



1665 Willowmont Avenue
San Jose, CA 95124-3234

11 September 2019

Governor Gavin Newsom
1303 10th Street, Suite 1173
Sacramento, CA 95814

Dear Governor Newsom:

I am contacting you on behalf of members of the Institute of Electrical and Electronics Engineers – USA (IEEE-USA) in California with concerns about AB 5. IEEE represents over 33,000 technology professionals in California. We are concerned that the bill could unintentionally ban most technology consulting in California, including software and aerospace consultants. This would be a tremendous blow to Silicon Valley's and California's uniquely entrepreneurial culture.

Among other conditions, AB 5 defines individuals as employees, rather than independent contractors, unless "The person performs work that is outside the usual course of the hiring entity's business." This means, for example, that companies employing computer programmers cannot also hire computer programmers as independent contractors for short-term projects.

The problem is that using contract employees for short-term projects is a standard business practice for many California technology and aerospace companies. It is also a popular career choice for tens of thousands of technology professionals in our state. For many skilled engineers (including me, for the past 20+ years), consulting gives us freedom and flexibility that no regular job can offer. It also frequently offers better pay than a conventional job. Consulting gives California businesses access to exactly the right skills they need, when they need us – which is part of the reason our state is so innovative and entrepreneurial.

There is an exemption in AB 5 for engineers, but it only applies to engineers with a state issued license. This is fine for civil engineers and a very few electrical engineers, but most technology professionals are not licensed – they can't be because no appropriate licenses are offered in most tech fields. Using myself as an example again, I've worked productively in Silicon Valley since 1987 without any professional licenses. There are no professional licenses available in my field (Digital Storage and Memory Technology and Applications) in any state.

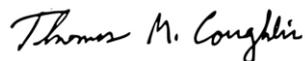
It is worrisome that so many Legislators thought they were voting on legislation that exempted engineers, when in fact the legislation will ensnare most engineers in California. This dramatic change to the relationship between technology companies and independent consultants was never discussed or considered because of an exemption that won't work.

AB 5 also includes an exemption for sole proprietorships and other legal structures in which a consultant could work. This is helpful, as many of our experienced IEEE consultants have built formal businesses around their work – but many others haven't. Requiring new consultants to form an LLC, sole proprietorship or other legal entity before starting their work as a consultant would constitute a significant barrier to entry for many wanting to enter this field, limiting the number of consultants and therefore reducing the competitiveness of our tech economy.

We understand that the major technology companies are mostly unconcerned by the new rules for consultants, in large part because it will be very easy for them to simply move the work out of the state, or even the country. Most major IT employers operate facilities outside of California, making it easy to shift work elsewhere. It will be much harder for consultants in California to adjust, and even harder for the California economy. Innovation occurs where the innovative people work. Making it much harder for independent engineers and other technical professionals to work in California will encourage our creative workers to start their careers elsewhere, applying their ideas and talents to other economies.

California's tech sector currently operates better than any other such sector on the planet. We, the technology workers AB 5 is supposed to protect, see no advantage to changing the relationship between technology companies and technology consultants. As written, AB 5 could do serious harm to the working conditions and access to talent that made Silicon Valley, and all of California, the envy of the entire world.

Sincerely,



Thomas Coughlin
2019 IEEE-USA President