

- SUBJECT:** Posting notice of closure of a health spa
- COMMITTEE:** Business and Industry — committee substitute recommended
- VOTE:** 6 ayes — Brimer, Dukes, J. Davis, Elkins, Solomons, Woolley
0 nays
3 absent — Corte, George, Giddings
- WITNESSES:** For — None
Against — Doug Toney, Texas Daily Newspaper Association and Texas Press Association
- BACKGROUND:** Under Occupations Code, sec. 702.452, within 45 days of discovering that a health spa has been closed, the secretary of state must publish, in a general-circulation newspaper in the county where the spa is located, a notice stating that the spa has closed and that a member of the spa has 90 days in which to file with the secretary a claim to recover a financial loss, such as a prepaid membership fee. The notice also must state the procedures for perfecting a security claim.
- DIGEST:** CSHB 3322 would require the certificate holder of a health spa that had closed to post a notice of the spa's closure at the spa location within three days after the closure. The certificate holder would have to notify the secretary of state of the health spa's closure and of the date on which the notice was posted. The notice would have to contain the other information now required on the notice posted by the secretary of state.
- The notice would have to be at least 8-1/2 by 11 inches in size, posted in a place that was readily accessible to the general public during the spa's normal operating hours, and posted continuously for at least 14 days.
- If the certificate holder failed to post the notice within the specified time, the secretary of state would have to post the required notice within 30 days after discovering that the health spa was closed. After receiving notice of or

otherwise discovering the closure, the secretary would have to post a notice of the closure for at least 30 days on the secretary's Internet web site. Not later than the 10th day after the secretary discovered the closure, the secretary would have to notify the appropriate surety company or obligor about the pending administrative proceedings.

CSHB 3332 also would repeal a provision allowing the secretary of state to claim reimbursement of costs incurred in publishing the notice of the spa's closure.

The bill would take effect September 1, 2001, and would apply only to a health spa that closed on or after that date.

**SUPPORTERS
SAY:**

Requiring the certificate holder to post the notice of closure at the health spa itself, as proposed by CSHB 3332, would be more efficient and effective than publishing a notice in a newspaper. Most spa members would notice the posting first on their regular visits to the spa. Requiring the information to be posted on the secretary of state's Internet web site would give spa members an additional source of information on their legal rights.

**OPPONENTS
SAY:**

Under CSHB 3332, a spa member who had cut down on the frequency of his or her visits to the spa would not find out that the spa had closed until it was too late to recover costs. Publishing the notice in a newspaper would reach these people in addition to those who frequented the health spa. It also would save people the inconvenience of driving to the health spa only to discover that it was closed.

NOTES:

The committee substitute modified the filed version to conform to the Texas Legislative Council format.

The companion bill, SB 1318 by Staples, passed the Senate on the Local and Uncontested Calendar on April 5 and was reported favorably, as substituted, by the House Business and Industry Committee on April 24, making it eligible to be considered in lieu of HB 3332.