

THE FIRST WORD

August, 2013

August Board & General Membership Meeting Set for Thursday, August 29th

The next ACEC OKLAHOMA Board and General Membership Meeting will be held on Thursday, August 29th in Oklahoma City.

As has become the "August tradition," our guest speaker will be Mike Patterson, Director of the Oklahoma Department of Transportation. Along with Mike, the entire Senior Staff of ODOT will also be in attendance.

Additionally, Secretary of Transportation Gary Ridley has been invited.

The meeting will be held at the Oklahoma Association of General Contractors (OAGC) office at 41st and Lincoln and will begin at 11:45am.

Registration information will be sent soon, so mark your calendars and watch your e-mail for details.

Welcome New Members

ACEC OKLAHOMA is excited to welcome a new Member Firm and new Associate Member firm to the Council.

LEads, LLC of Newcastle is our newest Associate Member. The firm, headed by Elizabeth Eads, provides a variety of Utility Relocation Coordination services.

Aguirre & Fields, LP, is our newest Member Firm. The firm provides Roadway and Bridge/Structural Engineering and Construction Services, from their office in Moore.

We welcome Aguirre & Fields and LEads, LLC to ACEC OKLAHOMA, and look forward to having them as an active members of the Council.

Steel Bridge Forum and PSMJ Project Managers Bootcamp Coming This Fall

ACEC OKLAHOMA is excited to announce to great programs scheduled in September and November.

First, in association with the National Steel Bridge Alliance, ACEC OKLAHOMA will host the **OKLAHOMA STEEL BRIDGE FORUM** on Wednesday, September 11th.

The all-day event will feature a distinguished, nationally recognized faculty covering a variety of topics, including: Girder Design with Application of LRFDSimon; Design Tools for Short-Span Bridges; Design and Detailing Drawings; Bolted Splice Design; Effect of Skewed Supports on Steel I-girder Bridge Behavior; and, Advanced Engineering and Fabrication processes.

Registration fee will be \$60.00 per person and will include lunch and all meeting materials.

On November 14-15 in Oklahoma City, ACEC OKLAHOMA will host the critically acclaimed **PSMJ PROJECT MANAGERS BOOTCAMP**, a two-day, in-depth seminar which compresses a lifetime of experience and insight into two days.

Attendees will gain an understanding of the techniques and strategies of today's most successful projects managers to: Improve your personal project management skills and success; Provide a focus and dynamic approach your whole firm can put into action immediately; Strengthen your technical skills including negotiation, budgeting, scheduling and risk management; and, Refine your "people skills" including marketing, communication, and leadership.

Registration information for both programs will be sent to all members next week, and can be found on the ACEC OKLAHOMA website (www.acecok.org). These are going to be two great programs and hope you will take advantage of these great opportunities!

Oklahoma Supreme Court Rules Tort Reform Unconstitutional Joint & Several Liability & Certificate of Merit Thrown Out Special Session Possible

The Oklahoma Supreme Court struck down a 2009 tort reform measure last month, completely eliminating all of the provision of House Bill 1603, by former Rep. Daniel Sullivan, R-Tulsa and former Sen. Glenn Coffee, R-Oklahoma City, known as the Comprehensive Lawsuit Reform Act of 2009. The bill included numerous provisions impacting the engineering profession include abolishing "Joint & Several Liability" and enacting "Certificate of Merit" requirements.

In a 7-2 ruling, the majority said the Comprehensive Lawsuit Reform Act of 2009 was unconstitutional because it violated the Oklahoma Constitution's single-subject rule by logrolling a numerous subjects into a single piece of legislation.

Writing for the majority, Justice Noma Gurich noted, "The court has long rejected a broad, expansive approach to the single-subject rule." The issue, wrote Gurich, "...is whether a voter, or a legislator, is able to make a choice without being misled and is not forced to choose between two unrelated provisions contained in one measure. The question is not how similar two provisions in a proposed law are, but whether it appears that the proposal is misleading or that the provisions in the proposal are so unrelated that those voting on the law would be faced with an all-or-thing choice...If a bill contains multiple provisions, they provisions must reflect a common closely akin theme or purpose."

The Comprehensive Lawsuit Reform Act of 2009 (House Bill 1603, 2009) did not, Gurich indicated. The measure "...contains 90 sections, encompassing a variety of subjects that do not reflect a common, closely akin theme or purpose." Twenty-four sections, she wrote, "...amend and create new laws within our civil procedure code found in Title 12. Many of these provisions have nothing in common...45 sections create entirely new acts, which have nothing in common with each other, including The Uniform Emergency Volunteer Health Practitioners Act, the Common Sense Consumption Act, The Asbestos and Silica Claims Priorities Act, The Innocent Successor Asbestos-Related Liability Fairness Act and The School Protection Act...Other dissimilar sections of HB 1603 amend the Mandatory Seat Belt Use Act and the Oklahoma Livestock Activities Liability Limitation Act, limit the liability of firearms manufacturers and amend existing laws regarding school discipline"

The bill encompassed so many different subjects "...that severance is not an option," wrote Gurich. "It would be both dangerous and difficult for this Court to engage in the exercise of severance in this case. By picking and choosing which provisions relate to lawsuit reform and which do not, this Court would essentially become the policymaker. Policymaking is the job of the Legislature."

Gurich concluded by writing, "The Legislature should be well aware of the single-subject requirements of the Oklahoma Constitution. We do not doubt that tort reform is an important issue for the Legislature. But the constitutional infirmity of logrolling, which is the basis of this opinion, can only be corrected by the Legislature considering the acts within the (Comprehensive Lawsuit Reform Act of 2009) separately."

State Chamber President and Chief Executive Officer Fred Morgan said in a press release, "We are extremely disappointed in today's ruling, as the court has chosen to legislate from the bench instead of exercising judicial restraint. The dissent rightly points out, "The Legislature and the public understood the common themes and purposes embodied in the legislation; it was tort reform. Too often the activist arm of this court misuses constitutional terms like 'special law' and 'single subject' to strike down any law they do not like, subverting the will of the duly-elected representatives of the people."

Since the ruling came down, there has been much discussion between Governor Mary Fallin and Legislative leaders about the possibility of convening a Special Session later this summer to specifically address Tort Reform although Governor Fallin has not yet made a final decision. Should a Special Session be called, some 20-30 bills might be necessary to avoid the "single subject" rule.

SPECIAL NOTE --- If your firm is involved in any legal proceedings which arose after the enactment of the 2009 legislation and which have some basis in the provisions which were struck down by the Supreme Court, we urge you to consult both your legal counsel and insurance carrier to determine your course of action regarding those proceedings.

2013 ACEC Fall Conference Fairmont Princess, Scottsdale, AZ, October 27-30

Mitch Daniels, former Indiana governor and budget director for President George W. Bush, and FHWA Administrator Victor Mendez will keynote the 2013 ACEC Fall Conference in at the Fairmont Princess in Scottsdale, Ariz, October 27-30.

During his two terms as governor, Daniels turned the state's \$800 million budget deficit into a \$370 million surplus and funded a backlog of public transportation projects through a \$4 billion public-private partnership. He also created a \$500 million highway trust fund to maintain the state's roads.



Mendez, who was director of the Arizona DOT prior to becoming FHWA administrator, has long grappled with the nation's transportation challenges. His signature initiative is the Every Day Counts program to accelerate project delivery and innovation.

The Conference also features top industry CEO panels and more than three dozen educational sessions and business roundtables. Below is just a sample of the many great programs on the schedule. Plus, the Fairmont Princess is a great hotel and also, for the golfers, home to the TPC Scottsdale golf complex which includes the TPC Stadium Course, home of the Phoenix Waste Management Open.

Registration information has been sent to all ACEC members, and is also available on the ACEC website (www.acec.org). We look forward to seeing you there!!!!

*** The Private Sector and Public Projects**

Mitch Daniels, Former Indiana Governor;
President, Purdue University

*** How Technology Will Transform the Business of Engineering**

Fred Studer, Microsoft Dynamics GM

*** CEO Panel: Trends in Private Client Markets - Commercial, Industrial, Energy**

David Cooper, WSP USA CORP;
Henry Lucas, ECS;
Kam Movassaghi, Fenstermaker;
Mahadev Raman, Arup Americas

*** Opportunities and Challenges in the Built Environment: What Will Shape the Industry's Future?**

*** Keys to a Successful Interview: A Structured Approach to Winning More Business**

*** Partnering with Native American Tribes**

*** MAP-21 and the Future of the Federal Highway Program**

Victor Mendez, FHWA Administrator

*** The Consulting Engineering Game: Does Size Really Matter?**

*** Transportation Funding Options and Outlook**

Greg Cohen, American Highway Users Alliance;
Emil Frankel, Bipartisan Policy Center;
Kerry O'Hare, Building America's Future

*** Arizona Sustainability - A 21st Century Case Study**

*** Engineer-led Design Build Projects: Simple, Safe & Profitable**

*** Game Change: Driving Growth Through Professional Entrepreneurship**

*** Improving Alternative Delivery Projects from Cradle to Grave**

*** One-step vs. Two-step Design Build Procurement: A Resource & Efficiency Comparison Study**

*** CEO Roundtables for Firms of all sizes.**

President's Report

August, 2013

David Raymond, ACEC President

Dear Colleagues – As we move into the dog days of August, ACEC’s advocacy and education programs are running full tilt with ACEC-backed bills wending their way in Congress to achieve additional infrastructure financing. “Wins” were chalked up in Florida and Alabama on limitation on liability. Strong PAC fundraising with over \$430,000 raised so far this year has lifted us toward a goal of \$850,000 to help elect pro-business candidates. Have a great August, and stay cool!

General

- ACEC joined the steering committee of America’s Infrastructure Alliance, a coalition with major contractor, airline, trucking and other organizations working together to promote the value of infrastructure investment to the American public.
- ACEC/Delaware became the fifth state to meet its PAC fundraising goal for 2013; joining Wisconsin, Indiana, Hawaii and South Carolina in that select group of industry patriots.
- Member firm HDR became the first firm to receive a project award from the Institute of Sustainable Infrastructure (ISI) for meeting high sustainability standards on the William Jack Hernandez Sport Fish Hatchery in Anchorage, Alaska.
- ACEC/Florida achieved its Minuteman Fund-backed legislation to protect the individual design professional from personal liability when acting on the job.
- ACEC/Alabama achieved its Minuteman Fund-backed liability protections for a person or firm performing construction inspection services under contract with a public agency.
- Submitted comments to the House Education and the Workforce Committee urging reauthorization and implementation of the student loan forgiveness program for engineers and other professions.
- Co-hosted congressional fundraisers for U.S. Representatives Earl Blumenauer (D-OR), Jim Gerlach (R-PA), Duncan Hunter (R-CA), Sam Johnson (R-TX), and Tom Latham (R-IA).
- Participated in the AASHTO Audit Subcommittee conference with representatives from more than 30 state DOTs as well as FHWA officials on FAR compliance, executive compensation review, and safe-harbor indirect cost rate pilot program.
- Endorsed Rep. John Delaney’s Partnership to Build America Act (H.R. 2084) to create a national infrastructure financing authority capitalized with \$50 billion in repatriated corporate overseas earnings, which could leverage up to \$750 billion through loans, loan guarantees and P3 equity investments for state and local infrastructure projects.
- Senators Bob Menendez (D-NJ) and Mike Crapo (R-ID) and Congressman Bill Pascrell (D-NJ) are putting the final touches on ACEC-backed legislation to boost financing options for water projects in the states by lifting the cap on private activity bonds.
- Submitted tax reform priorities to the Senate emphasizing the need for comprehensive reform to support innovation and competitiveness.
- House passed ACEC-backed legislation to delay for one year the employer mandates under the Affordable Care Act, which were slated to take effect next year.

Government Advocacy

