

SENATE BILL REPORT

SHB 2386

As Reported By Senate Committee On:
Law & Justice, February 26, 1998

Title: An act relating to the revised uniform partnership act.

Brief Description: Creating the revised uniform partnership act.

Sponsors: House Committee on Law & Justice (originally sponsored by Representatives Sheahan, Appelwick, Constantine, Kenney and Costa).

Brief History:

Committee Activity: Law & Justice: 2/18/98, 2/26/98 [DP, DNP].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Roach, Chair; Johnson, Vice Chair; Hargrove, Kline, Stevens, Thibaudeau and Zarelli.

Minority Report: Do not pass.

Signed by Senator Fairley.

Staff: Harry Steinmetz (786-7421)

Background: The Washington Uniform Partnership Act (WUPA), originally adopted in 1945, provides rules and guidelines for a business organized as a partnership or a limited liability partnership. WUPA is based on the Uniform Partnership Act (UPA) adopted in 1914 by the National Conference of Commissioners on Uniform State Laws (NCCUSL). UPA has been adopted in every state except Louisiana.

In 1994, NCCUSL adopted a Revised Uniform Partnership Act (RUPA) and recommended it for adoption in all states. In 1996, NCCUSL adopted amendments to RUPA relating to limited liability partnerships and recommended adoption of these further amendments in all states. The Partnership Law Committee of the Washington State Bar Association reviewed the Revised Uniform Partnership Act and recommends its adoption, with changes, in Washington.

A partnership, also referred to as a general partnership, is created whenever two or more persons create an association to carry on business and share in profits and ownership control. No legal documentation is required to form a partnership, and the partnership dissolves upon the death, bankruptcy, or withdrawal of any partner, unless otherwise agreed. Each partner is an agent of all others and can bind the partnership. Ordinary partnership matters are decided by a majority vote of the partners. Partners cannot transfer their interests in the partnership unless all other partners agree. Each partner has unlimited personal liability for the debts and obligations of the partnership.

In 1995, the Legislature adopted the Limited Liability Partnership Act. A limited liability partnership is formed by filing an application with the Secretary of State and paying a \$175 application fee. Limited liability partnerships are governed by many of the same rules and guidelines that apply to partnerships, with several differences. A partner in a limited liability partnership is not liable for debts, obligations, and liabilities of the partnership arising from tortious conduct committed in the course of the partnership business by another partner or an employee of the partnership. A limited liability partnership that provides professional services must maintain professional liability insurance. Foreign limited liability partnerships organized under the laws of another jurisdiction may do business in this state and are required to register with the Secretary of State. Foreign limited liability partnerships are governed by the laws of the state under which they are formed.

Summary of Bill: The Washington Uniform Partnership Act is repealed and replaced with the Revised Uniform Partnership Act (RUPA) with modifications proposed by the Partnership Law Committee of the Washington Bar Association. RUPA makes the following significant changes to partnership law: (1) a partnership is treated as a legal entity with the ability to convert into or merge with other entities; (2) a partnership for a specific purpose or term does not automatically dissolve when a partner leaves the partnership; (3) partners are not strict fiduciaries for each other and may pursue their own interests, subject to their duties of loyalty and care; (4) partnerships may merge with other partnerships, limited partnerships, corporations, and limited liability companies, and a provision for dissenters' rights in mergers is provided; (5) partnerships may execute and file statements of authority to help partnerships transfer property and accomplish other partnership business; and (6) the limitation on the personal liability of a partner in a limited liability partnership is extended to include any obligation of the partnership.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed except for section 1308, which takes effect on January 1, 1999.

Testimony For: This bill represents a long process of updating a 40-year old law. The revisions to the Washington Uniform Partnership (WUPA), adopted in 1945, are based on the Revised Uniform Partnership Act (RUPA) as adopted by the National Conference of Commissions of Uniform State Laws. Nineteen states have already adopted these revision, with minor changes specific to their states, and more states are working towards adoption. The Partnership Law Committee of the WSBA begin its review of RUPA in 1996 and, after extensive exposure, review and comment by interested parties and practitioners throughout the state, is recommending its adoption in the this bill. There is no organized opposition to RUPA on the national or state level.

Testimony Against: None.

Testified: PRO: William Pusch, Chair, Partnership Law Committee, Business Law Section, Washington State Bar Association.