

HOUSE BILL REPORT

HB 1264

As Passed House:

February 23, 2009

Title: An act relating to creation and registration of entities formed by public agencies.

Brief Description: Regarding the creation and registration of entities formed by public agencies.

Sponsors: Representatives Springer, Rodne and Eddy.

Brief History:

Committee Activity:

Judiciary: 1/28/09, 1/29/09 [DP].

Floor Activity

Passed House: 2/23/09, 96-1.

Brief Summary of Bill

- Amends various business entity statutes to allow governmental entities to serve as registered agents.
- Reenacts, without amendment, a provision of the Interlocal Cooperation Act.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 11 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Flannigan, Kelley, Kirby, Ormsby, Roberts, Ross and Warnick.

Staff: Edie Adams (786-7180)

Background:

Interlocal Cooperation Act.

The Interlocal Cooperation Act allows public agencies to enter into agreements with one another for joint or cooperative action. Any power or authority held by a public agency may be exercised jointly with one or more other public agencies having the same power or

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authority. A "public agency" includes any agency, political subdivision, or unit of local government. The term specifically includes municipal corporations, special purpose districts, local service districts, state agencies, federal agencies, recognized Indian tribes, and other states' political subdivisions.

Public agencies that enter into joint agreements may create a separate legal entity, such as a nonprofit corporation or a partnership, to carry out the purposes of agreement. In a 2008 act relating to the procurement of renewable resources, the Legislature amended the Interlocal Cooperation Act to allow public agencies to form limited liability companies to carry out their joint agreements.

Business Entity Registration.

Statutes governing the formation and operation of business entities, including nonprofit corporations, partnerships, and limited liability companies, require those entities to designate and maintain a registered agent. The registered agent is an agent of the entity for the purposes of receiving service of process or other notices on behalf of the entity.

A registered agent may be an individual resident of Washington, a domestic corporation or nonprofit corporation, or a foreign corporation or nonprofit corporation authorized to do business in Washington. The statutes governing general partnerships and limited liability companies also allow limited liability companies to serve as a registered agent.

Summary of Bill:

Various business entity statutes are amended to allow governmental entities to serve as a registered agent of the business entity.

The Nonprofit Corporation Act and the Nonprofit Miscellaneous and Mutual Corporation Act are amended to allow a governmental body or agency to serve as a registered agent.

The General Partnership Act and the Limited Partnership Act are amended to allow a government or a governmental subdivision, agency, or instrumentality to serve as a registered agent.

The Limited Liability Company Act is amended to allow the registered agent of a limited liability company to be a government, a governmental subdivision, agency, or instrumentality, or a separate legal entity comprised of two or more of these entities.

The provision of the Interlocal Cooperation Act that allows public agencies to enter into joint agreements and create a separate legal entity to carry out the purposes of the agreement (RCW 39.34.030) is reenacted without amendment.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill is an opportunity to facilitate local governments' ability to more efficiently enter into agreements with one another to carry out their functions. The bill makes two changes that are technical in nature. It clarifies that public entities that enter into an interlocal agreement may use the limited liability company (LLC) organizational form when establishing a separate legal entity to carry out their functions. The LLC structure is useful when agencies want to purchase properties together because they are easier to form than nonprofit corporations. The Legislature authorized public entities to use the LLC form in legislation last session, but the title of the bill was too narrow to rely on this change. The other change made by the bill is to allow a public entity to serve as the registered agent of the separate legal entity created by the agency. Registered agents are used as an agent of the entity that can be easily found. Cities and other public agencies are easy to find and unlikely to go away, so it makes sense to allow them to serve as registered agents.

(Opposed) None.

Persons Testifying: Representative Springer, prime sponsor; and Hugh Spitzer, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying: None.