



Lisa Sandberg

Bill Analysis
Legislative Service Commission

H.B. 134*

127th General Assembly
(As Reported by S. Judiciary - Civil Justice)

Reps. Seitz, J. McGregor, Zehringer, Collier, Blessing, Combs, Bacon, Uecker, Harwood, Hughes, Flowers, Latta, White, Huffman, Wagoner, Adams, Letson, Wolpert, Batchelder, Coley, Dolan, Seitz, Budish, Dyer, Foley, Okey, Aslanides, Bolon, Book, Brown, Bulp, Daniels, Domenick, Evans, Fende, Fessler, Garrison, Gibbs, Goodwin, J. Hagan, R. Hagan, Hite, Jones, Luckie, Lundy, Mallory, Oelslager, Otterman, Patton, Raussen, Schindel, Schneider, Setzer, Stebelton, Wachtmann, Webster, Yates, Yuko

BILL SUMMARY

- Authorizes alternative standards for the election of directors of business corporations.
- Requires that conversions of domestic corporations into other business entities and conversions of other business entities into domestic corporations be permitted by the Revised Code chapter or by the laws under which the converting entities will exist.
- Allows a limited liability company to provide in its operating agreement or its articles of organization for the exercise of the rights of a member who dies or becomes incompetent for the purpose of settling the member's estate or administering the member's property.
- Extends the shield of a member of a registered limited liability partnership from personal liability for obligations of the partnership or other partners.
- Validates meetings and votes of nonprofit corporations held by authorized telecommunications equipment on and after August 19, 2005.

* *This analysis was prepared before the report of the Senate Judiciary - Civil Justice Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

CONTENT AND OPERATION

Election of corporation directors

Under the existing business corporation law, the candidates for director who receive the greatest number of votes are elected. The bill allows a corporation to establish alternative election standards for directors in its articles of incorporation. (R.C. 1701.55(B).)

Conversion of business entities

Existing law authorizes a business entity of one type to convert to a business entity of another type pursuant to a written declaration of conversion. Existing statutes governing conversions to or from domestic limited liability companies (R.C. 1705.361(A) and 1705.371(A)), domestic partnerships (R.C. 1775.53(A) and 1775.54(A)), and domestic limited partnerships (R.C. 1782.438(A) and 1782.439(A)) require that the conversions be permitted by the Revised Code chapter or by the laws under which the converting entities will exist. The bill adds the same requirement to the statutes governing (1) conversions of a domestic or foreign entity that is not a domestic corporation and is not a nonprofit corporation into a domestic corporation and (2) conversions of a domestic corporation into a domestic or foreign entity other than a nonprofit corporation or a domestic corporation (R.C. 1701.782(A) and 1701.792(A)).

Death or incompetence of a member of a limited liability company

Under existing law, if a member of a limited liability company who is an individual dies or is adjudged an incompetent, the member's executor, administrator, guardian, or other legal representative may exercise all of the member's rights as a member for the purpose of settling the member's estate or administering the member's property, including any authority that the member had to give an assignee the right to become a member. The bill allows the company to provide otherwise in its operating agreement or articles of organization by specifying that existing law is subject to the operating agreement or articles of organization that provide otherwise. (R.C. 1705.21(A).)

Liability of partners in a registered limited liability partnership

Existing law provides that, with certain exceptions, including exceptions that may be provided for in a written agreement between the partners of a registered limited liability partnership, a partner in a registered limited liability partnership, solely by reason of being a partner, of acting or failing to act as a partner, or of participating as an employee, consultant, contractor, or otherwise in the conduct of the business or activities of the registered limited liability partnership while the partnership is a registered limited liability partnership, is not

personally liable, directly or indirectly, by way of indemnification, contribution, assessment, or otherwise, for debts, obligations, or other liabilities of the partnership or of another partner or partners *arising from negligence or from wrongful acts, errors, omissions, or misconduct*, whether or not intentional or characterized as tort, contract, or otherwise, committed or occurring while the partnership is a registered limited liability partnership and committed or occurring in the course of the partnership business by another partner or an employee, agent, or representative of the partnership.

The bill eliminates the exception for provisions of a written agreement as well as most of the other foregoing language. It states instead that (1) an obligation incurred while the partnership is a registered limited liability partnership, whether *arising in contract, tort, or otherwise*, is solely the obligation of the partnership and (2) a partner is not personally liable, directly or indirectly, by way of contribution or otherwise, for such an obligation solely by reason of being or acting as a partner. The bill makes this provision applicable notwithstanding anything inconsistent in the partnership agreement that existed immediately before the filing of a registration application to become a domestic limited liability partnership. (R.C. 1775.14(B).)

Validation of meetings and votes of nonprofit corporations held by authorized telecommunications equipment

H.B. 42 of the 126th General Assembly authorized nonprofit corporations to conduct meetings and votes via authorized telecommunications equipment rather than in person *if permitted by the corporation's articles or regulations*. The law took effect on August 19, 2005. Am. Sub. H.B. 699 of the 126th General Assembly authorized nonprofit corporations to hold meetings and votes via authorized telecommunications equipment, *unless prohibited by the corporation's articles or regulations*. The bill validates the meetings and votes of nonprofit corporations held by authorized telecommunications equipment on or after August 19, 2005, if they conformed to the requirements of Am. Sub. H.B. 699 as subsequently enacted. (Section 3 of the bill.)

HISTORY

ACTION	DATE
Introduced	03-27-07
Reported, H. Judiciary	05-29-07
Passed House (98-0)	06-05-07
Reported, S. Judiciary - Civil Justice	---

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