

SUBJECT: Nonsubstantive recodification of the Probate Code and Estates Code

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Jackson, Lewis, Castro, S. Davis, Hartnett, Madden, Raymond, Scott, Woolley

0 nays

2 absent — Bohac, Thompson

WITNESSES: For — None

Against — None

On — (*Registered, but did not testify:* Anne Peters, Texas Legislative Council)

BACKGROUND: Under Government Code, sec. 323.007, the Texas Legislative Council (TLC) must revise Texas statutes periodically to make them more accessible, understandable, and usable without altering their sense, meaning, or effect. As part of this process, the TLC reclassifies and rearranges statutes in a more logical order; employs a numbering system and format that will accommodate future expansion of the law; eliminates repealed, invalid, or duplicative provisions; and improves the draftsmanship of the law. The council periodically recommends shifting provisions of existing law into the statutory codes. Art. 3, sec. 43 of the Texas Constitution provides for recodifying statutes that relate to different subjects without substantive change and for this purpose allows an exception to the requirement in Art. 3, sec. 35 that bills contain no more than one subject expressed in the title.

The 81st Legislature in 2009 enacted HB 2502 by Hartnett, making nonsubstantive additions and conforming changes to the Texas Probate Code and transferring the substance of that code to a new Estates Code, effective January 1, 2014.

DIGEST: HB 2759 would make nonsubstantive additions and conforming changes to the Probate Code, including durable powers of attorney and guardianships, by adding new subtitles to the Estates Code and would update and correct cross references to the revised codes. If a law enacted by the 83rd Legislature affected a provision repealed or redesigned by HB 2759, the repealed provision or previous designation would remain in effect, and in cases of conflict, a law enacted by the 83rd Legislature would control.

The bill would state as legislative intent that it would be enacted under Art. 3, sec. 43 of the Texas Constitution and that no substantive change in the law was intended.

The bill would take effect January 1, 2014

NOTES: The companion bill, SB 1299 by Duncan, was referred to the Senate Administration Committee on March 16.