

Legislative History for Connecticut Act

SB 1309 PA 228 ~~THX~~ 1997

Senate - 1709, 1639, 2701, 2759-2760 (5)

House: 5795-5797 (3)

Judiciary 2161-2162, 2165-2166,
2169-2171, 2384-2385, 2386 (10)

Total - 18p

Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate
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CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
1997

VOL. 40
PART 4
1083-1433

pat

14

Senate

April 23, 1997

001209

Calendar 203, File 326, SB941 I move to the
Consent Calendar.

THE CHAIR:

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

SEN. JEPSEN:

Calendar 204 is PR.

Calendar 205, File 320, Substitute for SB1309 I
move to the Committee on, is everybody ready?
Government Administration and Elections.

THE CHAIR:

Without objection, so ordered.

SEN. JEPSEN:

Calendar 206 is PR.

Page 11, Calendar 207, File 321, Substitute for
SB1000 I move to the Committee on Planning and
Development.

THE CHAIR:

Without objection, so ordered.

SEN. JEPSEN:

Calendar 208 is PR.

Calendar 209, File 322, Substitute for SB587 I
move to the Committee on Planning and Development.

THE CHAIR:

Without objection, so ordered.

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CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
1997

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1434-1795

and Elections.

THE CHAIR:

Without objection, so ordered.

SEN. JEPSEN:

Calendar 205, Substitute for SB1309, I move
referral to the Committee on Finance.

THE CHAIR:

Without objection, so ordered.

SEN. JEPSEN:

Calendar 207, Substitute for SB1000, I move
referral to the Committee on Judiciary.

THE CHAIR:

Without objection, so ordered.

SEN. JEPSEN:

Calendar 209, Substitute for SB587 I move referral
to the Committee on Finance.

THE CHAIR:

Without objection, so ordered.

SEN. JEPSEN:

Page 31, Calendar 213, Substitute for SB1153, I
move referral to the Committee on Planning and
Development.

THE CHAIR:

Without objection, so ordered.

SEN. JEPSEN:

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CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
1997

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2517-2846

Calendar 543, Substitute for HB6536.

Calendar Page 18, Calendar 549, Substitute for
HB6836.

Calendar Page 19, Calendar 554, Substitute for
HB6900.

Calendar 555, HB6797.

Calendar Page 22, Calendar 205, Substitute for
SB1309.

Calendar Page 27, Calendar 429, Substitute for
SB1176.

Calendar Page 28, Calendar 51, Substitute for
SB923.

Calendar Page 29, Calendar 174, Substitute for
SB926.

Calendar 176, Substitute for SB1092.

Calendar 183, Substitute for SB1148.

Madam President, that completes the second Consent
Calendar.

THE CHAIR:

Mr. Clerk, would you please return to Calendar
Page 486, I'm sorry, Calendar Page 11, on Page 11,
Calendar 486. Now repeat the House number and.

THE CLERK:

Repeating Calendar Page 11, Calendar 486, HB6585.
Correction HB6785.

THE CHAIR:

That is correct. Would the Clerk please once again announce a roll call vote, the machine will be open.

THE CLERK:

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

THE CHAIR:

Have all members voted? If all members have voted, the machine will be locked. Clerk please take a tally.

THE CLERK:

Motion is on adoption of the second Consent Calendar.

Total Number Voting	36
Those Voting Yea	36
Those Voting Nay	0
Those absent and not voting	0

THE CHAIR:

The Consent Calendar is adopted.

THE CLERK:

Returning to Calendar Page 20, Matters Returned

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CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1997

VOL. 40

PART 16

5737-6121

gmh

House of Representatives

Tuesday, June 3, 1997

Those absent and not Voting 5

DEPUTY SPEAKER PUDLIN:

The bill passes.

Clerk, please call LCO 660.

CLERK:

On page 20, Calendar 660, Substitute for Senate Bill Number 1309, AN ACT CONCERNING THE PENALTY FOR FOREIGN CORPORATIONS AND OTHER BUSINESS ORGANIZATIONS TRANSACTING BUSINESS WITHOUT AUTHORITY IN THIS STATE. Favorable Report of the Committee on Finance.

DEPUTY SPEAKER PUDLIN:

Representative Scalettar. Good afternoon, Madam.

REP. SCALETTAR: (114TH)

Good afternoon, Mr. Speaker and thank you. I move acceptance of the Joint Committee's Favorable Report and passage of this bill.

DEPUTY SPEAKER PUDLIN:

On acceptance and passage, will you remark?

REP. SCALETTAR: (114TH)

Thank you, Mr. Speaker. This bill comes from the Secretary of State's office and has to do with the penalty that foreign corporations that is out of state corporations pay the state when they don't have a certificate of authority to operate in the State and what the bill would do is change the current penalty

gmh

60

House of Representatives

Tuesday, June 3, 1997

which is an annual penalty of \$2,000 imposed regardless of the time that the company is out of compliance to a monthly penalty of \$165 per month.

It's basically the same penalty, but it gives the Secretary of State discretion to charge this on a monthly basis which is more closely aligned with the period of - that the company is out of compliance.

I move passage.

Thank you, Mr. Speaker.

DEPUTY SPEAKER PUDLIN:

On passage, will you remark? Staff and guests to the well of the House. Members, please be seated. The machine is open.

CLERK:

The House of Representatives is voting by roll call. Members to the Chamber. The House is taking a roll call vote. Members to the Chamber, please.

DEPUTY SPEAKER PUDLIN:

If all the members have voted and if your votes are properly recorded, before long the machine will be locked. Any time now. It's not locked yet. Still not locked. Don't slow down though. It's going to be locked soon. It's my job to lock it. We are all acting a little bit tired this afternoon.

Clerk, please take the tally.

gmh

005797
61

House of Representatives

Tuesday, June 3, 1997

Mr. Clerk, please announce that tally.

CLERK:

Senate Bill Number 1309 in concurrence with the

Senate

Total Number Voting	147
Necessary for Passage	74
Those voting Yea	147
Those voting Nay	0
Those absent and not Voting	4

DEPUTY SPEAKER PUDLIN:

The bill passes.

Mr. Clerk, LCO 240.

CLERK:

On page 5, Calendar 240, House Bill Number 6552,

AN ACT CONCERNING CHANGES TO CERTAIN UTILITY LAWS.

Favorable Report of the Committee on Energy and
Technology.

DEPUTY SPEAKER PUDLIN:

Representative Eberle, before we proceed, there's
an ugly crowd, a mob gathering by the Majority Leader's
desk. If they could thin out a bit.

REP. EBERLE: (15TH)

I don't think they heard you, Mr. Speaker.

DEPUTY SPEAKER PUDLIN:

There you are, Madam. I found you.

JOINT
STANDING
COMMITTEE
HEARINGS

JUDICIARY

PART 7

2156-2417

1997

gmh

JUDICIARY COMMITTEE

March 24, 1997
11:00 a.m.

PRESIDING CHAIRMEN: Senator Williams
Representative Lawlor

MEMBERS PRESENT:

SENATORS: Coleman, Upson, Looney, Somma,
Fonfara

REPRESENTATIVES: Scalettar, Farr, Abrams, Amann,
Bernhard, Cappiello, DeMarinis,
Fritz, Garcia, Godfrey,
Graziani, Hamzy, Jarjura,
Mazzoccoli, Nystrom, O'Neill,
Roraback, Sauer, Winkler

SENATOR WILLIAMS: (NOT RECORDED)

SECRETARY MILES RAPOPORT: Mr. Chairman, thank you very much for having me here. My name is Miles Rapoport. I am Secretary of the State and I am not here to talk about campaign finance reform. I want you to be assured of that.

I am here to provide testimony on several bills that are before you this morning.

One is SB1309, which is a bill that emanated from the Secretary of the State's Office. SB1310, HB5901, SB1308 and HB5074 and I will go in that order.

SB1309 amends the Connecticut Business Corporation Act. By the way, let me introduce Maria Greenslave who is the managing attorney for the Commercial Recording Division and who will be available to answer questions with me if there are any.

SB1309 amends the Business Corporation Act through a revised Non-Stock Corporation Act. The Connecticut Uniform Limited Partnership Act, the Connecticut Uniform Partnership Act, the Connecticut Limited Liability Company Act, and the Connecticut Statutory Trust Act by modifying the penalty that will be applied to foreign corporations and the other entities for doing business in the State without having properly registered to do so.

The currently penalty is \$2,000 a year for any year or a period thereof during which these corporations are in violation. What we are proposing under SB1309 is to make the assessment on a monthly basis at \$165 a month which multiplied by twelve is just a shade under the \$2,000.

The reason for this is that it will make the penalties as they are applied more equitable. We have had a lot of problems with corporations who are doing business for a month or two months and we had no choice, statutorily, but to assess them for a full year and that has created many of the complaints, some of which you probably have received as legislators about feeling that the penalties are unfair.

If we do it on a monthly basis, what we can do is assess the corporation and penalty for that period that they were doing business and not for a period in which they were not doing business. So I think the penalties will be reduced. Although I guess I think that we will probably get as much revenue from it because I think that there will be more willingness to come forward if you are going to get hit with a \$300 or \$600 penalty for a partial year of non-compliance than with a full \$2,000 a year.

So this would make our jobs of enforcement -- our job of enforcement easier. I think it would be more equitable for the corporations involved and there are about -- by our count, about 250 -- anywhere between 250 and 500 business entities. By the way, when I say foreign, you understand I mean out-of-state, not out-of-country, but out-of-state businesses which will -- and we think that this will be more equitable for them and will also encourage people to do filing.

So we would urge your support for that piece of legislation.

SB1310 is a cooperative effort between the Secretary of the State's Office and the Connecticut Bar Association to make certain changes to the indemnification provisions of the Connecticut Business Corporation Act and also to effectuate a

So I would encourage the passage of HB5074 and hope that you would support it.

In summation, let me just say that I would request that you adopt SB1309, HB5074, that you make a change to add the Secretary of State's Office in SB1308. We support SB1310 and will continue to work on substitute language and I guess that I would request that you delay consideration of HB5901 until a consensus can be arrived at and further discussion held with the town clerks.

Thank you very much. I am happy to answer questions as would Marie.

SEN. WILLIAMS: Thank you, Miles. Representative Farr.

REP. FARR: Yes. Good afternoon.

SECRETARY MILES RAPOPORT: Good afternoon,
Representative Farr.

REP. FARR: This -- just a quick question on the penalty SB1309 for failure to register a foreign corporation. I am just curious. How do you enforce that? How do you determine somebody hasn't registered? Do complaints get made to your office?

SECRETARY MILES RAPOPORT: Yes. We get information from a variety of sources. I will let Maria add, if she wants to, that whether it is from the Labor Department or DRS occasionally or from newspaper stories or from complaints that are made and we have then initiate a request for payment to the corporation and we did that during '95 and '96. It included a period there were there was an amnesty for corporations that did come forward, a partial amnesty for the payment, but we have made hundreds of demands for payment and most of them are complied with once they are requested.

Maria, do you want to add anything to the sources of information?

MARIA (LAST NAME NOT STATED) Representative Farr, we also initiate on interrogatories that we send to the corporation requesting responses from its

corporate officers on various questions that we may have regarding transaction of business, what they actually have been doing within the state and then make a determination from there.

REP. FARR: And the numbers that you are talking about are 250 to 500 a year is what you are finding?

SECRETARY MILES RAPOPORT: Yes. Yes. There are a significant number of corporations that are doing business from out-of-state doing business in Connecticut. Most of them do file a certificate of authority to do business in the State, but many do not.

REP. FARR: And is there a hearing process if you have -
- I would assume that in a few of these cases there maybe a question of whether they are actually transacting business in the State. There is a question of whether they have enough contact to meet the threshold. Do you have a hearing process that people can ask if they dispute?

MARIA (LAST NAME NOT STATED): What we have is under the statutes there is a listing of what activities are not considered transacting business within the State and then the process that we go through is the interrogatories and documentation back and forth. There are no hearings or anything that is held in that nature. And it moves over to the Attorney General's Office.

REP. FARR: I suppose if the person came in for a hearing, you could say you are here, you are conducting business in the state, pay the fee.

Thank you.

SECRETARY MILES RAPOPORT: By the way, we do refer, Representative Farr, a number of cases to the Attorney General for settlement where there is an ongoing disagreement and they take the process from there.

SEN. WILLIAMS: Representative DeMarinis.

REP. DEMARINIS: Yes. I just had a question about HB5901, the filing of trade name registrations. We

have a central location where you pick up a phone or dial in with your computer and find out where this company is or this entity that you did business with and now you feel you need to maybe sue them or follow up with a warranty or something like that and you are really having a hard time finding them, either go through 168 towns or you will probably be number 169 that you finally find it.

If you were to get a copy of the documentation sent to you from the Secretary of State's Office, another thought that has occurred to me, that it would achieve the centralization and still leave it with the Secretary of State, although ultimately we would be duplicating all of the paper here, but there would be a central registry for this information. Do you have a thought about that?

SECRETARY MILES RAPOPORT: Yes. I think -- it seems to me that that is one possibility of how to proceed. Ultimately, it would be to have a way in which the information was accessible either through the Secretary of the State's Office or the town clerks.

It would conceivably be a lot of paperwork, although we are in the process on another front of establishing a computer link up with all of the towns around the voter registration lists and there is a function that connects the town clerks into that. So it is not an inconceivable thing to me that as this is developed and reaches its fullness, that we could have a system in which this information was also accessible and a computerized link-up between the town clerks offices and the Secretary of the State's Office. I don't think we are very far away from that, but probably two to three years on having that capability which would be an interesting way to handle it.

REP. O'NEILL: Thank you.

SEN. WILLIAMS: Other questions? Representative Bernhard.

REP. BERNHARD: Thank you, Mr. Chairman. With respect to (INAUDIBLE - MICROPHONE NOT ON) three month

SB1309

grace period (INAUDIBLE - MICROPHONE NOT ON)

MARIA: Representative Bernhard, that's current law right now that a corporation could come into our state and for three months, perhaps, find property perhaps negotiate a lease, and actually be doing some business and have a three month grace period in order to file their paperwork with us before the penalty starts to be come accessible.

REP. BERNHARD: (INAUDIBLE - MICROPHONE NOT ON)

SEN. WILLIAMS: Senator Nystrom.

REP. NYSTROM: Thank you, Mr. Chairman. Good morning. How are you.

If I could follow up on Representative O'Neill's line of thought. For the corporation who seeks to renew, do you have grounds within your agency to deny renewal of a corporation? Other than for non-payment of the fee or a timely filing?

MARIA: In order for a corporation to renew the only item that they file with our office is called an annual report where they list their officers and directors and the only time we would deny that, again, is if the fee did not accompany that or for some reason an item was left off on the documentation, but that would be it.

REP. NYSTROM: Specifically, -- I'm from the City of Norwich. We have a corporation that has continued to maintain activity for a number of years and of recent -- actually forever, that I'm aware of, the history has been repeated over and over again, property -- go through foreclosure from the municipality for non-payment, on maintenance, abandonment, non-payment of taxes and it most recently, this particular corporation has left the taxpayers with about a \$300,000 bill for two properties that fit the description I just outlined.

Your office has no recourse then if they comply with that process that you just outlined -- they are automatically renewed?

SECRETARY MILES RAPOPORT: Basically, yes. We do not and have never, -- don't believe that we have statutory authority to serve -- make judgments like that on a corporation's performance and on that basis, not allow them to renew.

REP. NYSTROM: Recently, the municipality -- they had contacted my office and they were interested in some type of a hearing process set up prior to that renewal being granted. They looked to the State as the granting body which gives them the corporate status which they then -- in this case, this individual, hides behind and carries out these actions or failures to maintain their property and so forth.

Would your office be opposed for the discussions of that type of appeal process for a municipality with the onus on municipality to notify your agency that there is a problem taking place?

SECRETARY MILES RAPOPORT: I guess I would say this. That would be a major change in corporate law for the State. That would be a very large scaled decision for the Legislature to make. Obviously, if the Legislature changed the law and gave that additional responsibility to our office, we would work with you about how it could be implemented.

REP. NYSTROM: Okay. I will call you. Thank you.

SEN. WILLIAMS: Further questions? Thank you very much.

SECRETARY MILES RAPOPORT: Thank you. Thank you very much.

SEN. WILLIAMS: Next we have Melissa Farley to be followed by Richard Blumenthal and Robert Romanelli. And just occasionally let folks know that other committee members might have other meetings, they may be in their offices where these hearings can be broadcast so they can still hear the testimony and through 12:30 we are going to stay with the public officials. After that, we will alternate back and forth between public officials and members of the public.

**TESTIMONY by SECRETARY OF THE STATE MILES S. RAPOPORT**

Monday, March 24, 1997
before the Judiciary Committee

Re: S.B. No. 1309, S.B. No. 1310, H.B. No. 5901, S.B. 1308, H.B. 5074

My name is Miles S. Rapoport. I am The Secretary of the State for the State of Connecticut. I am here to provide testimony regarding S.B. No. 1309, An Act Concerning The Penalty For Foreign Corporations and Other Business Organizations Transacting Business Without Authority In This State, S.B. No. 1310, An Act Concerning The Connecticut Business Corporations Act and The Connecticut Revised Nonstock Corporations Act, H.B. No. 5901, An Act Concerning Trade Names, S.B. 1308, An Act Establishing a Task Force on Digital Signatures, and H.B. No. 5074, An Act Reestablishing The Commission On A Connecticut Partnership Compact.

I ask that you give favorable consideration to Senate Bill Number 1309.

Senate Bill 1309 amends the Connecticut Business Corporation Act, the Connecticut Revised Nonstock Corporation Act, the Connecticut Uniform Limited Partnership Act, the Connecticut Uniform Partnership Act, the Connecticut Limited Liability Company Act and the Connecticut Statutory Trust Act by modifying the penalty applied to foreign corporations, limited partnerships, limited liability partnerships, limited liability companies and statutory trusts which transact business or conduct affairs in this state without having properly registered by modifying the penalty for having done so. The penalty is currently assessed at a rate of \$2,000 per year or part thereof during which any of these organizations are in violation. The penalty under Senate Bill 1309 is based upon an assessment of \$165 per each month of violation.

The monthly standard will make the overall penalty more equitable in that the penalty, and thus the incentive for compliance, will be more closely linked to actual periods of violation than it is currently under the yearly standard. The \$165 amount was derived by dividing the current penalty of \$2000 by twelve to account for each month in a calendar year.

The changes will eliminate the unfavorable situation experienced by numerous and otherwise law abiding foreign firms of having to pay the full \$2,000.00 per calendar year penalty for having transacted business in this state for a only a few months or less in a single calendar year, or worse yet, for having done so in multiple years. The new monthly standard will further provide incentive for more businesses to come forward, file and pay penalties which are owed.

There are at least 250 - 500 business entities that could be affected by these penalties each year. This bill will provide simple equity to many businesses and at the same time create an incentive for many others to file because the penalty is not onerous. In the end, we believe that this bill will be revenue neutral because we will get many more businesses filing than do now.

I also ask that you give favorable consideration to Senate Bill Number 1310.

Senate Bill 1310 amends the new Connecticut Business Corporation Act in order to make certain changes to its indemnification provisions and to effectuate a number of needed technical corrections to the Act. My office has worked with the Connecticut Bar Association and others on the technical corrections contained in the bill. There are numerous revisions included, and some additional technical changes will be necessary as we continue to work with the Bar Association and this committee to make the necessary clarifications in substitute language.

I also ask that you give favorable consideration to Senate Bill Number 1308 and .
I wish to comment on House Bill Number 5901.

House Bill 5901 is designed to centralize the filing of trade name registrations in the Secretary of the State's office. While as a concept the centralization of the filing trade names may have merit because it allows the citizens of the state to search a single repository of records to determine whether a business name is being used by another, I believe we must recognize and consider the effective job done now by town clerks throughout our state. Before any change is made, I believe we should carefully consider and understand the impact of any changes on our town clerks, review the potential problems of converting trade names from a decentralized to a centralized filing, and look at the experiences of other states.

I, therefore, propose that a committee be convened to study the logistics of this process, taking into account the the work of our town clerks and the actions of other states, and that any new legislation on this subject reflect its findings prior to presentation during the next legislative session.

Senate Bill 1308 would establish a task force on digital signatures. As we move to a more computerized operation in the Secretary of the State's office and throughout government, this is a critical issue that needs to be addressed. We have already begun preliminary reviews of the advantages and disadvantages of digital signatures in the transmittal of official documents, and I would respectfully request that my office be included in such a task force. I would also like to offer the technical expertise of my office as this issue is discussed by the legislature.

Finally, I wish to comment on House Bill 5074

This bill would re-establish the Commission on a Connecticut Partnership Compact. While I served in the legislature, I proposed, and the legislature adopted, provisions for creation of this Commission. I believe now, as I did then, that the work of this commission would provide an important opportunity for Connecticut to set standards and for Connecticut businesses to demonstrate their commitment to health benefits for employees, for promotion of education and job training, for fair pay and fair labor practices, and for responsible policies regarding their employees and their community. At a time when serious questions are frequently raised about these issues, at a time when good-paying jobs are being replaced with jobs that don't pay a living wage or that don't include health benefits, or both, this bill is important for the families of Connecticut.

It is important in the final drafting of this bill to ensure that an executive agency within state government has responsibility for implementation of these provisions, to ensure that this will not be a bill of good intentions but a bill that will be implemented.

I appreciate the work of the committee in raising HB 5074, and I would hope you would support it.

In summation, I request that you adopt Senate Bill Number 1309, House Bill 5074 and Senate Bill 1308; Senate Bill Number 1310 with the substitute language which my office will provide; and that you delay consideration of the House Bill 5901 until the next legislative session at which time the committee which I have proposed will have made their findings known to you.

Thank you.