

BILL ANALYSIS

Department, Board, Or Commission	Author	Bill Number
Franchise Tax Board	Cannella and Bates	SB 284

SUBJECT

Limited Liability Partnerships & Foreign Limited Liability Partnerships / Engineers & Land Surveyors

SUMMARY

This bill, under the Business and Professions, and Corporations Codes, would extend the sunset date on provisions allowing engineers and land surveyors to organize and operate as limited liability partnerships (LLP) and foreign LLPs.

This analysis only addresses those provisions of the bill that would impact the department's operations.

REASON FOR THE BILL

The reason for this bill is to continue to provide engineers and land surveyors the flexibility to organize and operate as an LLP.

EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2016, and operative as of that date.

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Date
7/17/15

FEDERAL/STATE LAW

A discussion of current federal law is inapplicable because an LLP is formed under state LLP law. Under the Business and Professions Code¹ licensed engineers and land surveyors may practice as a sole proprietorship, partnership, LLP, firm, or corporation.

Under the Uniform Partnership Act (UPA)² “professional limited liability partnership services” are defined as the practice of architecture, the practice of public accountancy, the practice of engineering, the practice of land surveying, or the practice of law.

The authority to practice engineering or land surveying as an authorized professional LLP will expire on January 1, 2016.

Existing state law³ imposes an annual tax in an amount equal to the minimum franchise tax (currently \$800) on every LLP organized in this state, registered with the Secretary of State (SOS), or doing business in this state. This annual tax is payable until a notice of cessation or withdrawal of registration is filed with the SOS or the LLP ceases to do business in this state, whichever is later.

THIS BILL

This bill would extend the sunset date from January 1, 2016, to January 1, 2019, on provisions allowing engineers and land surveyors that meet specified liability insurance requirements to organize and operate as registered and foreign LLPs through that date. In addition, these provisions would be repealed on January 1, 2019, unless another statute is enacted before January 1, 2019, that deletes or extends that date.

LEGISLATIVE HISTORY

AB 560 (Gorell, Chapter 291, Statutes of 2011) extended the sunset date to January 1, 2019, allowing licensed architects to continue to organize and operate as LLPs and foreign LLPs through that date.

SB 1008 (Padilla, Chapter 634, Statutes of 2010) authorized licensed engineers and land surveyors to organize and operate as LLPs and foreign LLPs until January 1, 2016.

AB 2914 (Leno, Chapter 426, Statutes of 2006) extended the sunset date to January 1, 2012, allowing licensed architects to continue to organize and operate as LLPs and foreign LLPs through that date.

AB 469 (Cardoza, Chapter 504, Statutes of 1998) authorized architects to organize and operate as registered and foreign LLPs until January 1, 2002.

¹ Business and Professions Code sections 6738 and 8729.

² Corporations Code section 16101.

³ Revenue and Taxation Code section 17948.

OTHER STATES’ INFORMATION

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California’s economy, business entity types, and tax laws.

Florida, Illinois, Massachusetts, Minnesota, and New York allow engineers and land surveyors to organize as an LLP.

Michigan provides for the formation of LLPs; however, it is unclear whether *Michigan* specifically allows firms engaged in the practice of engineering or land surveying to organize as an LLP.

FISCAL IMPACT

This bill would not impact the department’s costs.

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of SB 284 Assumed Enactment After September 30, 2015 (\$ in Millions)		
2015-16	2016-17	2017-18
- \$9	- \$10	- \$11

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

Revenue Discussion

The revenue loss was estimated by taking the amount of tax that would be owed by the LLPs under this bill less the tax the same LLPs would owe after they convert to C corporations or S corporations under current law.

It is estimated that there would be 4,000 engineering and land survey LLPs in 2016 affected by this bill. It is assumed that all 4,000 LLPs would continue to operate as LLPs if this bill were enacted and the amount of tax owed by these LLPs and their partners would be \$25 million in 2016.

If this bill is not enacted, it is assumed that the LLPs would switch to either a C corporation or a S corporation and the amount of tax owed by the C corporations, S corporations, and S corporation shareholders would be \$33 million.

The net impact of this bill is the difference between the tax due by allowing engineers and land surveyors to continue to operate as LLPs (\$25 million) and the tax due under current law (\$33 million). This results in a net estimated loss of approximately \$8 million in 2016.

The tax year estimates are converted to fiscal years and rounded to arrive at the amounts reflected in the table above.

APPOINTMENTS

None.

SUPPORT/OPPOSITION⁴

Support: American Council of Engineering Companies of California (sponsor), Board of Professional Engineers, Land Surveyors, and Geologists, American Institute of Architects, California Council California Land Surveyors Association, Structural Engineers Association of California Arup, Structural Engineers, Guida Surveying, Inc., Group Delta Consultants, Inc., Leighton Consulting, Inc., Liftech Consultants, Inc., The Covello Group, and Wagner Engineering & Survey, Inc.

Opposition: None noted.

VOTES

	Date	Yes	No
Assembly Floor	07/16/15	79	0
Senate Floor	05/22/15	39	0

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⁴ As noted in the Assembly Committee on Business and Professions analysis dated June 22, 2015.