

Legislative History for Connecticut Act

HB 6960 P.A. 252 1995
Senate 5275 - 5279, 5341-5343 (8)
House 2271, 4421-4435 (16)
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CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
1995

VOL. 38

PART 14

4902-5312

Madam President?

PRESIDENT PRO TEM:

Senator Fleming.

SEN. FLEMING:

Yes, thank you, Madam President.

Madam President, on page 11, I'd like to ask the Clerk to call Calendar 554.

PRESIDENT PRO TEM:

Mr. Clerk.

THE CLERK:

Page 11, Calendar 554, HB6960, An Act Concerning Limited Partnership Corporations Limited Liability Companies and Fees and Regulations of the Secretary of the State and Certain Notices Mailed by the Secretary of State, as amended by House Amendment Schedule A and B. Favorable report of Judiciary, Finance, File 591, 883.

PRESIDENT PRO TEM:

Senator Upson.

SEN. UPSON:

Thank you, Madam President.

I move the Joint Committee's favorable report and adoption of the bill in accordance -- in concurrence with the House.

PRESIDENT PRO TEM:

Would you remark further, please?

SEN. UPSON:

Yes, Madam President.

This is a Judiciary bill with two amendments from the House.

Essentially, these are changes within the Secretary of State's --

PRESIDENT PRO TEM:

I'm sorry, Senator Upson. But could you have your private conversations outside or in the caucus room, please? Thank you.

Proceed.

SEN. UPSON:

Through you, Madam President.

PRESIDENT PRO TEM:

Yes, sir.

SEN. UPSON:

These are essential changes to the Secretary of State's office, either modernizing, changing of fees or change -- bringing things up to date.

For example, limited partnerships now have -- would -- now have to file annual reports, they're not required to do that, except with this bill. Secretary of State may cancel a limited partnership that is in default for failure to maintain a statutory agent for

service within the state; authorizes the reinstatement of cancelled limited partners, partnerships; allows the Secretary of State to revoke a foreign limited partnership certificate of registration.

Now, this increases from 20 to \$25, the fee for filing non-stock corporation biennial reports and makes the increase retroactive to October 1st, 1993. Apparently, the Secretary has been charging 25 for filing those reports on that date anyway.

Establishes three new filing fees, essentially to correspond with other fees; \$10 for a limited partnership annual report, \$60 for a limited partnership certificate of reinstatement, and \$30 for cancelling reserve limited liability partnerships.

The technical changes made in the House, Madam President, one, eliminates the need for the Secretary to send -- or allows the Secretary to send by -- notices by mail to corporations.

The one that had little controversy, Madam President and that's an amendment which eliminates the Secretary of State's authority to cancel corporate existences.

Now, what's happened during these legislative sessions, we've had 300 corporations be reinstated, largely because they didn't file their annual reports.

In many cases they had no idea they didn't file it; they never received notice.

So just because a corporation under this amendment does not file their annual report, does not mean they're going to be eliminated or dissolved by the Secretary of State.

So it takes out the provision which allows the Secretary of State to dissolve them because of failure to file an annual or biannual report. This still would make them, Madam President, they would not be able to get a certificate of good standing, but in many cases, corporations, as you know, we bring all these reinstatements here to the legislature because they forget to file these reports. Usually they don't get the notice from the Secretary of State's office. And in this case, dissolution is an extreme measure and certainly this -- there should be a reasonable penalty for such a minor violation. Minor violation being a failure to file an annual report.

So I would agree with both House Amendments and if there's no objection, I would ask for a roll call vote.
PRESIDENT PRO TEM:

Hearing none, would you announce a roll call vote, please?

Yes, Senator Upson?

SEN. UPSON:

Madam President, since the Clerk has not announced the roll call, my distinguished Majority Leader from Simsbury, the haven for succession tax returns, would like me to put this on the Consent Calendar.

PRESIDENT PRO TEM:

Hearing no objection, so ordered.

Senator Fleming.

SEN. FLEMING:

Only people I heard from on the succession tax were the poor farmers in my district and they were in favor of it.

Madam President, I was wondering if the Clerk could call Calendar 558?

THE CLERK:

Page 12, Calendar 558, HB6716, An Act Concerning Model Codes of Ethics for Municipalities and Special Districts and Prohibiting Lobbying Concerning Certain State Contract, as amended by House Amendment Schedule A. Favorable report of Committee on GAE, Appropriation, Planning and Development, File 293, 871.

PRESIDENT PRO TEM:

Senator Smith.

SEN. SMITH:

Thank you, Madam President.

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Yes, Madam President. I would ask that Calendar 374 just acted upon be immediately transmitted to the Governor.

THE CHAIR:

Without objection, so ordered.

SEN. FLEMING:

Yes, thank you, Madam President.

Madam President, I would move that all items not -
- all PT'd items at this point be passed retaining their place.

THE CHAIR:

Without objection, so ordered.

SEN. FLEMING:

And, Madam President, I would move to immediately transmit all business acted upon by the Senate to the House.

Oh, I'm sorry. Madam President, perhaps we ought to move the Consent Calendar and then I'll make that motion.

THE CLERK:

We're about to vote on the Consent Calendar. Will all Senators return to the Chamber?

We're about to vote on the Consent Calendar. Will all Senators return to the Chamber?

Page 6, Calendar 424, SB1104.

Page 11, Calendar 554, HB6960.

Page 12, Calendar 558, HB6716.

Page 13, Calendar 563, HB5944.

Page 13, Calendar 564, HB6103.

Page 14, Calendar 570, HB6717.

Page 16, Calendar 595, HB6545.

Page 18, Calendar 195, HB5289.

Page 19, Calendar 322, SB892.

Page 20, Calendar 88, SB881.

Page 21, Calendar 108, SB913.

Page 21, Calendar 133, SB1042.

Page 22, Calendar 219, SB495.

THE CHAIR:

The machine will be open.

Have all members voted? Senator Nicker -- Bill?

If all members have voted --

THE CLERK:

The Consent Calendar is being voted on in the Senate. All Senators return to the Chamber.

THE CHAIR:

If all members have voted, the machine will be locked.

Clerk, please take a tally.

THE CLERK:

Total number voting 35; necessary for passage 18.

Those voting yea 35; those voting nay, 0.

THE CHAIR:

The Consent Calendar is adopted.

Senator Fleming?

SEN. FLEMING:

Yes, Madam President.

Again, at this time I would move for immediately transmittal of all items favorably acted upon by the Senate to the House.

THE CHAIR:

So ordered.

SEN. FLEMING:

And, Madam President, for the benefit of the members, I would like to indicate that tomorrow the Senate will convene at 10:30. It is important for members to realize that at 10:30 we expect to go into session, pray, pledge and then take up all -- many, if not all of the bonding issues when we come in.

So I would urge members to be here on time and be prepared to vote on those issues.

And at this time I would yield to Senator Sullivan.

THE CHAIR:

Senator Sullivan, do you accept the yield?

SEN. SULLIVAN:

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House of Representatives

May 12, 1995

To the Committee on Finance, Revenue and Bonding,
H.B. No. 6960.

SPEAKER GODFREY:

So ordered.

REPRESENTATIVE MERRILL: (54th)

To the Committee on Finance, Revenue and Bonding,
H.B. No. 6673.

SPEAKER GODFREY:

So ordered.

REPRESENTATIVE MERRILL: (54th)

To the Committee on Finance, Revenue and Bonding,
H.B. No. 6717.

SPEAKER GODFREY:

So ordered.

REPRESENTATIVE MERRILL: (54th)

To the Committee on Energy and Technology, H.B.
5331.

SPEAKER GODFREY:

So ordered.

REPRESENTATIVE MERRILL: (54th)

To the Committee on Appropriations, H.B. No. 6205.
SPEAKER GODFREY:

So ordered.

REPRESENTATIVE MERRILL: (54th)

To the Committee on Planning and Development, H.B.

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4170-4521

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House of Representatives

Wednesday, May 31, 1995

The bill as amended is passed.

Clerk, please call Calendar 393.

CLERK:

On Page 33, Calendar 393, HB 6960, AN ACT
CONCERNING LIMITED PARTNERSHIPS, CORPORATIONS, LIMITED
LIABILITY COMPANIES AND FEES AND REGULATIONS OF THE
SECRETARY OF THE STATE. Favorable report of the
Committee on Finance.

DEPUTY SPEAKER HYSLOP:

Representative Jarjura.

REP. JARJURA: (74th)

Thank you, Mr. Speaker. Mr. Speaker, I move
acceptance of the Joint Committee's favorable report
and passage of the bill.

DEPUTY SPEAKER HYSLOP:

The question is on acceptance and passage. Will
you remark further?

REP. JARJURA: (74th)

Yes, Mr. Speaker. Mr. Speaker, this underlying
bill makes various changes to the laws affecting the
Secretary of State's office. It's technical in nature.
The first section extends from three to five years the
time within which a stock and non-stock corporation or
a limited liability corporation may be reinstated if it
dissolved other than by court order.

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The second section requires limited partnerships to file annual reports. The third section allows the Secretary of State to cancel any limited partnership that is in default for failure to file timely annual reports.

Also, the bill authorizes the reinstatement of cancelled limited partnerships, treats foreign limited partnerships the same as domestic limited partnerships, allows the Secretary to revoke foreign limited partnerships' certificate of registrations, so on and so on.

It also has various effects regarding the fees that are charged and makes other technical changes.

Mr. Speaker, the Clerk has in his possession an Amendment, LCO 6484. I would ask that the Clerk please call and I be allowed to summarize.

DEPUTY SPEAKER HYSLOP:

Will the Clerk please call LCO 6484, designated House "A"? The Representative has asked leave to summarize.

CLERK:

LCO 6484, House "A", offered by Representative Lawlor.

DEPUTY SPEAKER HYSLOP:

Proceed.

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REP. JARJURA: (74th)

Thank you, Mr. Speaker. Mr. Speaker, what this Amendment does is clarify that the Secretary of State, with regard to mailings, that it would be by certificate of mailing as opposed to registered or certified mail. This is going to result in a substantial savings in mailing costs for the Secretary of State and it's an option offered by the Postal Service. It operates very much the same way as registered or certified mail, but it's referred to as certificate of mailing.

And I would move adoption of the Amendment.

DEPUTY SPEAKER HYSLOP:

The question is on adoption. Will you remark further? The question is on adoption. If not, all those in favor signify by saying Aye.

VOICES:

Aye.

DEPUTY SPEAKER HYSLOP:

Those opposed Nay? The Ayes have it. House "A"
passes, ruled technical.

Will you remark further on the bill as amended?

REP. JARJURA: (74th)

Yes, Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

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Representative Jarjura.

REP. JARJURA: (74th)

Thank you, Mr. Speaker. As I indicated, this bill is technical in nature. It passed the Judiciary Committee unanimously, 37 Yea to zero Nay. And I move passage.

DEPUTY SPEAKER HYSLOP:

The question is on passage. Will you remark further?

Representative Knierim.

REP. KNIERIM: (16th)

Thank you, Mr. Speaker. The Clerk has an Amendment, LCO 7269. Would the Clerk please call and may I be permitted to summarize?

DEPUTY SPEAKER HYSLOP:

Will the Clerk please call LCO 7269, designated House "B"?

CLERK:

LCO 7269, designated House "B", offered by Representative Knierim.

DEPUTY SPEAKER HYSLOP:

The Representative has asked leave to summarize. Proceed.

REP. KNIERIM: (16th)

Thank you, Mr. Speaker. This Amendment would

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eliminate the procedure by which the Secretary of the State dissolves administratively corporations, limited liability companies and limited partnerships for failure to file their annual reports.

I'd move adoption.

DEPUTY SPEAKER HYSLOP:

The question is on adoption. Will you remark further?

REP. KNIERIM: (16th)

Thank you, Mr. Speaker. This Amendment is a small measure that would go a long way in making Connecticut a more friendly place to do business. I say a small measure because in the scheme of things it may not be a huge part of the day-to-day affairs of every business. But it is a fact that we currently have an unduly bureaucratic system for corporations and other business organizations that run afoul of the annual report requirement.

I'm sure all of the members of this Chamber are very familiar with our annual corporate reinstatement bills. In fact, we have to reinstate hundreds of corporations each year simply because they have failed to file an annual report.

Now, an annual report is just a small computer card that is mailed to a corporation and then it's

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supposed to return it and it discloses who the officers and the directors of the corporation are.

In many cases, though, the corporation never receives notice that it's supposed to file that annual report because the Secretary of the State has an erroneous address for it. In other cases, we're talking about non-profit organizations that may have a turnover in who the President is or who the Secretary of the corporation is and they're not aware of the requirement of filing the annual report.

Now, the difficulty with our system is we use an extraordinarily draconian measure to attempt to enforce the annual report requirement. And that draconian measure is we tell the Secretary of the State that he may dissolve the corporation. That is to say the corporation from a legal standpoint goes entirely out of business because it has failed to file this little annual report. Now, if that's not a bureaucratic system, I don't know what is.

But then the system that we in the legislature use makes that even worse because without any scrutiny we annually reinstate those hundreds of corporations that are dissolved. And when do that, we don't ask any questions about the corporation. We simply add it to a list and say, "Sure. You can be reinstated,

notwithstanding the fact that you failed to file an annual report."

In many cases, it's been many years since the corporation was in compliance with the statute. In fact, one member of this Chamber related to me a recent experience where a corporation that was, in fact, dissolved for nearly 100 years was reinstated by this body.

What we have then is two equally absurd operations. First, the absurdity of the Secretary of the State putting a corporation out of business simply because it's failed to file a small computer card and then the operation of this legislature intervening to reinstate such a corporation with no scrutiny whatsoever over what the individual circumstances are.

Ladies and gentlemen of the Chamber, what this Amendment would do is stop the nonsense of this process. We would still require corporations and other business entities to file annual reports and we would consider them to be in default if they failed to file those annual reports. But we can eliminate this bureaucracy.

And I'd just emphasize in closing also that it's not simply having to come to the legislature and asking us to reinstate the corporation.

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DEPUTY SPEAKER HYSLOP:

Excuse me, Representative Knierim. I hate to interrupt you. But -- will the House come to order please? I can hardly hear Representative Knierim. It started out pretty good and now we're getting a little bit louder. I'd appreciate it if we would bring the noise level down. If you have conversations, please take them outside of the Chamber. Thank you.

Proceed.

REP. KNIERIM: (16th)

Thank you, Mr. Speaker. The reinstatement process is one that is very costly to corporations and other business entities. It may seem to us like it's not a big deal to add a corporation to annual reinstatement bill. But it's important to emphasize that even after we pass that piece of legislation, a company has a whole series of hurdles to overcome, ordinarily requiring that company or the non-profit organization to retain a lawyer and jump through all those hoops.

I'd close by just re-emphasizing, ladies and gentlemen, this is a small measure that I think goes a long way in making the state a bit more friendly to business. There's no public policy rationale that is served by our current system. And by eliminating it, we can make life a little bit easier for the

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organizations that are employing our people and doing charitable endeavors.

Thank you, Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Will you remark further on House "B"?

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. I rise to oppose the Amendment. And I do respectfully because Representative Knierim and I have discussed this issue a number of times and I think that there is a great deal of effort to try and identify what the problem is and effective ways to solve it. And I think that this is certainly an attempt to solve a problem. But I'm not sure it doesn't create more problems than it solves.

Although I'm not an expert in this area, in discussions with people who are, they argue that the only real deterrent, the only real incentive, I should say, for corporations to stay up-to-date is the possibility that they might be dissolved for failing to file their annual reports.

This has worked with some degree of success, although I would certainly acknowledge that it is an extraordinary remedy that businesses and other

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corporations contact their legislators to seek reinstatement when they have neglected their responsibility to file.

But it doesn't seem that it's been abused. It doesn't seem like it's unnecessarily awkward. In fact, oftentimes I'm contacted, and I'm sure other legislators are contacted, by private companies from around the nation who are just seeking the nuts and bolts information to ensure a corporation has been reinstated, the Public Act number, et cetera. So it seems like it's a relatively routine procedure even in that part of the business world that is keeping track of who is a corporation in good standing and who is not.

So I would urge the members to reject the Amendment, to allow the system to continue functioning in the way that it does function. And I certainly would be more than happy, and I know the staff with the Secretary of the State's Office would be more than happy, to continue working on a more modern solution to the problem than the legislative solution.

So I would urge rejection, Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Will you remark further?

Representative Miller.

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REP. MILLER: (122th)

Thank you, Mr. Speaker. I rise in support of the Amendment. I run a couple of corporations. And I can tell you the agony that I have to go through filling out the annual report. If you're late, you're going to get the devil from the Secretary of State's Office.

If we're going to be business-friendly, this is exactly the kind of Amendment that should be passed. We're in a situation economically that the state is uncompetitive. Let's try to make it more competitive by passing this Amendment.

Thank you, Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Representative Farr.

REP. FARR: (19th)

Thank you, Mr. Speaker. If this were a system that was working, I would suggest to you we wouldn't see 20 or 30 bills before us or a bill with 20 or 30 corporations every year asking for reinstatement. The deterrent of having to go back to the legislature doesn't work. And if this is a good idea that requires somebody to come back to the legislature because they failed to file something on time, maybe we could extend this in the Motor Vehicle area and say "If you don't renew your license, you have to come to the legislature

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and get special action." This is not an appropriate remedy.

What we ought to do is what this Amendment suggests we do; take this whole procedure out of the legislature and make it an administrative procedure. And I support the Amendment.

DEPUTY SPEAKER HYSLOP:

Will you remark further on House "B"? Will you remark further on House "B"? If not, we'll try your minds. All those in favor signify by saying Aye.

VOICES:

Aye.

DEPUTY SPEAKER HYSLOP:

Those opposed Nay?

VOICES:

No.

DEPUTY SPEAKER HYSLOP:

The Ayes have it. The Amendment "B" passes, ruled technical.

Will you remark further on the bill as amended?

Will you remark further on the bill as amended?

Representative Stripp.

REP. STRIPP: (135th)

Mr. Speaker, Mr. Speaker. Thank you, Mr. Speaker.

I have one question for the proponent of the bill.

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DEPUTY SPEAKER HYSLOP:

Representative Jarjura, prepare yourself for the question.

REP. STRIPP: (135th)

That has to do with the technical issue, a certificate of mailing as opposed to certified or registered mail. Both registered and certified mail, it's incumbent upon the Post Office Department to track them with a special procedure. A certificate of mailing sounds like a postal procedure that might end at the point you mail it and there's no further special tracking. Through you, Mr. Speaker. Is that the case?

DEPUTY SPEAKER HYSLOP:

Representative Jarjura.

REP. JARJURA: (74th)

Thank you, Mr. Speaker. Through you, Mr. Speaker. My understanding is that the certificate of mailing provides that the evidence of the mailing is delivered back to the post office and that there is a way to retrieve that, if necessary. But there is a tremendous amount of cost savings with that. I don't profess to know all the intricacies. But I do know that, if necessary, you can retrieve that evidentiary piece of paper that you normally see with certified or registered mailing.

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REP. STRIPP: (135th)

Mr. Speaker, thank you.

DEPUTY SPEAKER HYSLOP:

Will you remark further on the bill as amended?
Will you remark further on the bill as amended? If
not, staff and guests to the well of the House. The
machine will be open.

CLERK:

The House of Representatives is voting by Roll
Call. Members to the Chamber. The House is voting by
Roll Call. Members to the Chamber.

(Roll Call vote taken)

DEPUTY SPEAKER HYSLOP:

Have all members voted? If all members have
voted, please check the machine. Make sure that your
vote is properly recorded. The machine will be locked
and the Clerk will take a tally.

(Tally taken)

DEPUTY SPEAKER HYSLOP:

The Clerk will announce the tally.

CLERK:

HB 6960 as amended by House Schedules "A" and "B".
Total number voting, 149; necessary for passage, 75;
those voting Yea, 148; those voting Nay, one; absent,
not voting, two.

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DEPUTY SPEAKER HYSLOP:

The bill as amended passes.

Clerk, please call Calendar 512.

CLERK:

On Page 37, Calendar 512, Substitute for HB 6870,
AN ACT CONCERNING THE CONNECTICUT EQUESTRIAN CENTER
AUTHORITY ACT. Favorable report of the Committee on
Environment.

DEPUTY SPEAKER HYSLOP:

Representative Mordasky of the 52nd.

REP. MORDASKY: (52nd)

Thank you, Mr. Speaker. Mr. Speaker, I move
acceptance of the Joint Committee's favorable report
and passage of the bill.

DEPUTY SPEAKER HYSLOP:

The question is on acceptance and passage. Will
you remark further?

REP. MORDASKY: (52nd)

Thank you, Mr. Speaker. Mr. Speaker, this bill
creates a Connecticut Equestrian Center Authority whose
initial purpose is to analyze the suitability of
locating an equestrian center at Hartford's Keeney
Park.

The analysis must include an updating of
feasibility study on locating a center in the park,

JOINT
STANDING
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HEARINGS

JUDICIARY
PART 9
2874-3234

1995



TESTIMONY by SECRETARY OF THE STATE MILES S. RAPOPORT

Friday, March 24, 1995 before the Committee on Judiciary

RE: HB 6960 An Act Concerning Limited Partnerships, Corporations, Limited Liability Companies and Fees and Regulations of the Sec. of the State and other bills

HB 6261 HB 5034 SB 1143

Thank you very much for the opportunity to testify this morning on a number of bills that the Committee is considering. I am joined by Maria Greenslade of my office. I have a number of brief comments on bills before the committee, and we would be pleased to respond to any questions you may have.

HB 6960 was submitted by my office, and makes a number of revisions to the statutes affecting the operations of the Secretary of the State's office. The bill would:

- allow the reinstatement of businesses within five years after dissolution or cancellation,
- require limited partnerships to file annual reports and provide for their forfeiture if they fail to do so,
- allow the cancellation of a reserved limited liability company name,
- clarify fees concerning the filing of certificates of mergers; nonstock biennial reports and for the transfer of a reserved nonstock corporate name,
- allow the charging of a flat fee for copies of certain documents and
- authorize the secretary of the state to establish fees and regulations pertaining to electronic access of documents, as we make more of our records accessible to the business community and the public via on-line access.

I would also like to ask the Committee to support an amendment to this bill which we have provided to you, it would make a slight change in the way we handle certain mailings by our Commercial Recording Division. In consultation with the Department of Administrative Services and an analysis of federal postal regulations, we have determined that we can achieve savings that may exceed \$10,000 annually with a simple change -- using a "proof of certificate" mailing designation rather than certified mail without a receipt. To the customer, there is no difference. Nothing is compromised in terms of our ability to track the mailing. The only difference is the savings.

These revisions, and a number of other changes contemplated in other bills before you, help us to both improve the service we can provide to business customers and increase the efficiency of our operations.

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FRANCIS PAVETTI: Thank you.

REP. LAWLOR: Next is Secretary of the State, Miles Rapoport.

SEC. OF STATE MILES RAPOPORT: Mr. Chairman, thank you for the opportunity to address the Judiciary Committee. I like to greet all my former colleagues. It is a pleasure to be here.

HB 6201
HB 5034
SB 1143

I want to testify primarily on HB6960, which has been submitted by my office and with me is Maria Greenslate who is an Assistant Deputy Secretary who has worked very closely with the Commercial Recording Division.

HB6960 makes a number of revisions in the statute that affect the operations of a commercial recording division of the Secretary of State's Office. They are primarily technical in nature, but several of them would allow us significant ease in doing our business.

The basic highlights of the bill are to allow the reinstatement of corporations administratively for a period of five years after their dissolution rather than three. This would be a great relief to the Judiciary Committee in crafting its reinstatement bill, hopefully it would cut it down from the 290 that I understand you had last year to a somewhere more reasonable number. This would give corporations more time to put themselves back in business without a special legislative act.

Secondly, it would require limited partnerships to file annual reports and provide, as we do with all other businesses, for their forfeiture of their status, if they fail to do so, will allow the cancellation of a reserved limited liability company name, clarify the fee schedule. There is some technical inconsistencies concerning the filing of certificates for mergers. Non-stock biennial reports and for the transfer of a reserved non-stock corporate name.

It will allow us to charge a flat fee for copies of certain documents which require going back to the

archives and will authorize the Secretary of State to establish fees and regulations pertaining to the electronic access of documents. More and more of the documents that people are asking for rather than coming to the counter and getting a piece of paper are being filed electronically and so how we figure out what the appropriate cost structure is for that is going to take some time so we need -- this is a request for authorization to do that as we all move, as we should, to public on-line access to as much of the State's information as possible.

There is a small amendment that is, I think, is very technical, but is a nice cost savings that I would like the committee to support which is not in the original filing of the bill. Based on a discussion with the Department of Administrative Services and the postal service, if we change our mailing process to go to what the postal services calls a "Proof of Certificate Mailing" rather than a certified mail, we can save about \$10,000 a year with no difference in the traceability of the mailing. Certified mail is not where the person signs, it is just we get a receipt that it has been mailed. This will allow the post office to just keep a list of all the things that they have mailed for us to be accessed if need be. We estimate it will be a savings of about \$10,000 a year with no cost or problem.

One bill that I would like to -- there are a number of other bills that affect the Secretary of State's Office and most of which we have reviewed and are fine. However, I would like to express my opposition to one bill, HB6201 regarding the dissolution of corporations.

I think that this bill while sort of attractive on its face, could severely hamper public access to accurate and up to date corporate information. It is vitally important to commerce in our state that people be able to access the Secretary of the State's Office for information and know that what they are getting is the most up to date filing. We recognize that we, on our part, should do everything possible to make the filing of that data as easily as possible and we are working very hard

in our computer system to do that. Also, as I mentioned, we are extending, we are proposing the extension from three to five years of the administrative reinstatement process. And what we are going to do is send to corporations, a pre-filled out application which we will be able to computer generate which will make it much easier for them to file their reports. But to take away the power of the Secretary of the State's office to dissolve corporations if they don't file, I think, would be a real step backwards in terms of the enforcement mechanisms that we have. We send out approximately 20,000 notices of dissolution per year. Most corporations who receive them use them as a reminder that it is time for them to file. Many of them are out of business, etc. I think that this process helps to ensure that the public and the business community have accurate and up to date information. So, I would ask that that power not be taken away from the Secretary of State's Office.

I would support HB5034, to include a limited liability company within definition of person. It is a technical change. And the last bill that I want to comment on is SB1143, which the previous speaker testified about. I think that this is a good concept. We are quite supportive of the proposal because I believe it would provide both the public and the business community more information about this type of business organization operating out of state.

I do want to note though and I have been on the HB6960 opposite side of this discussion for many years so I know it has a familiar ring, but this would be a significant new responsibility for the Secretary of State's Office. Basically, this will involve a new set of filings, a whole new and potentially significant responsibility, probably some significant changes in our computer set ups to do this. Each time -- and we are making very good steps, legislatively to modernize our corporate record keeping and filing keeping, but since we are the people who have to do it, it costs money. So I think that this would require -- our estimate is approximately \$400,000 in the first year to put

this system in place which is not currently in the Secretary of State's budget nor in what I understand the subcommittee is considering. I have no problem with the bill. I think it is a good bill. It will get a fiscal note from us so then it will be up to the Appropriations Committee to decide how to proceed on it.

That, by the way, is the same thing -- I do want to make mention of this, the Model Business Corporation Act which was passed last year is a major administrative overhaul for us for which no funding was provided. So we need to address that. We have been discussing it with the Bar Association and try to make sure that we can do it and do it properly in a timeframe that is reasonable.

Anyway, thank you very much for the opportunity to comment. I will answer questions and if Maria, who knows more about the operation of the division, although I am learning fast, I am learning fast, I want to say. She can answer if I can't.

Thank you very much.

- REP. LAWLOR: Thank you, Miles. On the fiscal note, do you think perhaps an adjustment in the effective date might allow some more time before you have the immediate fiscal impact of that change?
- SEC. OF STATE MILES RAPOPORT: Yes. That would clearly allow us to stretch it out depending on what the actual date was. We are passing a biennial budget. You are passing a biennial budget. But the effective date, both of this and of the model, this corporation act, would affect its fiscal impact and so that is a piece that we could work on.
- REP. LAWLOR: Assuming the bill emerges from committee, it will end up in the Appropriations Committee so I would hope that you would get to OFA, whatever fiscal estimates you've got so they can advise the committee.
- SEC. OF STATE MILES RAPOPORT: We will certainly do that.

JOINT
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HEARINGS

JUDICIARY
PART 9
2874-3234

1995



TESTIMONY by SECRETARY OF THE STATE MILES S. RAPOPORT

Friday, March 24, 1995 before the Committee on Judiciary

RE: HB 6960 An Act Concerning Limited Partnerships, Corporations, Limited Liability Companies and Fees and Regulations of the Sec. of the State and other bills

HB 6201 HB 5034 SB 1143

Thank you very much for the opportunity to testify this morning on a number of bills that the Committee is considering. I am joined by Maria Greenslade of my office. I have a number of brief comments on bills before the committee, and we would be pleased to respond to any questions you may have.

HB 6960 was submitted by my office, and makes a number of revisions to the statutes affecting the operations of the Secretary of the State's office. The bill would:

- allow the reinstatement of businesses within five years after dissolution or cancellation,
- require limited partnerships to file annual reports and provide for their forfeiture if they fail to do so,
- allow the cancellation of a reserved limited liability company name,
- clarify fees concerning the filing of certificates of mergers; nonstock biennial reports and for the transfer of a reserved nonstock corporate name,
- allow the charging of a flat fee for copies of certain documents and
- authorize the secretary of the state to establish fees and regulations pertaining to electronic access of documents, as we make more of our records accessible to the business community and the public via on-line access.

I would also like to ask the Committee to support an amendment to this bill which we have provided to you, it would make a slight change in the way we handle certain mailings by our Commercial Recording Division. In consultation with the Department of Administrative Services and an analysis of federal postal regulations, we have determined that we can achieve savings that may exceed \$10,000 annually with a simple change -- using a "proof of certificate" mailing designation rather than certified mail without a receipt. To the customer, there is no difference. Nothing is compromised in terms of our ability to track the mailing. The only difference is the savings.

These revisions, and a number of other changes contemplated in other bills before you, help us to both improve the service we can provide to business customers and increase the efficiency of our operations.