

# THE FIRST WORD

August, 2017

## Will The Oklahoma Legislature Meet In Special Session in September? Gas Tax Increase To Vote of the People On The Horizon?

The headlines above are the \$64,000 Question, and both depend on the outcome of hearings before the Oklahoma Supreme Court set for August 8th.

Quick background....At the end of the regular Legislative session, two "fee" increases were passed and signed by the Governor; a \$1.50 per pack "fee" on cigarettes and a 1.25% sales "fee" on the sale of new and used motor vehicles. Both of these "fee" increases were critical parts of the budget package, generating some \$400 Million (+/-) in new revenue to help fill the budget deficit. Also in the mix are increases in "fees" on the registration of electric and hybrid vehicles and the gross production tax on oil and gas.

The Oklahoma Constitution, thanks to State Question 640 which voters approved a number of years ago, requires that any "tax" increase be approved by a Super-Majority (75%) of both the House and Senate, or, if the "tax" increase fails to receive the 75% threshold, the increase must be submitted to a vote of the people, where simple majority rules.

After much haggling and discussion in the latter days of the session, the Legislature was unable to reach the required 75% number on two "tax" bills, so instead passed the above referenced "fee" increases by simple majority; the theory being that these were not "tax" bills subject to SQ640 but rather simply increases in "fees."

Needless to say, there is much disagreement as to whether a "tax" is a "fee" or vice versa, and several lawsuits were filed with the Supreme Court challenging the actions of the Legislature. The Supreme Court has set hearings for August 8th to decide if the actions of the Legislature meet or violate the Constitution and the provision of SQ640.

While no one wants to try to outguess the Oklahoma Supreme Court based on the Court's past history of some surprising ruling, it is expected by most people "in the know" that the Court will throw out these "fee" increases as not meeting both the letter and spirit of the law.

If that happens, Oklahoma will suddenly be back in a \$400 Million (+/-) hole, which would require a Special Session of the Legislature to address the immediate deficit. The Legislature will then have basically two options: a 14% across the board cut in state agency budgets, or, come up with new revenue sources (constitutionally) to fill the gap.

So, IF (probably) the Legislature comes back in Special Session in September, what will they do?

A little glimpse of the possibilities was given this past weekend when House Majority Floor Leader Jon Echols appeared on KFOR TV's weekly "Flash Point" program.

When asked what he expected IF a special session was called, Echols stated, "Flashpoint, 7-30-17, Echols offered:

**"I believe that what would happen in a special session.....some form of a tobacco tax will go to a vote of the people; I think a GPT (gross production tax) increase would go to a vote of the people; and, *and I think we'll probably put a gas tax to a vote of the people.*"**

What? Motor Fuel Tax to a vote of the people? Sure, there was some discussion of increasing the motor fuel tax (which ACEC OKLAHOMA supported) during the last Session, but it never really got any traction. As with the other "tax" increases that were considered, a motor fuel tax increase was not going to reach the 75% super majority, and was not part of the final budget package.

But now, the Majority Floor Leader of the Oklahoma House is on record as saying (not necessarily endorsing) that he expects a motor fuel tax increase to be put on an upcoming statewide ballot.

So, there you go! That's the background, and we'll all know much more on or after August 8th.

ACEC OKLAHOMA will keep close watch on all of this, and keep you up-to-date as more is known.

**ACEC OKLAHOMA Board &  
General Membership Meeting  
Thursday, August 24th  
Oklahoma City**

**Speaker:  
Secretary & Director of Transportation  
Mike Patterson**

Registration Info Coming Soon!

# President's Monthly Update

## August, 2017

### David Raymond, President & CEO

With the collapse of ACA repeal in Congress, attention now turns to tax reform, a topic high on ACEC's agenda. I attended a meeting with Commerce Secretary Wilbur Ross earlier this month at which he made clear the connection between ACA repeal and tax reform. Nonetheless, there are several options still on the table, and ACEC remains committed to tax reform that would lower overall rates, provide for equal treatment of C Corps and pass-through entities, preserve cash accounting, and help promote infrastructure investment. On another front, kudos to ACEC/Rhode Island for securing a state law that mandates QBS for all its municipalities in addition to state agencies. If you haven't already registered for our Fall Conference and extraordinary business sessions in Orlando in October click [here](#). Enjoy the remainder of your summer.

#### General

- ACEC Executive Committee's summer meeting last week empowered the Search Committee, chaired by Gregs Thomopoulos, to begin its activities leading to the selection of a new CEO for the Council by next Spring when the current CEO retires.
- Met with Commerce Secretary Wilbur Ross at a small gathering of business association leaders to discuss President Trump's economic agenda, including more equitable international trade agreements and broad-based tax reform.
- ACEC/Rhode Island used its newfound influence to gain enactment of a law mandating that all state municipalities follow a "Qualifications-Based Selection" (QBS) process when procuring engineering services.
- The Minuteman Fund helped ACEC/Oregon win passage of a major new state transportation program that will raise \$5.3 billion over the next 10 years.
- Staff of 17 MOs met at ACEC headquarters in Washington, D.C. for a wide-ranging briefing and discussion on membership records, recruitment, retention, dues billings and certification.
- Quoted prominently in Bloomberg BNA Daily Report for Executives, "Push Against Trump Wall Hitting California Contractors Right at Home," 7/25/17, re the unfairness of California's efforts to blacklist firms engaged in the border wall project.
- Helped to secure full funding for FAST Act surface transportation programs and a \$4 increase in the Passenger Facility Charges cap for airport infrastructure projects in the FY'18 transportation appropriations bill approved by the Senate Appropriations Committee.
- Secured report language in the legislation reauthorizing the Federal Emergency Management Agency (FEMA) tasking the agency with studying liability issues affecting engineering firms responding to natural and man-made disaster events.
- Hosted a meeting of major energy stakeholder groups to discuss next steps in advancing energy legislation in Congress.
- Submitted comments on the Council's tax reform priorities to the Senate Finance Committee, with an emphasis on comprehensive tax reform that treats all business structures equally.
- Mobilized a coalition of national water utility and design organizations to oppose efforts at the federal level to mandate the use of PVC pipes for water projects.
- Members of ACEC's Federal Agencies and Procurement Advocacy Committee discussed potential regulatory changes, end of year market opportunities, and looming changes to small business size standards with officials from U.S. Army Corps of Engineers, NAVFAC, the SBA, GSA and the Office of Federal Procurement Policy.
- Joined other industry associations in a letter to the Senate urging confirmation of FERC commissioner nominees to establish a quorum; the lack of a quorum risks the delay of permit approvals that could adversely affect \$15 billion in natural gas infrastructure.

#### Government Advocacy

- Secured report language in the *2018 State and Foreign Operations Appropriations* bill that urges USAID to make greater use of U.S. engineering firms in international projects.

