

Delving into the session: Indiana legislators offer insights

ACEC Indiana's annual legislative luncheon drew a record crowd to hear the perspectives of State Senator Luke Kenley (R-Noblesville) and State Representative Ed Soliday (R-Valparaiso.)

Sen. Kenley, who chairs the **Appropriations Committee**, discussed the difficulties of cogging a truly balanced state budget amidst current revenue projections and competing interests. One potential revenue "generator" of key concern to ACEC Indiana member firms was the **sales tax on services bill** introduced by Sen. Mike Young, **SB 349**. Kenley did not endorse taxing professional services, such as engineering/design, acknowledging the adverse consequences to both private and public clients; instead, he talked of potential



LEFT: State Senator Luke Kenley (R-Noblesville) addresses the crowd at ACEC Indiana's Legislative Luncheon.



RIGHT: State Representative Ed Soliday (R-Valparaiso.) speaks before over 100 members in attendance.

Photos courtesy of Jim Reid, IndyPublicWorks News.

extension of sales tax on internet sales to level the playing field of "brick and mortar" retailers vs. virtual ones, but did not commit that such an

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Seek Advice Early When It Comes to Negotiating the Insurance Requirements of Your Next Contract

Written by: Holly Casey, Old National Insurance

When considering and preparing for your next proposal package, pay close attention to the project details in regards to the client's expectations of scope, budget, and time for completion. However, do not forget to take a few minutes to also review and understand the client's expectations of insurance for the

project. The client's experience level of can factor into the level of insurance they expect you to provide. Another factor that plays a role in your client's insurance requests includes legal counsel involvement in the development of the contract or working from a client's standard agreement without adaptation.

Not taking the time upfront to understand your contractual insurance obligations, could

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Indiana Legislators continued

extension would occur this session.

Rep. Soliday, who chairs the **House Committee on Roads and Transportation**, shared his long-term vision for an integrated state program of roads and highways, airports and rail, to expand Indiana's infrastructure rather than just divide up our inadequate system. As an aviation consultant, it was

evident to the audience that he understood and appreciated the innovation and expertise of the ACEC Indiana membership. Towards that goal, he announced that he was spearheading a significant change in the viewpoint of the General Assembly, by changing the Mass Transit Study Committee to a **Joint Transportation Committee of House** and

Senate members to evaluate all the forms of transportation and develop a plan by 2012, and funding ideas by 2013, for implementation by 2035 (see [HB 1371](#).) Metropolitan Planning Organizations (MPO's) are also high on his list for reform; he introduced [HB 1367](#) to establish more accountability and uniformity among the MPO's.

Insurance Requirements continued

leave you in the lurch if such coverage is not available or ends up being cost prohibitive for the project and your fee.

The most common requirements for coverage include: Commercial General Liability, Commercial Automobile Liability, Workers Compensation and Employers Liability, and Professional Liability. Occasionally, you will also see requirements for Commercial Umbrella coverage.

Here is a brief review of the intention of coverage for these policy types:

Commercial General Liability: This policy provides coverage for third party claims, such as for bodily injury, property damage, personal and advertising injury, and medical payments. A common example of a covered incident for General Liability coverage is a slip and fall on your company's premise. This policy also provides for your exposure off of your premise. For instance, if while at the project site, you or your sub-consultant damages the owner's property, you may turn to your General Liability policy for coverage. It is important to note that coverage for professional liability is excluded.

Commercial Automobile Liability: This policy provides coverage for third party claims for bodily injury and property damage. Even if you do not have a vehicle titled to your business, your client will likely still want you to have Hired and Non-Owned Auto Liability coverage. This is an excess coverage that can be purchased under the General Liability policy if you do not have the need for a Commercial Auto policy.

Workers Compensation: This policy provides coverage to pay for medical expenses, lost wages, and/or death benefits

for employees who suffer a work-related injury or illness. You should check with your agent or attorney to understand your firm's requirements under State law.

Employers Liability: This is typically part II of a worker compensation policy and provides coverage for the liability of an employer for accidents to employees, as distinguished from liability imposed by the state worker's compensation law. An example is consequential injuries to an injured employee's family members.

Professional Liability: This policy provides coverage for amounts the insured would be legally obligated to pay as damages and claim expenses because of claims arising from negligent conduct of the insured's professional services. It is important to know how your policy defines the following in order to understand your specific coverage: Insured, Claims, and Professional Services.

Commercial Umbrella: This policy provides excess coverage for designated underlying policies which are commonly General Liability, Automobile Liability, and Employers Liability.

In general, these areas of coverage are not difficult to obtain. However, the detail of these requirements you should be scrutinized. Be aware that your insurance company may not be able to meet all of the requirements of your client with your current policy form. The insurance company may need to restructure your coverage or endorse your current coverage of which either may involve additional charges in order to meet compliance. Further, some requirements may be so extreme the insurance company does not have the means to comply. Below

are some examples of requirements the insurance industry is seeing more and more for engineering and architectural consulting firms that may NOT be a standard part of your policies:

- 1) Additional Insured on General Liability
- 2) Additional Insured on Professional Liability
- 3) Dedicated Limit on Professional Liability
- 4) Maintaining Limits for "x" Number of Years Beyond Completion of the Project
- 5) Per Project Aggregate on Commercial General Liability Policy
- 6) Primary and Non-Contributory on General Liability
- 7) Professional Liability on a "Per Occurrence" Form
- 8) Professional Liability with a Specific Deductible Limit Requirement
- 9) Waiver of Subrogation on Commercial General Liability Policy
- 10) Waiver of Subrogation on Employers Liability

These insurance requirements are likely here to stay. With that in mind, take steps on the front end of your project to review, seek advice, and negotiate insurance requirements your firm can handle.

For more information, contact Holly Casey, Old National Insurance Agent at holly.casey@oldnationalins.com or at (317) 575-9999.