

THE FIRST WORD

May, 2004

LEGISLATIVE ALERT!!!!

Your Action Needed on Tort Reform, Circuit Engineering, Motor Fuel Taxes

The Oklahoma Legislature is in the final weeks of the 2004 session, with the Constitutional May 28th deadline rapidly approaching.

ACEC OKLAHOMA is actively working three issues – Tort Reform, Circuit Engineering, and a Motor Fuel Tax Increase.

THIS IS A CALL TO ARMS ON ALL THREE ISSUES!!!! Oklahoma Consulting Engineers need to be heard on these issues, and heard NOW!!!! Time is short, and your voice can make the difference on all three of these important issues.

Below is an overview of each of the issues, and the legislative contacts which need to be made.

TORT REFORM – HOUSE BILL 2661

As detailed in the LEGISLATIVE ALERT sent to all members last week, for the first time in many years, the Oklahoma Legislature is having serious and thoughtful discussions regarding Tort Reform, and now is the time for Oklahoma's Design Community to be heard.

The business and medical communities are rallying for meaningful Tort Reform and are up against strong opposition from the Trial Lawyers. Governor Henry opened the door for meaningful reform in January, and even though he is a trial lawyer by profession, his intentions seem sincere. Now, the decision is in the hands of the Legislature, and the May 28th adjournment is rapidly approaching.

For the past three weeks, the **Joint Committee on Lawsuit Reform** has been hearing the pros and cons of Medical Malpractice Tort Reform from the medical and legal professions. April 29th the Joint Committee turned it's attention to frivolous lawsuits, and this coming Thursday, May 6th, joint & several liability, product liability, class action, loser pays, and other issues will be heard.

ACEC OKLAHOMA has identified two issues that are of the greatest importance to engineers, architects and land surveyors – Joint & Several Liability Reform and Frivolous Lawsuit Reform. While all of the other issues are very important and

have some impact on the A/E/LS community, these two issues have the most regular and immediate impact on our profession.

I will briefly highlight the two issues:

Joint and Several Liability Reform: Provide that a defendant shall be liable only for its proportionate share of damages unless the plaintiff is more than 50 percent liable, in which case joint and several liability shall apply to such part only – unless a crime has been committed, in which case joint and several liability applies to all plaintiffs whose actions would constitute a felony. This is basically the provision Texas recently adopted.

Frivolous Lawsuit Reform: Amend current Oklahoma law regarding frivolous lawsuits so the court shall award attorney fees when the court finds there was no objectively reasonable basis for asserting the claim, defense or ground for appeal. By the phrase "objective reasonableness" the court must examine whether a reasonable person would consider the claim or defense reasonable, not whether the party asserting the claim subjectively considered it so. The provision reflects the Oregon law.

ACEC OKLAHOMA MEMBERS NEED TO BE HEARD FROM NOW!!!!!!!!!!!!

ACEC OKLAHOMA has provided members with a "SAMPLE" letter and a list of the Joint Conference Committee members. The information is also posted on the "STATE LEGISLATIVE ISSUE" page of the ACEC OKLAHOMA website.

PLEASE WRITE OR CALL each member of the Joint Conference Committee TODAY urging their support of fair and equitable Lawsuit Reform!!!!

CIRCUIT ENGINEERING – HOUSE BILL 2274

ACEC OKLAHOMA is working closely with the Oklahoma Association of General Contractors to "KILL" HB 2274, which would give broad, sweeping authority to Circuit Engineering

LEGISLATIVE ALERT (cont)

Districts to spend County Bridge & Road Improvement Funds on items not related to county roads and bridges.

There are three issues within the bill, which is in Conference Committee which concern ACEC OKLAHOMA and AGC:

1. Raise the threshold from \$50,000 to \$100,000 from repairs and improvements that can be built by day labor, force account, and purchase by the county of materials. Obviously if counties are granted the higher limits, small contractors could be pushed out of the market by counties doing their own construction.

2. Allow the counties to use CBRI funds for **“Any cost or expense incurred by a circuit engineering district.....including, but not limited to, costs for administration, program management, engineering, and construction inspection.”**

ACEC OKLAHOMA and the AGC strongly opposed this change as it would allow counties to use the limited CBRI funds for ANY expense incurred by the Circuit Engineering Divisions. “ANY” is a broad word, and we are concerned that CBRI funds that should be used strictly for county roads and bridges will be used for a myriad of “non-essential” activities.

For example, the county representatives told the Senate Committee that with this change Circuit Engineering Districts might start their own sign shops or use the money for GIS information. We believe that setting up a full-time, fully staffed sign shops, for example, is not an appropriate use of the limited CBRI funds. CBRI funds are not meant to be used for general overhead expenses.....they are meant to be used to REPAIR AND REBUILD COUNTRY BRIDGES AND ROADS!!!!

Let’s carry it one step further. Imagine that the Circuit Engineering District decides that it needs a new vehicle for the District. Nothing would prevent the District from buying a \$100,000 Hummer for the District Engineer or other staff to ride around in!

Under the current language in the bill, nothing would prevent that from happening! There is no Legislative or Administrative oversight as to how the funds are spent, so effectively this bill is giving the counties a “blank check” for the CBRI funds.

3. Language in the current statute, which is reiterated in HB 2274, “seems” to tie the requirement for professional engineering services to the \$50,000 and proposed \$100,000 threshold. In fact, the counties are currently interpreting this language to mean that if the project is under the threshold, NO PROFESSIONAL ENGINEER is required for the development of plans and specifications.

The State Board of Registration for Professional Engineers and Land Surveyors was made aware of this through an inquiry made by the Association of County Commission of Oklahoma (ACCO), and the State Board was shocked to learn of this interpretation.

It is the State Board’s position that the “Practice of Engineering” is clearly defined in their statute, and that an artificial monetary threshold stipulated in another part of the Oklahoma Statutes clearly is in conflict with the State Registration Statutes. ACEC OKLAHOMA fully agrees, and believes that anyone not Registered Professional Engineer that is developing plans and specifications for county projects under the \$50,000 threshold is in clear violation of the Registration law.

The House has named 10 members to their Conference Committee, while the Senate has sent it to the General Conference Committee on Appropriations (GCCA) composed of all Senators. ACEC OKLAHOMA has written all Conferees, both House and Senate, urging them to “NOT SIGN” the Conference Committee Report.

ACCO is circulating a Conference Committee Report that we STRONGLY OPPOSE. If ACCO can get enough signatures in the House and Senate, the bill would go to the floor in each body for final action.

ACEC OKLAHOMA and AGC believe that we have enough commitments not to sign the report from the House Conferees to hold the bill “hostage”, but things can always change. The County Commissioners are very strong, and we can’t afford for any of our commitments to bend to the ACCO pressure.

Please contact all House Conferees, as well as all Senators and urge them to ‘NOT SIGN” the Conference Committee Report. Again, a list of Conferees is posted on the ACEC OKLAHOMA website.

MOTOR FUEL TAX INCREASE

Or, as it will be known soon: HIGHWAY SAFETY IMPROVEMENT ACT, or something to that effect. The “powers that be” have realized that trying to pass a MOTOR FUEL TAX INCREASE is at best very difficult, but that selling a HIGHWAY SAFETY IMPROVEMENT ACT to the Legislature and Voters may be more palatable. And, in fact, they are correct. This issue is all about improving the safety of Oklahoma’s highways!!!

Three bills are now in Conference Committee, and meetings are being held almost daily to develop a package that will meet the needs of ODOT in the future, AND, has a chance of being passed by the voters of Oklahoma. This is a very difficult task, and only time will tell as to what the final package includes.

However, if the Legislature sends it to a vote of the people in November, ALL ACEC OKLAHOMA members will need to become engaged in the effort to convince the voters to approve the measure.

That’s how things stand with 24 days left in the session. PLEASE WATCH FOR ADDITIONAL LEGISLATIVE ALERTS, and respond when we ask for your assistance.

TRI-STATE CONVENTION SET FOR JUNE 10-12

Oklahoma, Missouri & Arkansas to meet in Branson

ACEC OKLAHOMA will be joining ACEC/Missouri and ACEC/Arkansas for the annual 2004 ACEC Midwest Meeting, June 10-12, at the Chateau on the Lake in Branson, MO. A great program is awaiting you, along with one of the most beautiful settings in Ozark Mountains of southwest Missouri. And, two outstanding educational programs have been scheduled:

“Better Fiscal Management of Projects: How Can Information Technology Help” by Mike Ingardia will discuss the number off-the-shelf and affordable project accounting software packages available and will show how to make better use of these packages to improve project management duties.

“U.S. Army’s Engineers Perspectives from Four Districts and Engineer Troop Side” will give you a look inside the U.S. Army Corps of Engineers to better understand their missions, capabilities, current activities, and future programs, and, how the private sector consultants fit into the picture.

Registration information has been sent to all members, and we hope that you are planning to attend.

First, YOU NEED TO MAKE YOUR HOTEL RESERVATIONS ASAP!!!! Cutoff for hotel reservations is May 14th, after which rooms will be on a “space available” basis only. Please call the hotel directly at 1-888-333-5253 and tell them you are with the “ACEC Midwest Meeting” to get the special rate of \$139.00 per night (double occupancy).

Below is an outline of the program:

THURSDAY, JUNE 10

- 3:30-6:00 p.m.
- 6:00-7:00 p.m.

Registration

Welcoming Cocktail Reception. A chance to get together with fellow members for cocktails and Hors d’oeuvres on an informal basis.

Sponsored by Lockton Companies

FRIDAY, JUNE 11

- 7:30-9:00 a.m.
- 9:00-11:30 a.m.
- 11:30 a.m.-1:00 p.m.
- 1:00-4:00 p.m.
- 5:30-7:30 p.m.

Breakfast / Program - ACEC Retirement Trust Update

ACEC Board / Membership Meetings

Lunch On Your Own

“Better Fiscal Management of Projects: How Can Information Technology Help” Seminar by Michael Ingardia (3.0 PDHs)

Dinner & Show at Dixie Stampede.

Take an evening to enjoy one of Branson’s most spectacular dinner and show. They will be featuring 32 horses, dozens of cast members, dramatic lighting, sound and pyrotechnics along with a fabulous four-course feast.

Co-sponsored in part by ACEC Business Insurance Center & ACEC Retirement Trust / Prudential Retirement Services

SATURDAY, JUNE 12

- 7:30-9:00 a.m.
- 8:30-11:30 a.m.
- 12:00 p.m.
- 6:30-7:30 p.m.
- 7:30-10:00 p.m.

Continental Breakfast / Program - ACEC Life/Health Trust Update

“U.S. Army’s Engineers Perspectives from Four Districts and Engineer Troop Side” Seminar by COE Districts in Arkansas, Missouri and Oklahoma (3.0 PDHs)

Golf Tournament at Pointe Royale Golf Course

(see separate registration for details)

Sponsored in part by The Insurance Exchange; Ramsey, Krug, Farrell & Lensing; and Van Gilder Agency

Officers/Directors Banquet Reception

Sponsored by ACEC Life/Health Insurance Trust

Multi-State Officers/Directors Installation Banquet

We certainly hope to see you there!!!!!! If you have any questions, please call the ACEC OKLAHOMA office.

ACEC OKLHAOMA WELCOMES NEW MEMBERS

ACEC OKLAHOMA welcomes four new member firms to the organization.

AERIAL DATA SERVICES is a 29-person firm specializing in Aerial Photography, Surveying, and Photogrammetry. Edward Seaton and Eric White are the principal contacts for the firm which is located at 8301 E. 51st Street in Tulsa.

LINX ENGINEERING is headed by Carl Lopez. The Electrical engineering, Design and CADD firm is located at 1002 W. Broadway in Collinsville.

P B S & J, a Texas based firm, has opened an office in Norman. Jim Hunt is the principal at the Norman office, which offers comprehensive consulting services in engineering, planning, construction management, surveying and architectural. The office is located at 1013 Joe Keeley Drive in Norman.

PARADIGM BUILDING SCIENCE & ENGINEERING provides Mechanical Engineering, Facility Engineering Services, and Inspection services from their offices at 1720 Cherokee Trail in Choctaw. Lance LaRue is the principal of the firm.

We welcome each of these firms to the ACEC OKLAHOMA family, and look forward to having them as active members of the organization.

"Member Needs" Survey Now On-line

ACEC OKLAHOMA is asking for your opinions on how we're doing through a "Member Needs" survey. The survey asks your thoughts and opinions on ACEC OKLAHOMA activities, as well as what things are important to you and your business.

We ask that you take about 10 minutes to take the survey "online" by accessing the survey website at <http://2way.citgo.com/2WAYProd/2wTT4W/2Way.html>.

If you have trouble opening this survey, please do the following to your browser setting: Click on Start (in the lower left hand corner) and select Run. In the Open box, type in regs32.urlmon.dll Click Ok. When finished, it will say the update has succeeded.

Your opinion is very important to the Board as we implement the new Strategic Plan, and we hope that you will take time to complete the survey and share your opinions.

OFFICIAL NOTICE OF ACEC OKLAHOMA ANNUAL MEETING

As required by the ACEC OKLAHOMA By-Laws, this shall serve as official notice of the Annual Meeting of the Council, scheduled for 9:00am, Friday, June 11, 2004. The meeting will be held at the Chateau on the Lake, Branson, MO.

The 2004-05 ACEC OKLAHOMA Annual Budget will be presented for consideration and approval, annual reports will be presented, and election of officers for the 2004-2005 year will be conducted.

All members are urged to attend.

NOMINATING COMMITTEE REPORT

The ACEC OKLAHOMA Nominating Committee, Chaired by Immediate Past President Chuck Darr, has completed its work and presents the following slate of officers for the 2004-05 year:

Chairman-Elect
Jerry Farrar, EarthTech, Tulsa

Vice Chairman – Membership
Jim Stewart, PSA Consulting Engineers
Oklahoma City

Treasurer
PENDING

Vice Chairman - Business Practice
Steve Ford, Zahl-Ford, Inc., Oklahoma City

Vice Chairman - Education/P.R.
Tom Hendrick, Wallace Engineering, Tulsa

Mike Arand, Dewberry Design Group, Tulsa, will continue for the second year of a 3-year term as ACEC National Director.

Don Vick, JGVE, Oklahoma City will automatically assume the position of Chairman of the Board at the Annual Meeting, and Mike Homan will continue on the Board Immediate Past Chairman.

The election of officers will take place at the Annual Meeting in Branson, and nominations from the floor will be accepted.