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**W**ith economic-stimulus-funded infrastructure projects on the drawing board statewide, construction law practitioners are rolling up their sleeves and preparing to dig in to a truckload of legal work about to come their way.

Under the federal stimulus package signed by President Obama last month, hundreds of millions of federal dollars will flow into Minnesota to finance work on mass transit, roads and safety projects. Sixty new construction, paving, bridge and safety projects will begin in greater Minnesota over the next 12 months, and more projects for the Twin Cities area are scheduled to be announced this month. Contractor bid results have been announced for the first 11 projects.

The Minnesota Department of Transportation says work on these projects



comes any number of legal issues that have to be dealt with. Subcontractor contractor relationships must be ironed out; supply pacts must be negotiated; equipment must be purchased and leased; property law concerns must be cleared away; employment matters must be addressed; immigration requirements must be followed; stimulus-fund restrictions must be complied with; and workers' comp issues must be squared away.

The volume and size of the stimulus projects means an immediate inflow of new work for construction law lawyers, according to Minneapolis attorney Mark Bloomquist, chair of the Minnesota State Bar Association's Construction Law Section. Even though the terms of many DOT contracts are "take it or leave it," there will still be transactional and litigation work emanating from the projects, he said. "You're going to have lawyers involved," he added.

The stimulus package represents a "significant reversal of fortune for our clients," said Minneapolis lawyer Mary Schwind, vice chair of the MSBA Construction Law Section. While lawyers in the field haven't experienced an increase in business yet, they are optimistic that they will soon, she said.

The work comes at a good time. With the slowdown in the construction industry in the last year, much of the legal work done for contractors has



Attorneys Mary Schwind and Mark Bloomquist, who both practice construction law, anticipate a boom in business working with clients on stimulus-related infrastructure projects. (Photo: Bill Klotz)

could begin as early as May 1, and projects will continue to be advertised for bidding every two weeks through June 26. Minnesota's appropriations include approximately \$502 million in highway construction, \$92 million for transit capital investment, \$1.8 million for transit modernization and \$72 million for clean water projects for a total of about \$668 million.

With each new project

# Energy, green technology lawyers will benefit from stimulus projects

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related to dealing with debt issues, Schwind said. She and others in her field are looking forward to spending more time helping contractor clients with the negotiations and other legal groundwork to starting and completing new projects. "We're expecting an uptick in the business we enjoy," she said.

Minneapolis attorney John Trout said that the construction law business has tapered off over the last six to eight months, but not been completely dead. Some clients with infrastructure work, including the construction of new sports stadiums and the I-35W bridge have remained busy, he pointed out. With the stimulus money about to flow in, these clients and other contractors expect to get busier, he added.

And it's not just major contractors who will experience a growth in their business, Schwind said. "It's also ancillary businesses like asphalt manufacturers and gravel pits," she pointed out, adding that these suppliers "are also our clients."

Trout predicted that the stimulus package will instill some confidence back in the industry, and may even spur projects beyond the ones funded by the stimulus money. In fact, he said, the stimulus plan is already having an impact.

While most of the contracts for the infrastructure projects themselves will be drafted by the state, there are still potential issues for layers to consider, such as whether a business is owned by a woman or a minority, Trout said. That can make a difference when bids are awarded, he pointed out. (The Minnesota

Department of Transportation has indicated that it will use design-bid-build, design-build, best value, and design-build-low-bid contracting on its projects.)

## Not just a transactional boom

With so many massive projects slated to start during the next year, litigation work is also likely to experience some growth, practitioners predict.

While no one is hoping for lawsuits to start just to give business to lawyers, it is the nature of construction projects, which involve a lot of parties, to give rise to disputes, Trout said.

The stimulus projects are subject to government oversight that may raise many compliance questions, as well. The bill created a new oversight board that has the express mission of coordinating and conducting oversight of covered funds to prevent fraud, waste and abuse.

Minneapolis attorney Jay Lindgren, head of the urban redevelopment and infrastructure practice group at Dorsey & Whitney, told Minnesota Lawyer that there are so many efforts underway that lawyers and clients are still getting a handle on what it all means. He foresees ongoing work with government agencies and in public/private partnerships.

Dorsey recently held a client seminar, "The Economic Recovery Act: Now the Hard Work Begins," to discuss the new law.

Michael Lopicola, a partner in the

construction practice group at Faegre & Benson, said that, in addition to the road work, there is grant money available for construction of buildings. At present, it's less clear when and how those funds will be distributed, but Faegre will be actively guiding clients through that process, he added.


## Energy work gets a jolt

Energy law practitioners — particularly those who work with green technologies — can also expect to get a jolt to their practices from the stimulus spending.

In addition to clean water funding, there are funds for energy-related research, including advanced battery technology and modernization of existing energy grids.

Minneapolis lawyer Robert Hensley, who practices energy law, said that "the money is making a difference and will continue to do so."

The stimulus package includes other provisions that are important to development of energy projects and that will increase confidence in such projects, Hensley said. The wind production tax credits, set to expire at the end of 2008, now have been renewed to 2012. Tax credits for geothermal and biomass energy development have been renewed to 2013.

Minneapolis attorney Todd Guerrero said the prevailing feeling is one of "cautious optimism" that the stimulus package will push renewable energy forward. "Our clients and other energy businesses are going to do well, particularly if they get out in front," he said, adding that "lawyers are going to be busy." 

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