



LEGAL REFORM IN PENNSYLVANIA

The American Council of Engineering Companies in Pennsylvania (ACEC/PA) recommends Legal Reform in Pennsylvania on a number of issues which seriously affect the manner in which engineering consulting firms do business, and which put engineers at both professional and economic risk.

ACEC/PA is proposing the following actions as initial steps in the overall Legal Reform process, to treat the business of engineering in Pennsylvania fairly.

JOINT CONTRIBUTION AMONG TORT FEASERS ACT

Current Status: A defendant can be forced to pay a full judgment to a plaintiff even if they are only partially liable for the damages. The Fair Share Act would limit damages to an amount proportional to the defendant's liability.

Recommended Action – ACEC/PA recommends that the next Governor and General Assembly enact legislation that restores principles of the Fair Share Act.

LIMITATION OF LIABILITY REFORM

Current Status: As stated previously under the Joint Contribution among Tort Feasers Act, State agencies such as PennDOT and the Pennsylvania Turnpike Commission, and municipal entities, have their liability in civil suits capped at a maximum amount (Currently \$250,000 per incident). There is no limitation of liability afforded to these firms in defense of civil action taken against their clients, and consequently, these firms are forced to carry high limits of professional liability insurance making them attractive to frivolous lawsuit, and increasing their overhead rates and associated billings to state agencies.

Recommended Action: ACEC/PA recommends the enactment of reforms capping liability limits for firms in accordance with the limits afforded their clients.

ANTI-INDEMNIFICATION

Current Status: Public Agencies (excluding state agencies and the Pennsylvania Turnpike Commission), sometimes have contract clauses which require an engineering firm to indemnify the agency against all actions (even actions of the agency); not just the actions of the design professional. These contract provisions are uninsurable and put the design professional at great risk, as well as responsibility for associated costs for defense. Some agencies also require that the design professional waive their rights under the Workers Compensation Act.

Recommended Action: ACEC/PA recommends legislation in Pennsylvania which clearly states that such provisions are against public policy and are unenforceable.