



OPPOSE: S.5392 (Scarcella-Spanton)/A.483 (Clark)

Permitting Foreign Not-For-Profits to Provide Professional Engineering, Land Surveying, and Geology Services

The American Council of Engineering Companies of New York (ACEC New York), an organization representing nearly 300 engineering and related firms totaling more than 33,000 employees in New York State, **opposes bill S.5392 (Scarcella-Spanton)/A.483 (Clark)**.

The above-referenced legislation would amend Sections 7209 and 7210 of the Education Law to allow foreign not-for-profits to obtain a certificate of authorization from the New York State Education Department (SED) to provide professional engineering, land surveying, and geology services for certain conservation projects. Investment in our natural environment is crucial to the future of New York's water and ecological resources and we believe the sponsors' intent is laudable. However, the reason not-for-profits and certain other corporate entities are not allowed to obtain a certificate of authorization is based on long-standing public protection principles.

Currently in New York State, corporate entities must be owned and controlled by licensed design professionals to obtain a certificate of authorization to offer professional design services to the public. This requirement is predicated on the need to ensure decisions made at the corporate level do not conflict with a licensed design professional's statutory duty of safeguarding life, health, and property. While the bill states that any work under the amendment must be conducted by a professional engineer, the concern remains that the directors and officers of a not-for-profit are often transient, and the entity's bylaws and articles of incorporation may not specify the need for the board of directors to be comprised of licensed design professionals.

The sponsors may believe that the proposed amendment is limited in scope, but it would establish a significant precedent. We acknowledge that barriers exist which prevent not-for-profits from using in-house engineering expertise to carry out their organization's mission. These barriers should be properly examined prior to a major paradigm shift in the provision of professional design services to determine if the proposed solution is the only path to addressing the problem. ACEC New York is willing and able to work with the sponsors and the relevant stakeholders to determine an appropriate course of action that respects the letter and spirit of the law and safeguards public safety.

For these reasons, ACEC New York **opposes bill S.5392 (Scarcella-Spanton)/A.483 (Clark)**.