

**SUBJECT:** Filings with secretary of state by business organizations

**COMMITTEE:** Business and Industry — favorable, without amendment

**VOTE:** 8 ayes — Brimer, Dukes, J. Davis, Elkins, George, Giddings, Solomons, Woolley

0 nays

1 absent — Corte

**SENATE VOTE:** On final passage, April 5 — 30-0, on Local and Uncontested Calendar

**WITNESSES:** None

**DIGEST:** SB 1320 would amend provisions in the Texas Non-Profit Corporation Act (Art. 1396-6.05, V.T.C.S.), the Texas Limited Liability Company Act (Art. 1528n, V.T.C.S.), the Texas Revised Limited Partnership Act (Art. 6132a-1, V.T.C.S.), and the Texas Revised Partnership Act (Art. 6132b-6.01, V.T.C.S.) related to filings made with the secretary of state by business organizations. The bill would correct statutory cross-references in these acts, modify the contents of articles of merger, and add an additional time period to specify when withdrawal of a partner occurred.

The bill would amend the Texas Limited Liability Company Act to specify that a person who had reserved a specified company name could terminate the reservation during the period for which the name was reserved by filing an application of cancellation with the secretary of state and paying an applicable fee. A foreign limited liability company whose certificate of authority the secretary revoked could be reinstated at any time within a period of 36, rather than 24, months.

Articles of merger would have to include the plan of merger or statement certifying the following:

- ! the name and state of incorporation or organization of each domestic or foreign limited liability company or other applicable entity;

- ! that a plan of merger had been approved;
- ! amendments or changes in the articles of organization of each domestic surviving limited liability company or a statement that no amendments were desired;
- ! that articles of organization of each new domestic limited liability company created pursuant to the terms of the merger plan were being filed with the secretary, along with the articles of merger;
- ! that an executed plan of merger was on file at the principal place of business of each surviving or new domestic or foreign limited liability company or other entity, stating the address; and
- ! that a copy of the plan of merger would be furnished by each limited liability company or other entity to any member of each domestic limited liability company that was a party to or created by the plan of merger, and, in certain circumstances, to any creditor or obligee.

SB 1320 would amend the Texas Non-Profit Corporation Act to require a statement that a plan of distribution had been adopted. It would delete language requiring a copy of the plan of distribution. A nonprofit corporation dissolved by the secretary or a corporation whose certificate of authority had been revoked by the secretary could be reinstated at any time within a period of 36, rather than 12, months from the date of dissolution, upon approval of an application for reinstatement.

The bill would amend the Texas Revised Partnership Act to provide an additional time period for an event of withdrawal of a partner. An event of withdrawal of a partner would occur on a conversion of the partnership if the partner did not consent to the conversion and failed to notify the partnership in writing of the partner's desire not to withdraw within 60 days of the effective date of conversion or of the date the partner received actual notice of the conversion, whichever was later. A withdrawal of a partner under these circumstances would be effective immediately before the effective date of the conversion and would not be considered a wrongful withdrawal.

The bill also would repeal a section of the Texas Professional Corporation Act (Art. 1528e, V.T.C.S.) that provides for the dissolution of a professional corporation.

This bill would take effect September 1, 2001.

**SUPPORTERS  
SAY:** SB 1320 would correct errors in certain statutory cross-references and would make certain procedural changes to conform provisions of the Texas Non-Profit Liability Company Act, the Texas Professional Corporation Act, the Texas Limited Liability Company Act, the Texas Revised Limited Partnership Act, and the Texas Revised Partnership Act in order to standardize filing procedures for related documents.

Since 1995, attorneys in the Secretary of State's Office, as members of the State Bar Ad Hoc Code Committee, have participated in the codification project for the Business Organizations Code. In the course of this review, members of the committee have identified errors and inconsistencies in current law that should be corrected or conformed. SB 1320 would address those errors and inconsistencies.

**OPPONENTS  
SAY:** No apparent opposition.