

By: Wentworth

S.B. No. 140

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to changing the title of assistant secretary of state to  
3 deputy secretary of state.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 405.004, Government Code, is amended to  
6 read as follows:

7 Sec. 405.004. DEPUTY [~~ASSISTANT~~] SECRETARY OF STATE.

8 (a) The secretary of state shall appoint a deputy [~~an assistant~~]  
9 secretary of state who shall:

10 (1) perform the duties prescribed by law for the  
11 secretary of state when the secretary of state is absent or unable  
12 to act; and

13 (2) perform other duties required by the secretary of  
14 state.

15 (b) The deputy [~~assistant~~] secretary of state serves at the  
16 pleasure of the secretary of state.

17 SECTION 2. Subsection (c), Section 221.023, Health and  
18 Safety Code, is amended to read as follows:

19 (c) The secretary of state may be served by delivering two  
20 copies of the process, notice, or demand to the secretary of state,  
21 the deputy [~~assistant~~] secretary of state, or a clerk in charge of  
22 the corporation department of the secretary of state's office. The  
23 secretary of state shall immediately forward one copy of the  
24 process, notice, or demand by registered mail to the development

1 corporation at its registered office.

2 SECTION 3. Subsection (c), Section 303.034, Local  
3 Government Code, is amended to read as follows:

4 (c) The secretary of state may be served by delivering two  
5 copies of the process, notice, or demand to the secretary of state,  
6 the deputy [~~assistant~~] secretary of state, or a clerk in charge of  
7 the corporation department of the secretary of state's office. The  
8 secretary of state shall immediately forward one copy of the  
9 process, notice, or demand by registered mail to the corporation at  
10 its registered office.

11 SECTION 4. Subsection (b), Section 171.355, Tax Code, is  
12 amended to read as follows:

13 (b) Complete and valid service of process is made on a  
14 corporation through the secretary of state by delivering duplicate  
15 copies of the process to the secretary of state or the deputy  
16 [~~assistant~~] secretary of state.

17 SECTION 5. Section B, Article 2.07, Texas Non-Profit  
18 Corporation Act (Article 1396-2.07, Vernon's Texas Civil  
19 Statutes), is amended to read as follows:

20 B. Whenever a corporation shall fail to appoint or maintain  
21 a registered agent in this State, or whenever its registered agent  
22 cannot with reasonable diligence be found at the registered office,  
23 then the Secretary of State shall be an agent of such corporation  
24 upon whom any such process, notice, or demand may be served.  
25 Service on the Secretary of State of any process, notice, or demand  
26 shall be made by delivering to and leaving with him, or with the  
27 Deputy [~~Assistant~~] Secretary of State, or with any clerk having

1 charge of the corporation department of his office, duplicate  
2 copies of such process, notice, or demand. In the event any such  
3 process, notice, or demand is served on the Secretary of State, he  
4 shall immediately cause one of the copies thereof to be forwarded by  
5 registered mail, addressed to the corporation at its registered  
6 office. Any service so had on the Secretary of State shall be  
7 returnable in not less than thirty (30) days.

8 SECTION 6. Section B, Article 8.09, Texas Non-Profit  
9 Corporation Act (Article 1396-8.09, Vernon's Texas Civil  
10 Statutes), is amended to read as follows:

11 B. Whenever a foreign corporation authorized to conduct  
12 affairs in this State shall fail to appoint or maintain a registered  
13 agent in this State, or whenever any such registered agent cannot  
14 with reasonable diligence be found at the registered office, or  
15 whenever the certificate of authority of a foreign corporation  
16 shall be revoked, then the Secretary of State shall be an agent of  
17 such corporation upon whom any such process, notice, or demand may  
18 be served. Service on the Secretary of State of any such process,  
19 notice, or demand shall be made by delivering to and leaving with  
20 him, or with the Deputy ~~Assistant~~ Secretary of State, or with any  
21 clerk having charge of the corporation department of his office,  
22 duplicate copies of such process, notice, or demand. In the event  
23 any such process, notice or demand is served on the Secretary of  
24 State, he shall immediately cause one of such copies thereof to be  
25 forwarded by registered mail, addressed to the corporation at its  
26 principal office in the state or country under the laws of which it  
27 is incorporated. Any service so had on the Secretary of State shall

1 be returnable in not less than thirty (30) days.

2 SECTION 7. Section B, Article 2.08, Texas Limited Liability  
3 Company Act (Article 1528n, Vernon's Texas Civil Statutes), is  
4 amended to read as follows:

5 B. Whenever a limited liability company or foreign limited  
6 liability company shall fail to appoint or maintain a registered  
7 agent in this State, or whenever its registered agent cannot with  
8 reasonable diligence be found at the registered office, then the  
9 Secretary of State shall be an agent of such limited liability  
10 company or foreign limited liability company upon whom any such  
11 process, notice, or demand may be served. Service on the Secretary  
12 of State of any process, notice, or demand shall be made by  
13 delivering to and leaving with the Secretary of State, or with the  
14 Deputy [~~Assistant~~] Secretary of State, or with any clerk having  
15 charge of the limited liability company department of the Secretary  
16 of State's office, duplicate copies of such process, notice, or  
17 demand. In the event any such process, notice, or demand is served  
18 on the Secretary of State, the Secretary of State shall immediately  
19 cause one of the copies thereof to be forwarded by registered mail,  
20 addressed to the limited liability company or foreign limited  
21 liability company at its registered office. Any service so had on  
22 the Secretary of State shall be returnable in not less than thirty  
23 (30) days.

24 SECTION 8. Section B, Article 2.11, Texas Business  
25 Corporation Act, is amended to read as follows:

26 B. Whenever a corporation shall fail to appoint or maintain  
27 a registered agent in this State, or whenever its registered agent

1 cannot with reasonable diligence be found at the registered office,  
2 then the Secretary of State shall be an agent of such corporation  
3 upon whom any such process, notice, or demand may be served.  
4 Service on the Secretary of State of any process, notice, or demand  
5 shall be made by delivering to and leaving with him, or with the  
6 Deputy [~~Assistant~~] Secretary of State, or with any clerk having  
7 charge of the corporation department of his office, duplicate  
8 copies of such process, notice, or demand. In the event any such  
9 process, notice, or demand is served on the Secretary of State, he  
10 shall immediately cause one of the copies thereof to be forwarded by  
11 registered mail, addressed to the corporation at its registered  
12 office. Any service so had on the Secretary of State shall be  
13 returnable in not less than thirty (30) days.

14 SECTION 9. Section B, Article 8.10, Texas Business  
15 Corporation Act, is amended to read as follows:

16 B. Whenever a foreign corporation authorized to transact  
17 business in this State shall fail to appoint or maintain a  
18 registered agent in this State, or whenever any such registered  
19 agent cannot with reasonable diligence be found at the registered  
20 office, or whenever the certificate of authority of a foreign  
21 corporation shall be revoked, then the Secretary of State shall be  
22 an agent of such corporation upon whom any such process, notice, or  
23 demand may be served. Service on the Secretary of State of any such  
24 process, notice, or demand shall be made by delivering to and  
25 leaving with him, or with the Deputy [~~Assistant~~] Secretary of  
26 State, or with any clerk having charge of the corporation  
27 department of his office, duplicate copies of such process, notice,

1 or demand. In the event any such process, notice or demand is  
2 served on the Secretary of State, he shall immediately cause one of  
3 such copies thereof to be forwarded by registered mail, addressed  
4 to the corporation at its principal office in the state or country  
5 under the laws of which it is incorporated. Any service so had on  
6 the Secretary of State shall be returnable in not less than thirty  
7 days.

8 SECTION 10. Subsection (b), Section 10, Development  
9 Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil  
10 Statutes), is amended to read as follows:

11 (b) Whenever a corporation shall fail to appoint or maintain  
12 a registered agent in this state or whenever its registered agent  
13 cannot with reasonable diligence be found at the registered office,  
14 then the secretary of state shall be an agent of such corporation  
15 upon whom any such process, notice, or demand may be served.  
16 Service on the secretary of state of any process, notice, or demand  
17 shall be made by delivering to and leaving with him or with the  
18 deputy [~~assistant~~] secretary of state or with any clerk having  
19 charge of the corporation department of his office duplicate copies  
20 of such process, notice, or demand. In the event any such process,  
21 notice, or demand is served on the secretary of state, he shall  
22 immediately cause one of the copies thereof to be forwarded by  
23 registered mail, addressed to the corporation at its registered  
24 office. Any service so had on the secretary of state shall be  
25 returnable in not less than 30 days.

26 SECTION 11. Subsection (b), Section 1.08, Texas Revised  
27 Limited Partnership Act (Article 6132a-1, Vernon's Texas Civil

1 Statutes), is amended to read as follows:

2 (b) If a limited partnership fails to appoint or maintain a  
3 registered agent in Texas or its registered agent cannot with  
4 reasonable diligence be found at the registered office, and if a  
5 general partner of the limited partnership cannot with reasonable  
6 diligence be found, the secretary of state is an agent of the  
7 limited partnership on whom any process, notice, or demand may be  
8 served. Service on the secretary of state of any process, notice,  
9 or demand may be made by delivering to the secretary of state,  
10 deputy [~~assistant~~] secretary of state, or any clerk having charge  
11 of the corporation department of the secretary of state's office  
12 duplicate copies of the process, notice, or demand. If the process,  
13 notice, or demand is served on the secretary of state, the secretary  
14 of state shall immediately forward one of the copies by registered  
15 mail, addressed to the address of a general partner as it appears on  
16 file with the secretary of state or, if no address appears on file,  
17 at the partnership's last registered office. Service on the  
18 secretary of state is returnable in not less than 30 days.

19 SECTION 12. Subsection (b), Section 9.10, Texas Revised  
20 Limited Partnership Act (Article 6132a-1, Vernon's Texas Civil  
21 Statutes), is amended to read as follows:

22 (b) If a foreign limited partnership registered in Texas  
23 fails to appoint or maintain a registered agent in Texas, if its  
24 registered agent cannot with reasonable diligence be found at the  
25 registered office, if its registration is canceled, or if a foreign  
26 limited partnership transacts business in Texas without having  
27 registered under Section 9.02 of this Act, the secretary of state is

1 an agent of the foreign limited partnership on whom any process,  
2 notice, or demand may be served. Service on the secretary of state  
3 of any process, notice, or demand shall be made by delivering to the  
4 secretary of state, deputy ~~[assistant]~~ secretary of state, or any  
5 clerk having charge of the corporation department of the secretary  
6 of state's office duplicate copies of the process, notice, or  
7 demand. If any process, notice, or demand is served on the  
8 secretary of state, the secretary of state shall immediately  
9 forward one of the copies by registered mail addressed to the  
10 foreign limited partnership at its principal office in the state  
11 under which the foreign limited partnership is formed as shown on  
12 the registration application. Service had in this manner on the  
13 secretary of state is returnable in not less than 30 days.

14 SECTION 13. Subsection (1), Section 10.05, Texas Revised  
15 Partnership Act (Article 6132b-10.05, Vernon's Texas Civil  
16 Statutes), is amended to read as follows:

17 (1) Service on the secretary of state of any process,  
18 notice, or demand shall be made by delivering duplicate copies of  
19 the process, notice, or demand to the secretary of state, deputy  
20 ~~[assistant]~~ secretary of state, or any clerk having charge of the  
21 corporation department of the secretary of state's office. If any  
22 process, notice, or demand is served on the secretary of state, the  
23 secretary of state shall immediately forward one of the copies by  
24 registered mail addressed to the foreign limited liability  
25 partnership at its principal office in the state under which the  
26 foreign limited liability partnership is formed as shown on the  
27 statement of foreign qualification. Service had in this manner on



1 the secretary of state is returnable in not less than 30 days.

2 SECTION 14. Subsection (B), Section 5.20, Texas Real Estate  
3 Investment Trust Act (Article 6138A, Vernon's Texas Civil  
4 Statutes), is amended to read as follows:

5 (B) When a real estate investment trust fails to appoint or  
6 maintain a registered agent in this state or when the registered  
7 agent of the real estate investment trust cannot with reasonable  
8 diligence be found at the registered office, the secretary of state  
9 shall be an agent of the real estate investment trust on whom any  
10 process, notice, or demand may be served. Service of any process,  
11 notice, or demand on the secretary of state shall be made by  
12 delivering to and leaving with the secretary of state, the deputy  
13 [~~assistant~~] secretary of state, or any clerk having charge of the  
14 corporation department of the office of the secretary of state,  
15 duplicate copies of the process, notice, or demand. If any process,  
16 notice, or demand is served on the secretary of state under this  
17 Section, the secretary of state shall immediately forward by  
18 registered mail one of the copies of the process, notice, or demand  
19 to the real estate investment trust at its registered office. Any  
20 service made on the secretary of state shall be returnable in not  
21 less than 30 days.

22 SECTION 15. Paragraph (b), Article 17A.04, Code of Criminal  
23 Procedure, is amended to read as follows:

24 (b) If the peace officer certifies on the return that he  
25 diligently but unsuccessfully attempted to effect service under  
26 Paragraph (a) of this article, or if the corporation is a foreign  
27 corporation that has no certificate of authority, then he shall

1 serve the summons on the secretary of state by personally  
2 delivering a copy of it to him, or to the deputy [~~assistant~~]  
3 secretary of state, or to any clerk in charge of the corporation  
4 department of his office. On receipt of the summons copy, the  
5 secretary of state shall immediately forward it by certified or  
6 registered mail, return receipt requested, addressed to the  
7 defendant corporation at its registered or principal office in the  
8 state or country under whose law it was incorporated.

9 SECTION 16. (a) The title of assistant secretary of state  
10 is changed to deputy secretary of state.

11 (b) Any reference in law to the assistant secretary of state  
12 means the deputy secretary of state.

13 (c) The validity of an action taken by or in relation to the  
14 authority of the assistant secretary of state before the change in  
15 title under Subsection (a) of this section is not affected by this  
16 Act.

17 SECTION 17. This Act takes effect September 1, 2005.