HOUSE
RESEARCH
ORGANIZATION bill digest   5/11/2021

HB 2183 (2nd reading)
Moody
(CSHB 2183 by Schofield)

SUBJECT: Revising statutory provisions for durable powers of attorney

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 6 ayes — Leach, Julie Johnson, Krause, Middleton, Schofield, Smith

             0 nays

             3 absent — Davis, Dutton, Moody

WITNESSES: For — Craig Hopper, State Bar of Texas Real Estate Probate and Trust
             Law Section; (*Registered, but did not testify*: Lauren Hunt, Real Estate,
             Probate, State Bar of Texas Real Estate Probate and Trust Law Section;
             Guy Herman, Statutory Probate Courts of Texas as Presiding Judge)

             Against — None

BACKGROUND: Estates Code chs. 751 and 752 establish the general provisions regarding
             durable powers of attorney and statutory durable powers of attorney.

             Interested parties have suggested that changes to the Estates Code are
             needed to clarify that durable powers of attorney are tools for use by
             individuals, not by entities, and to clarify that the statutory durable power
             of attorney regarding business operation transactions applies to limited
             liability companies.

DIGEST: CSHB 2183 would specify that a principal who signed a durable power of
             attorney would have to be an adult "individual" rather than a "person."

             The bill also would specify that the definition of "disabled or
             incapacitated" for the purposes of the durable power of attorney would
             apply only to individuals, not entities, and that a statutory durable power
             of attorney could be used only by individuals, not entities.

             The bill would make revisions to the authority granted to an agent when
             the principal granted authority with respect to business operating

transactions, specifying that the statutory durable power of attorney would extend to actions with respect to membership interest in a limited liability company.

The bill would take effect September 1, 2021, and would apply only to a durable power of attorney, including a statutory durable power of attorney, executed on or after that date.