

# NEWS

## ACEC

### American Council of Engineering Companies of Oregon

Representing engineering companies  
in Oregon & Clark County, WA  
for more than 50 years.

Spring 2007

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Member of the American Council  
of Engineering Companies  
Washington, D.C.

## COBA'S CAPITOL COMMENTARY...

by ACEC Oregon Lobbyist Marshall Coba, CobaCo, LLC

April 30 is the deadline to pass bills from the chamber of origin. With this date firmly committed to by legislative leadership the pace and committee activity is very brisk. All bills not passed out of the chamber of origin by this date will be dead or will need to be amended into bills that are already passed to the other chamber. It is expected that April will be a brutally hectic month with long committee hearings and floor sessions as the legislature grinds toward the finish line of June 29. All bills need to be passed from the second chamber by May 30 and June will be devoted to Ways and Means budget deliberations and ongoing issue discussions in the House and Senate Rules Committees which are the traditional last policy committee operating.

Key issues that have passed include a rainy day fund and ethics reform. Major issues to come include health care reform, bottle bill expansion and energy legislation.

ACEC Oregon's Legislative Committee is currently tracking more than 70 bills that may have an impact on member firms. Some bills are just being monitored, while some legislation is being supported or actively opposed.

After discussions with Rep. **Greg Macpherson**, (D) Lake Oswego, chair of the House Judiciary Committee, three bills that were introduced by ACEC Oregon are scheduled for a hearing on April 5 in the House Judiciary Committee. The bills are:

**HB 2708 – Indemnity clause in contracts**

**HB 2710 – Job site liability**

**HB 2711 – Strengthen Certificate of Merit with amendments**

The House Judiciary Committee is listed below. We'll need a majority of the committee or five votes to pass our bills to the floor.

Judiciary Committee members include: **Greg Macpherson**, Chair; **Jeff Barker**, (D) Portland, Vice-Chair; **Gene Whisnant**, (R), Sunriver, Vice-Chair; **Suzanne Bonamici**, (D) Beaverton; **Kevin Cameron**, (R), Salem; **Linda Flores**, (R), Clackamas; **Betty Komp**, (D) Woodburn; **Wayne Krieger**, (R), Gold Beach; and **Tobias Read**, (D) Beaverton.

Transportation funding will begin to raise its profile. A major statewide media effort is underway to publicize the Cost of Congestion Study recently completed. Inside the Capitol a team of legislators including Senators

**Kate Brown**, **Bruce Starr**, **Rick Metsger** and Representatives **Susan Morgan**, **Dave Hunt**, **Terry Beyer** and **George Gilman** will work within their caucus' to determine the level of interest and the level of investment, if any, that their colleagues will support. This package could include gas tax and registration fee increases. Potential revenue figures are very preliminary but could raise several hundred million dollars for

infrastructure investment. Of course this package has many obstacles to avoid before it is passed into law and at this time I'd give it less than a 50% chance of success. However, many legislators are aware of the need for funding but getting 36 votes in the House and 18 votes in the Senate may prove to be too high of a hurdle to get over.

A bill to watch is SB 936. Senator **Ben Westlund's** bill to require the Department of Administrative Services to maintain records of all consulting contracts and report annually to the Governor and legislative leadership, does not appear to have his full attention and support. His staff informed me he is more committed to health care reform and this is not a top "take home" priority. We'll continue to monitor this bill to ensure it has adequate opposition. It was referred to the Senate Education and General Government Committee chaired by Sen. **Vicki Walker** (D), Eugene.



To hear the latest from ODOT and an update on how the 2007 legislative session is progressing, **plan to attend the April 25 dinner program with ODOT Director Matt Garrett** in Portland. See page 3 for more information & registration form.

## FROM THE PRESIDENT

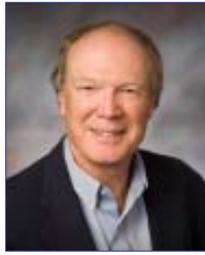
by Dwight Hardin, P.E.

The Oregon legislature is in session, and bills proposed by ACEC Oregon are making their way through committee hearings. Hopefully, some of the bills will make it out of committee and to the floor of the House and Senate for votes. As the process continues, Alison and Merideth will be sending out Legislative Alerts requesting support and action from our members. As requested by these alerts, please take the time to contact legislators and let them know that you support this legislation. Three of our four proposed bills are scheduled for committee hearings on April 5. These include HB 2708 – Change of Indemnity Law, HB 2710 – Job Site Liability, and HB 2711 – Strengthen Certificate of Merit. Apparently, HB 2709 – Shortening the Statute of Ultimate Repose will not be advancing due to a lack of support in the legislature.

ACEC Oregon is also working hard to support transportation funding. The last gas tax increase was implemented in 1993. It is estimated that an increase of 9 cents per gallon will be needed just to restore ODOT's 1993 funding levels (buying power). Broad-based business support for a substantial increase in transportation funding is coalescing, but it remains to be seen whether this legislature will step up to the plate and deal with this critical need or defer once again to the next legislative session. On this and our other issues, the ACEC Oregon membership needs to be a squeaky wheel, so please contact your senator and representative and support the ACEC Oregon legislative agenda.

In the last newsletter, I asked whether there is a real shortage of engineers and, if there is, what can we do about it? The feedback has been consistent that firms are having difficulty recruiting engineering graduates. This is also our firm's experience. Will supply and demand work so that higher salaries will entice more engineering students? Possibly, but it appears to be a slow process. Most of the 2006 OSU graduates with a BS degree in civil engineering started in the range of \$50,000 to \$52,000 per year. OSU also observed that the number of engineering students in graduate programs has decreased. Firms will undoubtedly need to increase starting salaries for 2007 BS graduates. MS graduates in civil engineering will probably realize starting salaries in the range of \$55,000 to \$60,000. To date, it is difficult to conclude that higher salaries will induce more students to pursue engineering, though it probably will; the response may be slow.

Abruptly higher entry salaries lead to salary compression and associated compensation issues across the board. Maybe this is not a bad thing — engineers should be compensated based on their value. Consider that we as engineers are part of the problem in the way we view our profession and the value we bring to projects and society in general. Our productivity has never been higher due to computer-aided tools, yet our fees generally bump along and increase at about the same rate as the cost of living index. As much as we disparage attorneys, there does not seem to be a shortage of them, and they are not bashful about charging what they feel they are worth. But this discussion can be continued in the next newsletter.



**Dwight Hardin**  
GRI Geotechnical &  
Environmental  
Consultants

## AMONG OURSELVES...

The ACEC Oregon Board of Directors is pleased to announce the following new member firm. Please welcome...

**Engineered On-Site Solutions, PC**, 5466 Kellogg Way SE, Salem, OR 97317, phone (503) 851-8409, ecolville@hotmail.com, www.engineeredonsitesolutions.com. Key contact is **Erik Colville**. The firm offers engineering services for construction site storm water control (TESC); difficult site septic systems (ATTs); retaining walls, foundations, and concrete slabs; wood or metal structures; new or remodel; construction inspection/certification; general civil (site plans, grading, storm drainage, water, sewer, roads, retaining walls); and general mechanical (HVAC, controls, process.)



**CDM** has moved. The firm is now located at 319 SW Washington Street, Suite 900, Portland, Oregon 97204.

**David Evans and Associates, Inc.**'s Bend office has moved. As of March 26 they are now located at 320 SW Upper Terrace Drive, Suite 200, Bend, Oregon 97702.

**David Evans and Associates, Inc.** has promoted **John Kalvelage** to design-build program director. In this role, Kalvelage will lead DEA's strategic and tactical plans for design-build.

**HDR Engineering, Inc.** is pleased to announce **Susanna Laszlo, P.E.**, as transportation section manager based in their Portland office. Her responsibilities include strategic planning, business implementation and staff management. Prior to HDR, Laszlo was engineering design services manager for the Port of Portland.

**Parametrix** has hired **Scott Nebeker** to serve as Portland's water/wastewater division manager. In addition to planning, organizing and managing overall operations of the division, he is focused on developing projects within the Portland Parametrix service area. Nebeker has more than 18 years of experience in the engineering and environmental consulting industry providing project funding assistance and managing complex multi-discipline projects. He specializes in local government engineering services, and has served as engineer or consultant of record for more than 35 Oregon counties and cities.

**Thank you to  
PBS ENGINEERING & ENVIRONMENTAL**  
for their contribution to the ACEC Oregon PAC,  
received March 15, 2007.

*Thank you, PBS!*

# Join ACEC Oregon & the Associated General Contractors for... DINNER WITH MATT GARRETT, ODOT DIRECTOR, APRIL 25

Hear the latest from ODOT and an update on how the 2007 legislative session is progressing.

**Matthew Garrett**, Director, Oregon Department of Transportation, will speak to ACEC Oregon and AGC Oregon Columbia Chapter members and others on Wednesday, April 25 in Portland.



As Director of ODOT, Garrett manages an agency of about 4,600 people and a biennial budget of \$2.85 billion. He assumed the directorship in December 2005.

Garrett started with ODOT in 1997 as liaison to local government and quickly transitioned to serve as the agency's Chief of Staff until June 2003. At that time, Garrett assumed duties as the Region 1 manager, directing a staff of more than 600 in the design, development and implementation of complex multi-modal transportation systems.

Prior to ODOT, Garrett worked on the staff of U.S. Senator Mark Hatfield where he focused on health care and foreign affairs legislation and issues. He returned to Oregon in 1996 as a field representative for the senator and focused on a wide variety of issues including transportation.

He is a graduate of George Washington University with a degree in political science.

**WHAT:** ODOT Director Matt Garrett & 2007 Legislative Session Update

**WHEN:** Wednesday, April 25  
 • 5:30 P.M. Social Hour  
 • 6:30 P.M. Dinner  
 • 7:30 P.M. Program

**WHERE:** Multnomah Athletic Club  
 1849 SW Salmon Street, Portland

**ATTIRE:** Business or business casual.

**PARKING:** Complimentary parking is available on a first come, first served basis in the Multnomah Athletic Club garage. Parking is also available in the U-Park lot located at SW 18th & Salmon. Or, take MAX to PGE Park or Goose Hollow station!

**Registration deadline is Friday, April 20.**

## ACEC Oregon Registration Form Dinner with ODOT Director Matt Garrett

Wednesday, April 25 • Multnomah Athletic Club • 1849 SW Salmon Street, Portland  
 • 5:30 P.M. Social Hour • 6:30 P.M. Dinner • 7:30 P.M. Program

**COST:** \$45 per person.

Please duplicate form if registering more than six people. Be sure to indicate if you would like a vegetarian entrée.

**MENU:** Chicken piccata with orzo or the vegetarian option which is leek, mushroom, onion and gruyere cheese galette in puff pastry.

FIRM: \_\_\_\_\_

PHONE: \_\_\_\_\_

Name: \_\_\_\_\_

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Total number of \_\_\_\_\_ registrant(s) @ \$45.00/each = \$ \_\_\_\_\_ **Total Amount Enclosed**

**Make checks payable to ACEC Oregon** (American Council of Engineering Companies of Oregon).

Mail check and registration form (or fax form and mail check) for receipt by Friday, April 20 to:

ACEC OREGON, 5319 SW Westgate Drive, Suite 221, Portland, OR 97221, phone (503) 292-2348, fax (503) 292-2410.

**Cancellations must be received on or before the registration deadline. Non-members must pay in advance.**

# RISKY THINKING: UNDERSTANDING THE IMPLICATIONS OF "DEFENDING" YOUR CLIENT\*

As many of you are by now aware, the most important contractual clause to consider from a litigation standpoint is the indemnity clause. Indemnity is defined as the right of an injured party to claim reimbursement for its loss, damage or liability from a person who has such duty. In other words, your client wants you to promise to reimburse them for damages caused by your negligence. Part and parcel of many indemnification clauses you may come across is an expectation from your client that you also "defend" them. It has become increasingly important to recognize the difference between "indemnity" and "defense," and the implications it has on you as a design professional.

Webster defines "defend" as "to ward off attack from; guard against assault or injury." Unless you sport a royal blue leotard with a big red "S" on your chest, my guess is you are neither ready, willing, nor able to take on such a monumental task, particularly when your client is in a much better position to assume the risk (and pocket the profits) of the project.

Here is the problem: When you agree by contract to "defend" your client in the event of a claim against them, you are agreeing to pay your client's attorneys' fees and costs *from the first day a claim is made against them, regardless of your liability.* In essence, the client has every right to hire an attorney of their choice and send you the monthly invoice. And perhaps the biggest clincher is

that your professional liability insurance *probably will not cover you* for defense obligations you have assumed vis-à-vis the contract. At a minimum, the question of coverage among carriers remains unclear.

To review this article in its entirety, please go to the website at [http://www.aepronet.org/guest\\_essays.html](http://www.aepronet.org/guest_essays.html).

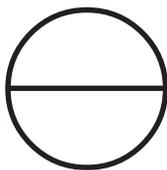
For a more comprehensive review of the subject of "Indemnification" refer to "**Indemnification: How to Identify Unacceptable Risks and Get Them Out of Your Agreements,**" written by David Shipley and David La Kamp, at <http://www.aepronet.org/pn/vol4-no2.html>.

This article is brought to you by **Dave Shipley, Shipley & Associates, Inc.**, a member of the ACEC Oregon Risk Management Committee and is reprinted courtesy of a/e ProNet.

\* The author, **Jacqueline Pons-Bunney, Esq.**, is with the firm Weil & Drage, APC, 23046 Avenida de la Carlota, Suite 350, Laguna Hills, CA 92653, phone (949) 837-8200.

*If you or your company have a risk management topic you'd like to submit for publication, please e-mail it to Alison Davis at [adavis@acecOregon.org](mailto:adavis@acecOregon.org) for consideration. Thank you.*

*This column and the material contained therein is intended for general discussion of the subject, and should not be mistaken for legal advice. Readers are cautioned to consult appropriate advisors for advice applicable to their individual circumstances.*



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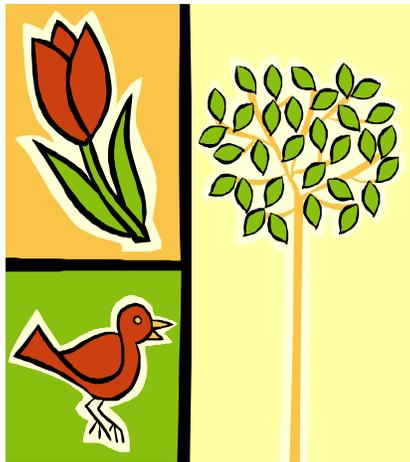
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# HIT THE REDTAIL DRIVING RANGE BEFORE ANNUAL BUSINESS DINNER MAY 23 AT STOCKPOT BROILER

*Committee chairs to report on year's goals and accomplishments.*

Catch up on ACEC Oregon business, hear brief committee reports and vote on the 2007-2008 budget Wednesday, May 23 during the annual



business dinner to be held this year at the Stockpot Broiler, RedTail Golf Center.

**Arrive early and practice your drive!** ACEC Oregon has reserved five mats with unlimited balls at RedTail's driving range from 4:30 to 5:30 P.M. Be sure to bring your clubs and practice your swing in preparation for the Networking Day golf tournament in June!

Then join us for the main event in the Club Room at 5:30 P.M. with a social hour, followed by a buffet dinner at 6:30 P.M. The business meeting portion of the program will begin at 7:15 P.M.

**WHAT: May Business Dinner**

**WHEN: Wednesday, May 23**

**Arrive early & practice your drive!**

- 4:30 - 5:30 P.M. (optional)

We've reserved five mats with unlimited balls on RedTail's driving range.

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**The Main Event**

- 5:30 P.M. Social hour
- 6:30 P.M. Dinner
- 7:15 P.M. Business meeting

**WHERE: Stockpot Broiler at RedTail Golf Center**  
8200 SW Scholls Ferry Road (near Washington Square) Beaverton, OR 97005 phone (503) 643-5451

**PARKING:** Plenty of on-site parking in lot.

**“This event is a great opportunity to gain a good overview of the association's activities.”**

**Registration deadline is Friday, May 18**



## ACEC Oregon Registration Form MAY BUSINESS DINNER

Wed., May 23 • Stockpot Broiler at RedTail Golf Center • 8200 SW Scholls Ferry Rd. Beaverton, Oregon 97005 • 4:30 P.M. Driving Range (optional) • 5:30 P.M. Social Hour • 6:30 P.M. Dinner • 7:15 P.M. Business Meeting

**Cost:** ■ \$45 for members & their guest(s)  
*If your firm is an ACEC Oregon member, then you are a member.*  
■ \$70 non-members *Payment must be received before the event.*

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Firm Name: \_\_\_\_\_

Phone: \_\_\_\_\_

Guest Name & Firm: \_\_\_\_\_

No. of \_\_\_\_\_ member(s) @ \$45.00 = \$ \_\_\_\_\_

No. of \_\_\_\_\_ non- mbr(s) @ \$70.00 = \$ \_\_\_\_\_

**Total Amount Enclosed:** \$ \_\_\_\_\_

**Make checks payable to ACEC Oregon** (American Council of Engineering Companies of Oregon). Mail check & registration form (or fax form & mail check) for receipt by Friday, May 18 to: ACEC OREGON, 5319 SW Westgate Drive, Suite 221, Portland, OR 97221.

QUESTIONS? phone 503.292.2348 • fax 503.292.2410 • e-mail: [mwebber@acecOregon.org](mailto:mwebber@acecOregon.org)

**Cancellations must be received on or before the registration deadline. Non-members must pay in advance. Thank you.**



# Mark your calendar...

## APRIL

- **April 17 Tuesday**  
ACEC Oregon/ODOT Conference, "Trust and Teamwork—Foundations for Partnering Excellence"  
Wilsonville Holiday Inn Conference Center  
*For more info and to register go to*  
<http://www.oregon.gov/ODOT/CS/Training/ACEC07.shtml>.
- **April 25 Wednesday**  
Join ACEC Oregon & Associated General Contractors (AGC) for dinner with ODOT Director Matt Garrett in Portland  
*For more info and registration form, go to* <http://www.acecoregon.org/April%20dinner%20with%20ODOT.pdf>.
- **April 26 Thursday**  
Board of Directors Meeting  
ACEC Oregon Conference Room

## MAY

- **May 6-9 Sunday thru Wednesday**  
ACEC National Annual Convention, Legislative Summit and the Engineering Excellence Awards Gala  
Washington, D.C.  
*For more information go to:*  
<http://www.acec.org/calendar/conferences.cfm>.
- **May 17 Thursday**  
Board of Directors Meeting  
ACEC Oregon Conference Room
- **May 23 Wednesday**  
Annual Business Dinner with Committe Reports  
The Stockpot Broiler at Red Tail Golf Course, Beaverton  
*For more information and registration form, go to*  
<http://www.acecoregon.org/May%20biz%20dinner.pdf>.



## JUNE

- **June 21 Thursday**  
Board of Directors Meeting  
ACEC Oregon Conference Room
- **June 27 Wednesday**  
Networking Day Golf Tournament and Dinner  
Langdon Farms Golf Club, Aurora



## SEPTEMBER

SAVE THE DATES!

- **September 20-22**  
*Thursday thru Saturday*  
ACEC Oregon Fall Conference  
Mount Bachelor Village Resort  
Bend, Oregon
- **September 26-29**  
*Wednesday thru Saturday*  
ACEC Nat'l Annual Convention  
Fall Conference at the  
Grand Wailea Resort & Spa  
Maui, Hawaii  
*For more information go to* <http://www.grandwailea.com>.



## RESPOND BY APRIL 6 FOR MEMBERSHIP CERTIFICATION

Annual updates, or membership certification, is required by ACEC Oregon bylaws. The number of full-time employees reported will determine what your firm will pay for dues for the new fiscal year July 2007 through June 2008.

If your firm representative (or designee) has not already done so, please have them examine your firm's directory listing at [www.acecOregon.org](http://www.acecOregon.org) under "Membership Directory." Now is the time to make changes and other edits. Respond by April 6.

Firm representatives will also receive an e-mail notice from ACEC National (on or about March 30) directing you to update your firm's information for their records. Please respond to their notice. **Information collected by ACEC National, although similar, is different than data collected by ACEC Oregon. Please respond to both requests for updates.**

If you have questions, please contact Merideth Webber at (503) 292-2348 or [mwebber@acecOregon.org](mailto:mwebber@acecOregon.org). Your timely response is appreciated.

## ACEC Oregon

AMERICAN COUNCIL OF ENGINEERING COMPANIES OF OREGON  
*Representing engineering companies in Oregon and Clark County, Washington for more than 50 years.*  
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