

HOUSE BILL REPORT

EHB 2322

As Passed Legislature

Title: An act relating to partnerships and limited liability companies.

Brief Description: Amending the partnership and limited liability company acts.

Sponsors: Representatives Esser, Lantz and Constantine.

Brief History:

Committee Activity:

Judiciary: 1/11/00, 1/25/00 [DPA].

Floor Activity:

Passed House: 1/31/00, 97-0.

Passed Senate: 2/29/00, 44-0.

Passed Legislature.

Brief Summary of Amended Bill

- Amends the Limited Liability Company (LLC) Act and the Limited Partnership (LP) Act relating to length of existence, withdrawal of members, managers, and partners, and dissolution.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 12 members: Representatives Carrell, Republican Co-Chair; Constantine, Democratic Co-Chair; Hurst, Democratic Vice Chair; Lambert, Republican Vice Chair; Cox; Dickerson; Esser; Kastama; Lantz; Lovick; McDonald and Schindler.

Staff: Edie Adams (786-7180).

Background:

A business entity has a variety of organizational forms to choose from, including limited liability company (LLC) and limited partnership (LP). Both LLCs and LPs offer some limitation on the liability of the persons or entities that are members, managers, or partners in the entity.

An LLC is a noncorporate entity with a flexible management structure. An LLC may be managed by its members, or by one or more managers appointed by the members.

An LP is a form of business organization that consists of limited partners and at least one general partner. General partners run the business and are personally liable for the debts and obligations of the limited partnership. Limited partners are liable for the partnership's debts and obligations only to the extent of their contributions, as long as they do not participate in control of the business.

An LLC and an LP may set a specific date of dissolution of the entity in their respective LLC agreements and certificates of limited partnership. If no dissolution date is specified, the default period is 30 years, unless an event of dissolution occurs.

Dissolution of an LLC will occur upon the dissociation of a member, unless within 90 days all remaining members agree to continue the LLC. Dissolution of an LP will occur upon the withdrawal of a general partner unless within 90 days all partners agree to continue the LP.

A general partner may be admitted to an LP only with the consent of all partners, both general and limited.

Summary of Amended Bill:

Various amendments are made to the Limited Liability Company (LLC) Act and the Limited Partnership (LP) Act relating to length of existence of the entities; withdrawal of members, managers, and partners; dissolution of the entities; and technical and clarifying corrections.

If a member of an LLC or a general partner of an LP ceases to be a member or general partner, those persons attain the status of assignees of the interest in the LLC and LP.

Both LLCs and LPs have perpetual existence unless a dissolution date is specified in the certificate of formation or certificate of limited partnership, respectively, or an event of dissolution occurs. An LLC is dissolved 90 days after the dissociation of the last remaining member unless the assignees of the LLC rights have voted to admit one or more new members. An LP is dissolved 90 days following the withdrawal of the last remaining limited partner or the last remaining general partner, unless one or more new limited or new general partners are admitted. New limited partners may be admitted with the majority vote of all general partners. New general partners may be admitted with a two-thirds vote of the voting power of all limited partners.

A clarification is made that an LLC can be composed of just one member, and the LLC agreement can be the statement of the sole member.

If the sole remaining manager of an LLC dies, resigns, is removed or otherwise dissociated from the LLC, the LLC becomes member-managed unless new managers are appointed by a majority of the members within 90 days.

A new general partner of an LP may be admitted with the consent of all general partners and two-thirds of the voting power of the limited partners.

Incorrect cross-reference corrections are made.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill is designed to clarify and bring some conformity into the various statutes that exist. It provides choice and flexibility in determining the type of business organization to form and gives the entities more flexibility by removing the default 30-year limit on existence. It removes a malpractice trap created by changes in Internal Revenue Service rules that are not reflected in state law.

Testimony Against: None.

Testified: (In support) Representative Esser, prime sponsor; and Brian Todd and Bruce Benson, Washington State Bar Association.