

## **NYSSPE ISSUE BRIEF: *25% non-licensed ownership in a design professional service corporation***

### ***AN ACT to amend the business corporation law in relation to the incorporation of design professional service corporations.***

This bill (A.4581/S.2987) amends the business corporation law to authorize a new type of professional service corporation to be known as a design professional service corporation. Under current law, professional service corporations in New York restrict ownership to design professionals licensed pursuant to the state education law. Specifically, these professions include professional engineering, architecture, landscape architecture and land surveying. This bill liberalizes New York law by permitting design firms the flexibility of offering an ownership interest to non-licensees via the design professional Service Corporation. At the same time the legislation requires that 75% of the stock be owned by design professionals. Additionally, 75% of the directors and officers must be licensed design professionals. The president, chief executive officer and the chairman of the board of directors also must be licensed design professionals. A non-licensee cannot be the single largest shareholder. The majority ownership and management requirements are intended to insure that professional considerations predominate the corporate decision making processes.

Pursuant to current law, a design firm desirous of offering key personnel such as human resource managers, information technology specialists and/or geologists an equity share in the firm are prohibited from doing so. In contrast, virtually every other state in the country does not impose such restrictive ownership limitations upon design firms. In fact, many states allow unlimited corporate practice of engineering and other design services, while many others impose ownership and management restrictions similar to those proposed by this legislation. New York's competitiveness

both national and internationally will be enhanced by this action. Additionally, New York law authorizes some 120 grandfather corporations (in existence since 1935) the right to provide engineering services with no restriction on stock ownership. The only requirement is that the CEO must be licensed. The firms enjoy a competitive advantage in their ability to attract and retain key non-licensed personnel.

Design professional service corporations will be able to attract and retain key personnel by affording them an opportunity to share an equity position in the corporation. At the same time, the requirement that ownership and management continue to be controlled by design professionals assures that the public health and safety remains paramount. In addition, the ability of non-licensees to retain a minority ownership in a design professional service will enable corporate management, particularly in the case of smaller firms, to transfer some interest to family members upon the death or disability of a licensee. Finally, design professional service corporations remain subject to the licensing authority of the board of regents including the powers of suspension and revocation.

**Position:** Support

**Status:** Senate Corporations, Authorities & Commissions Committee  
Assembly Higher Education Committee

**History:** First introduced in 1999  
Passed Senate '06,'07,'08  
Passed both Houses 2011