions and issues. This bill would adopt Code Use Groups as the basis for whether or not an architect is required instead of the current "generic" terms in the definition of a "building." Additionally, the bill would provide for the licensure of Interior Designers, which architects have traditionally opposed.

At present, the bill has passed the Senate Committee with the "title stricken", and is awaiting full Senate action. But, the bill is a long way from being a "done deal." The

architects, building designers, and interior designers still have a variety of issues to resolve, but the bill is moving to allow time for continued negotiation.

That's the update for now. The next deadline comes on March 16th when bills must have cleared their House of Origin. At that time, even more bills will fall by the wayside.

If you have any questions regarding the bills discussed above or any other bill of interest to you, please do not hesitate to contact ACEC OKLAHOMA.

DEQ To Hold Arsenic Conference

The Oklahoma Department of Environmental Quality (DEQ) has asked ACEC OKLAHOMA to extend an invitation to all members to an informational meeting at the Oklahoma Department of Environmental Quality headquarters regarding the U.S. Environmental Protection Agency's new Arsenic rule.

The new Arsenic rule mandates that the acceptable level of Arsenic in drinking water be lowered to **0.010 mg/L or 10 parts per billion (PPB)** as of **January 23, 2006**. The rule also introduces new sampling schedules, determinations on compliance, and grandfathering of data. Some of the topics we will cover include:

- History of Arsenic
- Naturally Occurring Arsenic
- Sampling Techniques
- Legal Issues
- Treatment Techniques
- What you can expect from the DEQ

The meeting will start **promptly at 9:00 a.m. Friday, March 10, 2006** at the Oklahoma Department of Environmental Quality main offices at 707 N. Robinson Ave. Oklahoma City, Oklahoma 73102.

If you have any questions, please contact Shawn Brandt at DEQ via e-mail at: Shawn.Brandt@deq.state.ok.us or call at (405) 702-8164.

Mark Your Calendar!!!!

The ACEC OKLAHOMA Annual Joint Convention with Missouri, Arkansas and Kansas will be June 1-3, 2006 at the Chateau On The Lake in Branson, MO. Detailed program and registration information will be coming in April.

2006 ZweigWhite Policies, Procedures & Benefits Survey

How do you draw the line between offering benefits to attract the right staff to your firm and costly expenses that will break the bank?

The [2006 Policies, Procedures & Benefits Survey of Architecture, Engineering, Planning & Environmental Consulting Firms](#) will help you benchmark your firm against industry standards so you can find out if you're overspending on benefits and compensation. The survey will also provide you with industry norms on policies and procedures so you can support your policy decisions with hard data. Get all the benchmarks you need on compensation policies, benefits, HR staff, recruiting policies, and other major HR issues.

- ⇒ Identify HR operating expenses that you can—or can't—afford to cut.
- ⇒ Benchmark your firm's medical, dental, and life insurance packages against those of your peers to see if you can cut back on this costly expense.
- ⇒ Support your firm's paid time off procedures and other firm policies with hard data on industry norms. Find out if firms are projecting salary increases for 2006 and make sure your salary budgets are in line.

Contents: Company policy manual - Sexual harassment policies - Computer use policies - Unusual benefits - Telecommuting - "Summer hours" - Time sheet collection and pay schedules - Work-related travel - Per diem policies - Human resources department - HR budget - HR spending - HR software - Recruitment databases - Background checks - Referral compensation - Best sources of new hires - Employment agencies/search firms - Employee relocation - New employee probation - Performance review policies - Layoffs - Severance pay - Exit interviews - Salary reviews - Bonuses - Hourly staff - Overtime pay - 401(k) plans - Employee Assistance Programs - Service awards - Company cars - Cellular phones - Company credit cards - Health insurance - Dental insurance - Life insurance - "Cafeteria" plans - Vacation policies - Holidays - Sick leave - Maternity leave - Paternity leave - Tuition/fee reimbursement - Professional registration - Professional society memberships

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The Transportation Revenues Used Strictly for Transportation (TRUST) coalition praised Oklahoma legislators for unanimous passage of a plan that doubles investment in Oklahoma's transportation needs over the next five years.

The Appropriations and Budget Committee passed House Bill 2940, the next step in a \$300 million Republican plan that will double investment in road maintenance and repair over the next five years. The new money comes on the heels of an extra \$111.8 million provided for road maintenance and bridge repair during the 2005 legislative session.

Tom Love, TRUST co-chairman and chief executive officer of Love's Travel Stops and Country Stores said, "To see unanimous support for road and bridge funding is so encouraging. I commend Rep. Liotta for his leadership and the entire appropriations committee for what they have done today. This is a tremendous step forward in rebuilding our states roads and bridges."

The TRUST coalition is advocating more of Oklahoma's \$1.2 billion in road taxes and fees collected annually be spent on road and bridge maintenance. As such, the coalition lauded a key component of the bill, which would double the percent of motor vehicle tag revenue county governments receive from 15% to 30%, as a significant step toward achieving the coalition's agenda of reallocating all motor vehicle fees currently diverted to the state's general revenue fund to transportation. Doubling the counties' portion will provide an extra \$85 million to \$100 million per year.

TRUST will host a Grassroots "**Day at the Capitol**" on **March 28th**. ACEC OKLAHOMA members are urged to plan on attending and being "citizen lobbyist" that day. Following a breakfast briefing session, the "citizen lobbyist" will be asked to visit individual legislators and garner support for permanent increases in road and bridge funding.

Detailed registration information will be e-mailed to all ACEC OKLAHOMA members soon.

For more information on TRUST and to learn how your firm can assist in supporting the TRUST coalition, visit their website at www.restoretrust.org.