

MELANIE L. GEORGE  
STATE REPRESENTATIVE  
Fifth District



HOUSE OF REPRESENTATIVES  
STATE OF DELAWARE  
LEGISLATIVE HALL  
DOVER, DELAWARE 19901

COMMITTEES  
Judiciary, Chair  
Appropriations  
Joint Finance  
Public Safety & Homeland  
Security  
Veterans Affairs

### Judiciary Committee

Meeting Minutes

April 28, 2010

Chairwoman George called the meeting to order at 1:07pm. Members present included Representatives J. Johnson, Lee, Wilson, Bennett, Carson, Kovach and Mitchell. For a list of guests, please see attached.

After calling the meeting to order, Chairwoman George brought up **HB 375 AN ACT TO AMEND TITLE 8 OF THE DELAWARE CODE RELATING TO THE GENERAL CORPORATION LAW**, and recognized James Holzman of the Delaware Corporation Law Council and James Leyden of the Delaware Bar Association Corporation Law Section. Mr. Holzman explained that the bills presented today are a part of the annual corporate update providing a routine technical update of existing statutes. Mr. Holzman also explained that this bill incorporates three types of amendments: those requested by the Secretary of State, technical amendments to existing statutes and new statutes. Mr. Holzman further explained that this bill would allow the Secretary of State to accept electronic submissions and requires international corporations to meet the same standards as domestic corporations with regard for filing. In addition, Mr. Holzman explained that this bill also offers a clarification of the indemnification statute, merger statute and dissolution provisions of the Delaware General Corporation Law. Finally, Mr. Holzman explained that this bill provides an update to the merger procedure by allowing not only corporations but also other entities to follow the law's streamline merger procedure.

Chairwoman George explained that a technical amendment would be introduced on the floor to correct language of the bill.

Rep. Carson motioned to release the bill from committee; Rep. Kovach seconded the motion. The bill was released from committee on a vote of 6-0-0.

Next, Chairwoman George brought up **HB 372 AN ACT TO AMEND CHAPTER 18, TITLE 6 OF THE DELAWARE CODE RELATING TO THE CREATION, REGULATION, OPERATION AND DISSOLUTION OF DOMESTIC LIMITED LIABILITY COMPANIES AND THE REGISTRATION AND REGULATION OF FOREIGN LIMITED LIABILITY COMPANIES**, and recognized Mr. Leyden. Mr. Leyden explained that this bill deals exclusively with limited liability companies. Mr. Leyden explained that this bill exempts LLCs from the statute of frauds, which is in compliance with a recent Delaware Supreme Court case. In addition, Mr. Leyden explained that this bill allows LLCs to hold the power of attorney and clarifies record-keeping and governance procedures for LLCs. Finally this bill states that foreign LLCs must have certificates filed with the Secretary of State.

Chairwoman George then opened the floor to comments and questions from Representatives. Rep. Kovach asked if Mr. Leyden could clarify the importance of the exemption from the statute of frauds. Mr. Leyden explained that the statute of frauds doesn't apply due to one of the exceptions within the statute, and this bill would clarify this exemption.

Rep. Kovach motioned to release the bill from committee; Rep. Wilson seconded the motion. The bill was released from committee on a vote of 6-0-0.

Next, Chairwoman George brought up **HB 373 AN ACT TO AMEND CHAPTER 17, TITLE 6 OF THE DELAWARE CODE RELATING TO THE CREATION, REGULATION, OPERATION AND DISSOLUTION OF DOMESTIC LIMITED PARTNERSHIPS AND THE REGISTRATION AND REGULATION OF FOREIGN LIMITED PARTNERSHIPS**, and recognized Mr. Leyden. Mr. Leyden explained that this bill offers the same changes as explained in HB 372, but with regard to limited partnerships instead of limited liability companies.

Rep. Lee motioned to release the bill from committee; Rep. Bennett seconded the motion. The bill was released from committee on a vote of 6-0-0.

Next, Chairwoman George brought up **HB 374 AN ACT TO AMEND CHAPTER 15, TITLE 6 OF THE DELAWARE CODE RELATING TO THE CREATION, REGULATION, OPERATION AND DISSOLUTION OF DOMESTIC PARTNERSHIPS AND THE REGISTRATION AND REGULATION OF FOREIGN PARTNERSHIPS**, and recognized Mr. Leyden. Mr. Leyden explained that this bill offers the same changes as explained in HB 372, but with regard to general partnerships instead of limited liability companies. Mr. Leyden also explained that there is one change in this bill to account for legislation already passed with regard to changes.

Rep. Carson motioned to release the bill from committee; Rep. Kovach seconded the motion. The bill was released from committee on a vote of 6-0-0.

Chairwoman George offered her sincere appreciation to Mr. Leyden and Mr. Holzman for their time and effort. Mr. Holzman stated that he appreciated the working relationship with the General Assembly and that it is an honor to work for the best interests of Delaware.

Next, Chairwoman George brought up **HB 365 AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO CERTAIN POSITIONS IN THE COURT OF COMMON PLEAS**, and recognized Rep. Bennett, the bill's sponsor. Rep. Bennett explained that this bill would move upper level management in the Court of Common Pleas from classified to exempt service. Rep. Bennett explained that this bill would make the Court of Common Pleas consist with the Superior and Family courts. Rep. Bennett further explained that this change from classified to exempt service would allow personnel changes in the court system.

Chairwoman George then opened to the floor to comments and questions from Representatives. Rep. Kovach and Rep. J. Johnson commented about the effect on current employees. Rep. J. Johnson also expressed concerns at increases in cost. Rep. Bennett deferred to Jackie Aff of the Court of Common Pleas. Ms. Aff explained that this bill would have no impact on incumbents and has no intention of enhancing compensation costs.

Rep. Kovach motioned to release the bill from committee; Rep. J. Johnson seconded the motion. The bill was released from committee on a vote of 7-0-0.

Next, Chairwoman George brought up **SS 1 FOR SB 171 w/ SA 2, SA 1 AN ACT TO AMEND TITLE 13 OF THE DELAWARE CODE RELATING TO PARENTAGE**, and recognized Rep. Carson, the bill's sponsor. Rep. Carson deferred to Roger Hall of the Delaware Citizens Against Paternity Fraud. Mr. Hall explained that he has been personally affected by the current law, which can have an enormous impact upon a child whose father is determined incorrectly.

Chairwoman George then opened the floor to comments and questions from Representatives. Rep. Carson asked how long it was before Mr. Hall discovered the child was not his. Mr. Hall explained that it was five years before this was determined and that the child had suffered severe health issues. Rep. Carson and Chairwoman George questioned how this bill would affect the statute of limitations with regard to determining paternity. Mr. Hall explained that currently the statute of limitations is two years, after which there is no recourse, and that this bill allows for an extension after that two year period if the child has a critical medication condition.

Chairwoman George then asked if an attorney present or the courts had a comment on the bill. Chairwoman George then recognized Franny Haney of the Administrative Office of Courts, who stated that the courts currently had no position on the bill, but that the courts had met with Senators to discuss the legislation.

Rep. Kovach then stated that the bill could have potential unintended legal consequences, which should be further examined. Rep. Kovach also stated that this bill could affect previous de facto parent legislation and concerns exist with regard to change decisions, which have already been adjudicated.

Rep. Carson then asked Mr. Hall about the time frame with regard to passing the legislation. Mr. Hall stated that his personal situation with regard to the legislation is serious and that it would be beneficial to handle this bill as quickly as possible. Rep. J. Johnson then stated that he agreed with Rep. Kovach and that this legislation could have unintended consequences that it is important to examine before moving forward.

Chairwoman George stated that the committee needs to further examine the legislation. Chairwoman George then recognized Lydia Adams of the Delaware Citizens Against Paternity Fraud. Ms. Adams explained the differences between the establishment of paternity in cases of wed and unwed parents. Ms. Adams also explained how the statute of limitations currently works in Delaware and elaborated upon problems with interstate custody cases. Ms. Adams also elaborated upon her own personal experiences with regard to establishing paternity across state lines. Ms. Adams explained that only in cases where other evidence is presented can paternity status change, but in Mr. Hall's case there is no possibility of this.

Rep. Mitchell stated that the courts not weighing in could be a sign of disagreement, which Rep. J. Johnson disagreed with. Chairwoman George stated that the family law section of the bar association are the experts on this issue and their opinion could be important in determining the legality of this bill. Rep. Kovach also agreed with Rep. J. Johnson that judges not commenting doesn't necessarily mean they agree or not.

In closing, Mr. Hall stated that this legislation is extremely important and the courts have already had a hand in helping to craft this legislation. Mr. Hall also stated that it is important to note that this bill has nothing to do with child support but merely deals with cases of children with serious medical conditions.

Rep. J. Johnson motioned to table the bill; Rep. Wilson seconded the motion. The bill was respectfully tabled.

Chairwoman George adjourned the meeting at 2:02pm.

Respectfully Submitted,

Christopher Lang