

ANALYSIS OF ORIGINAL BILL

Author: Cannella Analyst: Davi Milam Bill Number: SB 284
 See Legislative
 Related Bills: History Telephone: 845-2551 Introduced Date: February 19, 2015
 Attorney: Bruce Langston Sponsor _____

SUBJECT:	Limited Liability Partnerships & Foreign Limited Liability Partnerships / Engineers & Land Surveyors
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SUMMARY

This bill, under the Business and Professions, and Corporations Codes, would permanently allow engineers and land surveyors that meet specified liability insurance requirements 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.

RECOMMENDATION

No position.

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.

FEDERAL/STATE LAW

A discussion of current federal law is inapplicable because an LLP is formed under state LLP law.

Existing state law under the Business and Professions Code¹ provides that licensed engineers and land surveyors may practice as a sole proprietorship, partnership, LLP, firm, or corporation.

Existing state law under the Uniform Partnership Act (UPA)² defines "professional limited liability partnership services" as the practice of architecture, the practice of public accountancy, the practice of engineering, the practice of land surveying, or the practice of law.

¹ Business and Professions Code sections 6738 and 8729.

² Corporations Code section 16101.

Board Position:	Executive Officer	Date
_____ S _____ NA _____ X _____ NP	Selvi Stanislaus	4/27/15
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Existing state law under the UPA³ defines “registered LLP” and “foreign LLP” to mean an LLP, other than a limited partnership, that engages in the practice of architecture, public accountancy, engineering, land surveying, or law.

Under existing state law, the authority to practice engineering or land surveying as an authorized professional LLP will expire on January 1, 2016.

Existing state law⁴ 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, by repealing the January 1, 2016, sunset date, would permanently allow engineers and land surveyors that meet specified liability insurance requirements to organize and operate as registered and foreign LLPs.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department’s programs and operations.

TECHNICAL CONSIDERATIONS

Amendment 1 would make a minor technical correction.

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.

³ Corporations Code section 16101.

⁴ 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 As Introduced February 19, 2015 Assumed Enactment After June 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.

SUPPORT/OPPOSITION

Support: American Council of Engineering Companies – California (sponsor).

Opposition: None provided.

ARGUMENTS

Proponents: Some may say that this bill would assist engineers and land surveyors by extending indefinitely the ability to organize and operate as an LLP.

Opponents: Some may argue that the indefinite extension is overly narrow and should be broadened to apply to all businesses that are currently allowed to organize and operate as an LLP.

LEGISLATIVE STAFF CONTACT

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PROPOSED AMENDMENT TO SB 284
As Introduced February 19, 2015

AMENDMENT 1

On page 41, line 1, strikeout "mended," and insert:

amended