



## LEGISLATIVE AGENDA 2019-2020

### Improving Michigan's Infrastructure

Despite the increase in transportation funding that began January 1, 2017 from increased motor fuel taxes and registration fees, the overall condition of our roads and bridges has continued to decline.

ACEC/Michigan supports the recommendations contained in the December 2016 [report](#) released by the 21<sup>st</sup> Century Infrastructure Commission that calls for an additional \$4 billion per year over the next 20 years to address infrastructure deficiencies.

Many elements of our infrastructure have exceeded their design life and are failing. Safe drinking water, adequate wastewater collection and treatment systems, reliable energy generation and transmission, and a safe and efficient transportation system will propel Michigan's economy, protect the safety of its residents, and provide a good quality of life for all Michiganders.

#### **ACEC/M Recommendation:**

Support a sustainable, long-term solution for adequately funding the repair and replacement of state and local infrastructure. Educate the legislature and the public on our aging infrastructure and be a reliable resource for information and knowledge.

### Procurement: Qualifications-Based Selection of Design Professionals

Since 1972, the Federal government has required the use of a Qualifications-Based Selection (QBS) process for procurement of engineering and architectural services (Public Law 92-582, the Brooks Act). Currently, forty-five (45) states have passed similar QBS legislation.

*The American Public Works Association (APWA) Policy Statement: "APWA believes that the public interest is best served when government agencies select architects, engineers, and related professional technical consultants for projects through Qualification-Based Selection (QBS) procedures. Basing selections on qualifications rather than price protects the public safety, encourages creativity and flexibility, improves the delivery of professional services, increases the value to the owner in construction and life cycle expenses, and minimizes the potential for disputes and litigation."*

High quality engineering and design services represent a very small percentage of total project costs, however these services will significantly affect the construction, operation and maintenance costs for the life of the project.

***ACEC/M Recommendation:***

Pass legislation in Michigan requiring the use of a Qualifications-Based Selection (QBS) process for the procurement of consulting engineering services for all infrastructure projects.

**Reducing Frivolous Lawsuits**

Engineers face a substantial degree of liability exposure in their practice for breach of contract, property damage, personal injury and wrongful death resulting from alleged negligence or malpractice. Engineers, whom most presume to have malpractice insurance, are also likely targets of suits from injured parties who seek relief from anyone that may be remotely involved in a death, or alleged injury or damage. Many malpractice and negligence claims brought against engineers have no material basis or justification in fact or in law. Nevertheless, these groundless suits are a source of considerable costs to engineers in terms of direct expenses, increased insurance premiums, loss of productive time and tarnished professional reputation. In addition, such meritless suits waste valuable public resources and cause backlogs in the nation's civil justice system.

Certificate of Merit statutes are successfully curbing the number of baseless claims brought against engineers by implementing procedures that place the responsibility for demonstrating that a lawsuit has merit on the plaintiff. Certificate of Merit laws require the plaintiff to consult with a third-party design professional to review the facts of the claims and make a determination about whether or not the accusations have merit or if they are of a frivolous nature. Only after a certificate has been filed that indicates there is a sufficient basis in the contract or in law for commencement of the action, the case is permitted to move forward.

***ACEC/M Recommendation:***

Support the introduction and passage of *Certificate of Merit* legislation that will weed out baseless claims and reduce legal fees for engineering firms forced to defend their reputation.

**Historic Preservation**

The Michigan historic preservation tax credit, which was an integral part of restoration projects across the state, was phased out in 2011. The program was in place for 12 years and generated more than \$1.46 billion in investment in Michigan rehabilitation projects. It leveraged an additional \$251 million in federal tax credits and led to the creation of 36,000 jobs.

These programs are used to fill gaps in the financing of rehabilitation real estate projects and are issued only after rehabilitation expenses are incurred. Therefore, projects generate significant economic impact and state and local tax revenue before the credits are issued.

Michigan's HTC program is one of the state's most useful tools for revitalizing older communities. These credits make formerly impossible projects feasible and put underutilized and core urban real estate back on local and state tax rolls.

***ACEC/M Recommendation:***

Support legislation that reinstates Michigan's successful historic tax credit program.