



# WSPE Newsletter



## President's Message

Welcome to our first hard-copy edition of the WSPE newsletter. In this edition, we are summarizing some of the many WSPE activities this year. The purpose of all is to promote and enhance the well being of the individual professional engineer, and the engineering profession. From addressing important engineering legislative matters, to encouraging future engineers through MATHCOUNTS, to recognizing engineering achievements with the Engineer of the Year Awards and Governors New Product Awards, to increasing the image and visibility of the profession to the public through E-week.

We are mailing hard-copy publications twice a year to reach those that don't have an e-mail address. The other mailing will be the membership directory around the start of the program year in July. If you haven't been receiving the monthly eNews version, it means that we don't have a valid e-mail address for you. You can update your e-mail and other membership information by going to [www.nspe.org/membership/](http://www.nspe.org/membership/) and using your membership ID for your username and your last name with first letter capitalized for your password. Or call the state office or NSPE member services 703-684-2800.

Please take a moment to consider the calls for nominations below, for both the Engineer of the Year Awards and the 2007-2008 WSPE officers. This is where the leadership depends on you to bring to our attention outstanding individuals from our membership that we may not know.

I hope you enjoy this edition of the newsletter, and obtain a good update on some of your society's activities. As always, I would love to hear from you with any questions, or suggestions on how or what we can do better.

Robb Peebles

### WSPE congratulations to the following individuals who were awarded Professional Engineer credentials in January 2007.

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# State Legislative Activity Affecting Engineers!

Reported by Glen R. Schwalbach, P.E., January 26, 2007

## LICENSURE PROCESS:

In Wisconsin, there are four paths that currently exist for licensure. Of these paths, one does not require taking the exam. This path is threatening comity with other states who frown on such options. It also requires the licensing board to use subjective judgment which could open them up to liability. And, for example, it has caused a state agency staff member to question the value of a Wisconsin P.E. license.

A bill will soon be introduced in the State Legislature to provide a simpler, clear-cut path to licensure. All applicants will be required to have a degree from an institution approved by the Department of Regulation and Licensing, to pass the Fundamentals Exam, to get four years of appropriate experience, and to pass the Principles and Practice Exam.

This bill will also contain two other provisions. One is to eliminate the option for people who do not pass the exam to review certain questions and answers. This provision was originally allowed when partial credit could be awarded for some questions. Exams are now multiple-choice and a post-review is not needed and could threaten the security of the exam. A second provision will remove the requirement for questions on needs of people with physical disabilities since statutes and regulations have evolved to provide the intended safety and accessibility.

*WSPE's Position: We encourage WSPE members to support these changes. Wisconsin has lagged other states in this regard. Please contact your legislators to encourage them to support this bill when it is introduced. These provisions will help protect the public and help ensure that the Wisconsin P.E.'s credentials are respected.*

## CONTINUING EDUCATION:

The Department of Regulation and Licensing (DRL) Board has endorsed the concept of continuing education requirements in general. Enabling legislation will soon be drafted. When it passes, each individual licensing board will promulgate their own requirements.

*WSPE's Position: More than two-thirds of other states have continuing education requirements. WSPE and NSPE support continuing education because in the fast changing world of science, engineering and technology, the engineer has to work hard to stay current. This licensure requirement will help ensure the Wisconsin P.E. can show how he or she is staying prepared to add value and protect the public. We feel the best approach for the DRL engineering board is to require the P.E. to keep a record of continuing education hours (or professional development hours) that can be subject to audit for a special cause. We do not see the need for the DRL Board to take on the administrative burden of routine audits. WSPE will alert you when this issue reaches the drafting stage for a bill.*

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## WSPE Supporting Organizations

WSPE is pleased to announce that a new program will soon be unveiled that will provide an avenue for organizations to easily support the many valuable activities of WSPE! The "Supporting Organizations" program has different contribution levels that provide organizations with a variety of advertising and program support opportunities. It also offers a membership credit designed to reward organizations based on the number of employees who are WSPE members. The credit can be applied up to 50% of the contribution level. Contributions will be used to support activities at both the Chapter and State levels. In addition to the substantial benefits to the sponsor, the program has the added benefit of only one annual solicitation. Once the program is in place, WSPE will send out an announcement once per year inviting organizations to

participate. Organizations will not receive any other solicitations from WSPE for the remainder of the year.

The program is structured to provide funding for WSPE core programs, such as MATHCOUNTS, Discovery Conference, Governor's New Product Awards (GNPA), and Board of Ethics Professional Responsibility (BEPR). It also provides funding for local Chapters to help support activities such as newsletters, regional MATHCOUNTS competitions, educational outreach, awards, and scholarship programs. Funds will also be used to support other WSPE activities such as awards to recognize outstanding engineers, educational outreach programs that help get young people interested in math, science, and engineering, and participation in the Alliance of Technical Professions which is a group of engineering professional organizations that monitor legislative activities that could have an impact on the engineering profession. Detailed information will be included in the brochure.

We are very excited about this new program and hope you will continue to support WSPE and the local Chapters by taking advantage of this easy, convenient, and comprehensive sponsorship program! Thank you!



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I hereby certify that the information herein is complete and accurate. I further certify that I will abide by the requirements of the NSPE code of ethics. I also pledge to support the constitution, bylaws and board policies (as they are now and as they may be amended) of NSPE and my State Society.

Applicant Signature \_\_\_\_\_

Date \_\_\_\_\_

**PLEASE RETURN APPLICATION TO: WPSPE, 7044 South 13th Street, Oak Creek, WI 53154 OR FAX TO: (414)-768-8001, attn: Nancy Short**

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# WSPE DISCOVERY CONFERENCE 2007

The Waukesha Chapter will be hosting the 2007 Discovery Conference on Thursday, April 19, 2007, at the Sheraton Inn in Brookfield, WI, conveniently located at I-94 and Moorland Road. The Discovery Conference will be immediately followed by the Governor's New Product Awards (GNPA) presentation taking place in the evening. Combining these two events on the same day will allow attendees to more easily participate in both events, as they are both important for our society. Please set aside this date and plan to attend the Discovery Conference and the GNPA.

The theme for this year's Discovery Conference is "Engineering the Future!" The program will include keynote speakers and breakout sessions addressing a variety of relevant topics in engineering, including mandatory continuing education, the local and global marketplaces for engineering, the future of water resources sharing in Wisconsin, engineering ethics, information technology in engineering, and more. If you would like to volunteer to help with the conference planning or day-of activities, please contact Nancy Short, WSPE Executive Director, at 414-908-4950 x135. Please direct any inquiries regarding the GNPA to committee chairman Dale Swenson at [dale.swenson@harley-davidson.com](mailto:dale.swenson@harley-davidson.com) or visit [www.wspe.org](http://www.wspe.org) to see the official announcement for the GNPA. Thank you for your continued support of these important programs!



## The Governor's New Product Awards Banquet

# MATHCOUNTS Update

The 2007 Wisconsin Mathcounts State competition will be held March 3, 2007 at the Lowell Center on the University of Wisconsin Campus in Madison. The Lockheed Martin MATHCOUNTS National Competition will be held May 10-13 in Fort Worth, TX.

Volunteers are needed for the state competition: scoring, proctoring and assisting as needed. It only takes a Saturday morning and short part of the afternoon. If you are interested in volunteering, please contact Norman Arendt at [SEH.narendt@sehinc.com](mailto:SEH.narendt@sehinc.com) or 608.270.5364 for details.

## WSPE CALL FOR VOLUNTEERS

Are you looking for additional ways to become involved with your association? WSPE is looking for state officers and committee members for the 2007/2008-program year! For more information or to volunteer, please contact Nancy Short at [n.short@wspe.org](mailto:n.short@wspe.org).

For more than three decades, the Wisconsin Society of Professional Engineers (WSPE) GNPA competition has recognized Wisconsin's leading manufacturers who have contributed to the state's economic growth through the development, manufacturing and marketing of new and innovative products.

As an entrant, companies compete to be named the 2007 GNPA winner in the mega, large, medium or small company employment categories. The four Best of State winners will compete in the 2008 National Society of Professional Engineers (NSPE) New Product Awards for national recognition. Wisconsin has won the top award eleven times since 1993.

All entrants, WSPE members and guests are invited to attend the GNPA banquet, Thursday evening, April 19, 2007 at the Sheraton Milwaukee Brookfield. This year's GNPA banquet will again be emceed by Mr. Tom Zalaski, WFRV-TV News Anchor, Green Bay, WI. An invitation to the Governor will be sent and we have been fortunate the last two years to have Secretary Mary P Burke, WI Dept. of Commerce as our keynote speaker. In addition to the awards program, Mr. Lauran Larson, P.E. – WSPE State MATHCOUNTS Coordinator will introduce our 2007 MATHCOUNTS state team and their coaches.

The GNPA banquet is a fun, WSPE social event that you will not want to miss. Banquet details: Registration/WSPE & GNPA social hour (cash bar) 5 to 6:30pm. Welcome/Introductions/Dinner 6:30pm. Program 7:30pm. Awards Presentation 8:15pm. Acknowledgements/Banquet ends 9pm

For additional information about the banquet, please contact:

Dale R. Swenson, P.E.  
WSPE 2007 GNPA Chair  
414-343-8452 wk ph  
[dale.swenson@harley-davidson.com](mailto:dale.swenson@harley-davidson.com)



## Does a Rejected Low Bidder Have Any Legal Remedies?

By Robert J. Kay, Esq.

I have often been asked what remedies are available to contractors when they are the low bidder but do not receive the contract. Such rejections of the low bidder occur when the owner concludes that the low bidder is not the lowest “responsible” bidder. Invariably, the owner reserves in the bid documents the right to determine who is the lowest “responsible” bidder. Recently, the Court of Appeals has decided what power the public owner has in determining who is the lowest “responsible” bidder.

In *DMK, Inc. v. Town of Pittsfield*, DMK was the low bidder on four projects, but the town of Pittsfield refused to award road construction contracts to DMK because of the town’s concern that DMK would not perform adequately. The town had previously awarded contracts for road construction to DMK and had been dissatisfied with DMK’s work.

Prior to deciding what to do with DMK’s bids, the town of Pittsfield met and reviewed the bids. The town’s attorney expressed concerns about DMK’s problems on earlier projects. A town supervisor expressed the belief that the town did not have confidence in DMK and would be spending more money by taking it as the lowest bidder. The town chairman expressed the belief that although the town lacked confidence in DMK, she thought that DMK may be capable of performing one or two contracts. DMK warned the town that if the town did not award DMK all the contracts where DMK was low bidder, it would sue the town. Given that ultimatum, the town passed a motion to award two contracts to DMK conditioned upon DMK signing a waiver. DMK’s lawyer responded that it would accept three contracts with a waiver, but not two contracts. The town then rescinded its motion to award the two contracts to DMK with a waiver and awarded all four contracts to other bidders.

DMK then brought a lawsuit against the town. The town as a governmental unit was provided with certain immunities by the legislature for its exercise of legislative, quasi-legislative, judicial or quasi-judicial function. The Court of Appeals in its decision held that the terms “legislative, quasi-legislative, judicial or quasi-judicial are synonymous with the term discretionary. The Court held that a court will only interfere with the bidding authority’s discretionary act if it is arbitrary or unreasonable. It stated that

an arbitrary act is one that is either so unreasonable as to be without rational basis or as the result of an unconsidered, willful or irrational choice of conduct. The Court of Appeals, agreeing with the circuit court, held that the town’s expressed concern regarding DMK, based upon DMK’s prior work, evidenced a valid exercise of discretion when the town decided to award the work to other contractors.

The court once again reviewed the appropriate remedies that could be sought by an aggrieved contractor who is the low bidder but who is not awarded the work. The court observed that the Wisconsin Supreme Court has already held that an aggrieved low bidder who is not awarded a contract is entitled to maintain a suit for damages, provided that it immediately seeks an injunction before work begins. This admonition is often forgotten by lawyers who represent contractors. The appropriate action for a disappointed low bidder is to immediately commence a lawsuit seeking injunctive relief against the owner, preventing the owner from awarding the contract to anyone else, or seeking an injunction preventing the contractor who is awarded the work from commencing performance. If and when successful, the disappointed low bidder can force the owner to award it the contract, or alternatively, re-let it. When the disappointed low bidder is granted such injunctive relief, the court may also award damages representing the contractor’s cost of preparing the first bid and obtaining the required bond. However, the contractor will not be entitled to recover lost profits, because if it is entitled to receive the contract and perform the work as low bidder, it will realize its profits when it performs the work.

The DMK case involved a public agency, but the law is somewhat the same involving private owners. Contractors whose low bids are not accepted by public or private owners must immediately commence an action to obtain injunctive relief, preventing the owner from awarding the contract to anyone else and preventing anyone else from commencing the work which is the subject of the dispute. However, private owners are not required by law to let bids to the lowest responsible bidder and often reserve the right to reject any and all bids.



## Your NSPE and WSPE Membership

"NSPE is the recognized voice and advocate of licensed Professional Engineers. ....NSPE enhances the image of its members and their ability to ethically and professionally practice engineering" You've heard these words before and presumably, because you've kept your NSPE / WSPE membership active, you believe them, buy into them?!!

WSPE has been actively working this year on strengthening and increasing its membership. We make contact each month with new members, forward this new member info to the Chapters, and then follow-up again with a phone call.

As many of you know NSPE had some rather serious database problems throughout most of 2006. Member records and membership information was found to be inaccurate. It appears that NSPE is back on track, but to verify this WE NEED YOUR HELP! Please visit <http://www.nspe.org/membership/me1-join.asp> to check on your profile and make sure your membership has not lapsed in any way.

If you need any assistance with this process, please don't hesitate to contact Nancy Short at WSPE Headquarters (414/908-4950) or [wspe@wspe.org](mailto:wspe@wspe.org). The strength and viability of our State Society depends on you!

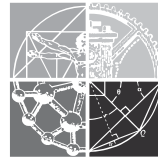
## Engineer of the Year Award Nominations

Can you think of an engineer who has made outstanding contributions, who exemplifies the very best of the engineering profession? If so please nominate them for the Engineer of the Year Awards. Send nominations to the state office ([wspe@wspe.org](mailto:wspe@wspe.org)/414-908-4950).



## WSPE Officer Nominations

It is now the time of year to select 2007/2008 officers for WSPE, particularly the Executive Committee members of the Board. Please contact Dale Chlebowski at [dchlebowski@tnainc.com](mailto:dchlebowski@tnainc.com) if you are interested in being on the ballot.



**ENGINEERS  
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## National Engineers Week:

**February 18-24, 2007 is Proclaimed  
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An official signed proclamation has been sent to every WSPE chapter in Wisconsin.



**WSPE Headquarters  
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