Legislative History for Connecticut Act

HB 5034 P.A. 79 1995

Sen: 2565, 2606-2608 (4)

House: 1892-1896 (5)

Judiciary 2670, 2672, 2766-2767, 2943, 3019, 3020 (7)

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Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate and House of Representatives Proceedings

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CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
1995

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Calendar, on Calendar Page 15, Calendar 381, Substitute for HB5907 is marked Go.

Calendar 382, Substitute for HB5962 is marked Go.

Calendar 383, HB6655 is marked passed retaining its place.

Calendar 384, Substitute for HB6997 is passed retaining its place.

Calendar 385, Substitute for HB6539 is marked passed retaining its place.

On Calendar Page 16, at the top of the page, Calendar 386, Substitute for HB6686, File 114. Madam President, I would move that to the Consent Calendar.

THE CHAIR:

Motion is to refer this item to the Consent Calendar. Without objection, so ordered.

SEN. FLEMING:

Calendar 387, Substitute for HB6676 is marked Go.

Calendar 388, Substitute for HB5034, File 653. Madam President, I would move that to the Consent Calendar.

THE CHAIR:

Motion is to refer this item to the Consent Calendar. Without objection, so ordered.

SEN. FLEMING:

Calendar 389, Substitute for HB6995, File 650.

please announce the tally.

THE CLERK:

Total number voting, 35; necessary for passage, 18. Those voting "yea", 24; those voting "nay", 11.

THE CHAIR:

The Resolution is adopted. Members, I'd ask you to please stick by the Chamber. We will be voting on the Consent Calendar soon. Would the Clerk please call the Consent Calendar.

THE CLERK:

Page 6, Calendar 253, Substitute for SB951.

Page 10, Calendar 339, Substitute for SB1012.

Page 14, Calendar 378, Substitute for SB837.

Page 16, Calendar 387, Substitute for HB6686.

Page 16, Calendar 388, Substitute for HB5034.

Page 16, Calendar 389, Substitute for HB6995.

Page 17, Calendar 391, HB5112.

Page 19, Calendar 404, Substitute for HB6372.

Page 19, Calendar 405, Substitute for HB6887.

Page 19, Calendar 406, HB6790.

Page 20, Calendar 410, HB6687.

Page 20, Calendar 412, Substitute for HB6761.

Page 20, Calendar 413, HB6666.

Page 21, Calendar 416, Substitute for HB6801.

Page 22, Calendar 421, Substitute for HB6730.

Page 27, Calendar 135, Substitute for SB528.

Page 27, Calendar 194, Substitute for HB6677.

THE CHAIR:

The motion before us is adoption of the Consent Calendar. Senator Fleming.

SEN. FLEMING:

Yes, thank you, Madam President. Madam President, I would like to request that Calendar 389, Substitute for HB6995, File 650 which is on Calendar Page 16 be removed from the Consent Calendar and marked Go.

THE CHAIR:

That item is removed from the Consent Calendar and marked Go. Senator Rennie.

THE CLERK:

An immediate roll call has been ordered in the Senate. Will all Senators please return to the Chamber.

THE CHAIR:

The machine will be open.

THE CLERK:

An immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber.

THE CHAIR:

Have all members voted? If so, the machine will be locked. The Clerk please take a tally. Please announce the tally.

THE CLERK:

Total number voting, 36; necessary for passage, 19. Those voting "yea", 36; those voting "nay", 0.

THE CHAIR:

The Consent Calendar is adopted. At this time, the Chair will entertain any points of personal privilege or announcements.

Seeing none, would the Clerk return to the Call of the Calendar.

THE CLERK:

Page 3, Calendar 85, Substitute for SB76, An Act Concerning the Establishment of Deadlines for the Processing of Applications for State Economic Development Assistance. Favorable Report of the Committee on Commerce, File 108.

THE CHAIR:

Senator Guglielmo.

SEN. GUGLIELMO:

Yes, Madam President. I move adoption of the Joint Committee's Favorable Report and passage of the bill.

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guests please come 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, please.

SPEAKER RITTER:

Have all the members voted, please check your roll call machine and make sure your vote is properly cast if it has the machine will be locked. Clerk please take the tally. Clerk please announce the tally.

CLERK:

House Bill 6676 as amended by House "A"

Total number voting	141
Necessary for passage	71
Those voting Yea	141
Those voting Nay	0
Those absent and not voting	10

SPEAKER RITTER:

Bill as amended passed. Clerk please call calendar 258 please.

CLERK:

On page six, calendar 258. Substitute for House Bill Number 5034, AN ACT INCLUDING A LIMITED LIABILITY COMPANY WITHIN THE DEFINITION OF "PERSON," favorable

report of the Committee on Judiciary.

SPEAKER RITTER:

Representative for the 114th Representative Ellen Scalettar you have the floor madam.

REP. SCALETTAR: (114th)

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

SPEAKER RITTER:

Motion is on acceptance and passage, please proceed madam.

REP. SCALETTAR: (114th)

Thank you Mr. Speaker. Mr. Speaker, this bill will include limited liability companies within the definition of a "person" in our statutes. The bill places limited liability companies on the same footing as other forms of business entities created under Connecticut law.

SPEAKER RITTER:

Motion on acceptance and passage, please proceed madam.

REP. SCALETTAR: (114th)

Thank you Mr. Speaker. In 1993 the state authorized the creation of limited liability companies. It is now incumbent upon us to be sure that our

statutes, include limited liability companies within the definition of "person" as used variously throughout our statutes. To that end, Mr. Speaker, the Clerk has in his possession LCO 6377, will he call and I be permitted to summarize?

SPEAKER RITTER:

Clerk has amendment LCO 6377 to be designated House "A", you may call and Representative Scalettar will summarize.

REP. SCALETTAR: (114th)

Thank you.

SPEAKER RITTER:

Let the clerk call it please.

CLERK:

LCO 6377 designated House "A" offered by Representative Lawlor.

SPEAKER RITTER:

Representative Scalettar.

REP. SCALETTAR: (114th)

Thank you Mr. Speaker. This is a clean up amendment which adds additional sections of the statutes where a limited liability company should be included in the definition of a "person". It also clarifies the effective date of the bill, which is effective upon passage, except those sections which

apply to a corporate statute which takes effect in 1997 and those sections would take effect at that time. I move adoption of the amendment Mr. Speaker.

SPEAKER RITTER:

Question is on adoption, will your remark further? Will you remark further? If not I'll try your minds. All in favor signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER RITTER:

Opposed no, the ayes have it the amendment is adopted. Will you remark further on this 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, please.

SPEAKER RITTER:

Have all the members voted? Have all members voted? Please check your roll call machine to make sure your vote is properly cast, if it has the machine will be locked. Clerk please take the tally, Clerk please announce the tally.

CLERK:

House Bill 5034 as amended by House "A"

Total number Voting	143
Necessary for Passage	72
Those voting Yea	143
Those voting Nay	0
Those absent and not voting	8

SPEAKER RITTER:

Bill as amended passes. At this time the Chair would be very pleased to do points of personal privilege and call on the Representative of the 74th district, Representative Michael Jarjura.

REP. JARJURA: (74th)

Thank you Mr. Speaker. Mr. Speaker, we're honored to have with us in the chamber today, standing in back of me, a number of gentlemen. Some with the Exchange Club, the Exchange Club of Connecticut. One gentleman in particular, his name is Michael Jones, and he's from Houston and he's with the Houston Police Department, he's with the helicopter division with the Houston Police Department. In Waterbury we were honored to have Mr. Jones come -- he came, he's a volunteer -- The Exchange Club underwrote his travel to here to Connecticut.

But he's been traveling with the permission of the Houston authorities throughout the United States and

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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.

HB6201
HB5034
SB1143

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

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 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

HB6960

Act and this was done by incorporating certain provisions in the Uniform Partnership Act. We would like to retain those provisions so we are including with our prepared testimony, modifications that would provide for retaining the Limited Liability Partnership Act.

And again, with that, we would be happy to entertain questions.

SEN. UPSON: What are some of the additions?

DAVID SWERDLOFF: I am sorry?

SEN. UPSON: What are some of the additions?

DAVID SWERDLOFF: With respect to the LLP Act?

SEN. UPSON: Yes.

DAVID SWERDLOFF: Limited Liability Partnerships?

SEN. UPSON: Weren't you using that plus your additions, what are they?

DAVID SWERDOFF: The additions would be take the definition of partnership and make it clear that that includes a limited liability partnership and in those sections that deal with liability. For example, the section on joint and separate liability of partners, making it clear that that would not impact the limited liability of general partners in a limited liability partnership.

SEN. UPSON: Those are the only changes?

DAVID SWERDOFF: There are about a dozen. Generally wherever in the bill that references a liability issue, we have put in a caveat that the liability would not apply to a general partner of a limited liability partnership and if you would like, I can work through them.

SEN. UPSON: Any questions? Yes. Representative Radcliffe.

REP. RADCLIFFE: Just one. Do you have any position

HB5034

regarding HB5034, the definition of "person" within the meaning of a limited liability act since you mentioned that?

WILLARD PINNEY: The Bar Association certainly supports the addition of limited liability companies to the definition of person in those areas where it would apply.

REP. RADCLIFFE: Alright.

DAVID SWERDOFF: I believe Ms. Giuliano maybe addressing that.

REP. RADCLIFFE: Okay. Thank you.

SEN. UPSON: I don't know if she is going to come in. Oh, she is coming back?

WILLARD PINNEY: She was called away. She had a court appearance.

REP. RADCLIFFE: Okay. I will wait on her.

SEN. UPSON: Thank you. Any other questions? Thank you. Doctor James -- it looks like Orphano. Orphanos from CSMS. Did I say that right? On HB6928.

DR. JAMES ORPHANOS: Good afternoon, Senator Upson, Representative Lawlor and members of the Judiciary Committee.

My name is James Orphanos. I am a family physician in practice for 30 years, board certified times three. I have been past president of the State Medical Society and at the present time, I am the Legislative Chairman of the State Medical Society.

I am speaking today on behalf of the Connecticut State Medical Society in opposition to HB6928, AN ACT CONCERNING DEATH WITH DIGNITY.

The Connecticut State Medical Society supports the current legal and medically appropriate and accepted practices involving the care, support and treatment of dying patients.

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Connecticut Bar Association

STATEMENT OF RICHARD G. CONVICER
FOR SUBMISSION TO THE JUDICIARY COMMITTEE
IN SUPPORT OF
HB 5034 AN ACT INCLUDING A LIMITED LIABILITY COMPANY WITHIN THE DEFINITION OF "PERSON"

MARCH 24, 1995

My name is Richard G. Convicer and I presently practice law with the law firm of Sorokin, Sorokin, Gross, Hyde & williams, P.C. in Hartford, Connecticut. These comments are submitted on behalf of the Connecticut Bar Association in my capacity as chairman of the Subcommittee n Limited Liability Companies which is a subcommittee of the CBA Tax Section Executive Committee. The proposed legislation places limited liability companies on the same footing as other business forms of entities created under Connecticut law. Various state agencies have questioned whether limited liability companies are considered "persons" within the definition of "persons" under the agencies' respective licensing statutes. The proposed legislation includes the term "limited liability company" as an enumerated form of business throughout the statutes wherever the term "corporation" or "partnership" is included. In addition, the bill amends Section 1-1 of the general statutes to include limited liability company within the definition of a "person".

101 Corporate Place *Rocky Hill, CT 06067-1894* *203-721-0025* *FAX 203-257-4125*

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 6301 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.

However, I would like to express my opposition to HB 6201, regarding the dissolution of corporations. This bill is not necessary, and in fact, could severely hamper public access to accurate and up-to-date corporate information. It is critically important to the flow of commerce in the state, as well as to individuals seeking accurate corporate information.

We recognize that we should do everything possible to make the filing of that data as easy as possible, and we are aggressively taking steps to make the filing process less onerous. We have before you legislation, in the bill I just spoke about, that would extend from 3 to 5 years the time that corporations may by reinstated administratively by my office without having to go to the legislature. In addition, as we move towards greater use of computerization, we will ultimately be providing companies with a form reflecting the information they had filed previously with our office. All they will need to do is note any changes and return the form. This bill would be a step in the wrong direction. Annually, we send out approximately 20,000 notices of dissolution, and more than half those businesses respond to this important reminder to file with our office. This process helps to ensure that the public and the business community have accurate up-to-date information.

I would also like to express my support for HB 5034, an act including a limited liability company within the definition of "person". This is a technical revision that we believe is appropriate.

The final bill that I would like to comment on is Senate Bill 1143. I am very supportive of the concept of this proposal, which I believe would provide both the public and the business community with more information about this type of business organization operating in our state. I must note, however, that there would be a cost to initiate this new filing with our office, and we will work with the Office of Fiscal Analysis to provide the legislature with our best estimate of what both the start-up and ongoing costs would be for such a system to be added to the responsibilities of our Commercial Recording Division.

The bill states that the filings by general partnerships would be voluntary, so it may be difficult to accurately estimate precisely how many general partnerships would take advantage of the opportunity to be registered with the state. This would, however, be consistent with legislation adopted last year, which takes effect in January 1996, for limited liability partnerships to register with the state. I should note that at that time the Secretary of the State's office did not add any personnel or seek additional funds to cover the administrative and computer time costs.

The combination of that additional burden, passage of this bill, and the impact of the passage of the model business corporation act, cannot be absorbed within existing appropriations. These are important new pieces of legislation which impose significant financial burdens on our office, which must be considered by this committee and the Committee on Appropriations. Again, these bills provide business organizations with an option that could be helpful both to them, and to the state.

Thank you very much for the opportunity to comment on these bills. We would be happy to answer any questions you may have, or to provide you with additional information.