

AMENDED IN ASSEMBLY APRIL 7, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1529

Introduced by Assembly Member John A. Pérez

January 17, 2014

~~An act to add Section 5008.9 to the Corporations Code, relating to nonprofit corporations.~~ *An act to amend Sections 2117, 6210, and 8210 of, and to add Sections 5008.9, 6610.5, 8610.5, and 9680.5 to, the Corporations Code, and to add Section 23156 to the Revenue and Taxation Code, relating to nonprofit corporations.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1529, as amended, John A. Pérez. Nonprofit corporations: ~~dissolution.~~ *abatement: dissolution: surrender.*

Existing law, the Nonprofit Corporation Law, among other things, regulates the organization and operation of nonprofit public benefit corporations, nonprofit mutual benefit corporations, and nonprofit religious corporations.

(1) Within a specified period of time after the filing of its original articles of incorporation and biennially thereafter, existing law requires nonprofit public benefit corporations, nonprofit mutual benefit corporations, and nonprofit religious corporations to file a statement, known as a Statement of Information, with the Secretary of State containing specified information including the street address of its principal office and its mailing address. Within a specified period of time after filing its original statement and designation and annually thereafter, existing law, the General Corporation Law, requires every foreign corporation, including foreign nonprofit corporations, as specified, to file a statement, known as a Statement of Information, with

the Secretary of State containing specified information, including the street address of its principal executive office and its mailing address.

This bill would authorize the Secretary of State to also obtain address information from the Franchise Tax Board to use in providing notices to a foreign corporation, including these nonprofit foreign corporations.

(2) Existing law authorizes the corporate powers, rights, and privileges of a domestic taxpayer to be suspended, and the exercise of the corporate powers, rights, and privileges of a foreign taxpayer in this state to be forfeited, if certain tax liabilities are not paid or a taxpayer fails to file a tax return. Existing law also authorizes the corporate powers, rights, and privileges of a domestic corporation exempt from income tax to be suspended and the exercise of the corporate powers, rights, and privileges of a foreign corporation in this state exempt from income tax to be forfeited if the organization fails to file the annual information return or a specified statement for organizations not required to file the information return or pay a specified amount due. Existing law requires notice prior to the suspension or forfeiture of a taxpayer's corporate powers, rights, and privileges. Existing law requires the Franchise Tax Board to transmit to the Secretary of State the names of those taxpayers subject to these suspension or forfeiture provisions and thereby makes the suspension or forfeiture effective. Under existing law, the Secretary of State's certificate is prima facie evidence of the suspension or forfeiture.

Under existing law, a corporation that fails to file a Statement of Information with the Secretary of State within a specified time period and was certified for penalty is subject to suspension rather than penalty. Existing law requires the Secretary of State to provide a notice to the nonprofit corporation informing it that its corporate powers, rights, and privileges will be suspended within a specified time period if the Statement of Information is not filed. If the nonprofit corporation does not file the Statement of Information, existing law requires the Secretary of State to notify the Franchise Tax Board and the nonprofit corporation of the suspension and upon that notification the corporate powers, rights, and privileges of the nonprofit corporation are suspended.

This bill would make a nonprofit public benefit corporation, a nonprofit mutual benefit corporation, a nonprofit religious corporation, and a nonprofit foreign corporation, subject to administrative dissolution or administrative surrender, as specified, if the nonprofit corporation's corporate powers are suspended or forfeited by the Franchise Tax Board and have been suspended or forfeited for a

specified period of time or if the nonprofit corporation has not filed a Statement of Information with the Secretary of State for a specified period of time. Prior to the administrative dissolution or administrative surrender of the nonprofit corporation, the bill would require either the Franchise Tax Board or the Secretary of State to provide notice to the nonprofit corporation of the pending administrative dissolution or administrative surrender. The bill would also require the Secretary of State to provide notice of the pending administrative dissolution or administrative surrender on its Internet Web site, as specified. The bill would authorize a nonprofit corporation to provide the Franchise Tax Board or the Secretary of State with a written objection to the administrative dissolution or administrative surrender. If there is no written objection or the written objection fails, the bill would require the nonprofit corporation to be administratively dissolved or administratively surrendered and would provide that the certificate of the Secretary of State is prima facie evidence of the administrative dissolution or administrative surrender. Upon administrative dissolution or administrative surrender, the bill would abate the nonprofit corporation's liabilities for qualified taxes, interest, and penalties, as provided.

(3) Existing law, the Nonprofit Corporation Law, authorizes a nonprofit public benefit corporation, nonprofit mutual benefit corporation, and nonprofit religious corporation to elect voluntarily to wind up and dissolve by either approval of a majority of all members or approval of the board and approval of the members. Under existing law, the General Corporation Law, when a corporation has not issued shares, a majority of the directors, or, if no directors have been named in the articles or have been elected, the incorporator or a majority of the incorporators, are authorized to sign and verify a specified certificate of dissolution. Existing law requires the certificate to be filed with the Secretary of State and requires the Secretary of State to notify the Franchise Tax Board of the dissolution. Existing law provides that, upon the filing of the certificate, a corporation is dissolved and its powers, rights, and privileges cease.

This bill would enact provisions similar to those General Corporation Law provisions and make them applicable to nonprofit public benefit corporations, nonprofit mutual benefit corporations, and nonprofit religious corporations. The bill would additionally provide that liability to creditors, if any, is not discharged, the liability of the directors of the dissolved nonprofit corporation is not discharged, and the

dissolution of a nonprofit corporation does not diminish or adversely affect the ability of the Attorney General to enforce specified liabilities.

(4) Existing law requires every corporation doing business within the limits of this state and not expressly exempted from taxation to annually pay to the state, for the privilege of exercising its corporate franchises within this state, a tax according to or measured by its net income, as specified. Under existing law, every corporation, except as specified, is subject to the minimum franchise tax until the effective date of dissolution or withdrawal or, if later, the date the corporation ceases to do business within the limits of this state. Upon certification by the Secretary of State that a nonprofit public benefit corporation or a nonprofit mutual benefit corporation has failed to file the required Statement of Information, existing law requires the Franchise Tax Board to assess a specified penalty.

This bill would require the Franchise Tax Board to abate, upon written request by a qualified corporation, as defined, unpaid qualified taxes, interest, and penalties, as defined, for the taxable years in which the nonprofit corporation certifies, under penalty of perjury, that it was not doing business, as defined. The bill would make this abatement conditioned on the dissolution of the qualified corporation within a specified period of time of filing the request for abatement. The bill would require the Franchise Tax Board to prescribe rules and regulations to carry out these abatement provisions and would exempt these rules and regulations from the Administrative Procedure Act.

(5) Existing state constitutional law prohibits the Legislature from making any gift, or authorizing the making of any gift, of any public money or thing of value to any individual, municipal or other corporation.

This bill would make certain legislative findings and declarations that abatement of a nonprofit corporation's liabilities for specified taxes, penalties, and interest serves a statewide public purpose, as provided.

(6) By expanding the crime of perjury, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law authorizes and regulates the formation and operation of a corporation, nonprofit public benefit corporation, nonprofit mutual benefit corporation, or nonprofit religious corporation, including, but not limited to, the adoption and contents of corporate bylaws.~~

~~This bill would require the office of the Secretary of State, the Franchise Tax Board, and the office of the Attorney General to collectively review and develop a streamlined process to efficiently dissolve a nonprofit corporation to the extent that this process is consistent with other sections of law.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~yes.

The people of the State of California do enact as follows:

1 *SECTION 1. The Legislature finds and declares all of the*
2 *following:*

3 *(a) There are more than 144,000 nonprofit corporations in*
4 *California that provide a variety of programs and services in areas*
5 *as diverse as education, recreation, health care, legal, job training,*
6 *and housing to millions of Californians. These organizations,*
7 *depending on their formation status, are required to register with*
8 *the office of the Secretary of State, the Franchise Tax Board, and*
9 *the office of the Attorney General.*

10 *(b) Every year, hundreds of nonprofit corporations seek*
11 *administrative changes to expand their mission or alter their tax*
12 *status, and, in some cases, to even go out of existence. This*
13 *dissolution process, which involves the winding down of the*
14 *nonprofit corporation’s affairs, is very cumbersome and protracted.*

15 *(c) In order to more effectively analyze and monitor the status,*
16 *finances, and activities of a nonprofit corporation, it is in the*
17 *public’s interest to establish a streamlined process to efficiently*
18 *dissolve a nonprofit corporation. The act of dissolving the nonprofit*
19 *corporation and abating unpaid taxes, interest, and penalties*
20 *serves a statewide public purpose by ensuring that nonprofit*
21 *corporations that have been suspended or forfeited tax exempt*
22 *status are no longer able to do business in the state, which will*
23 *relieve the citizens of California from unknowingly donating to a*
24 *nonprofit corporation that is not complying with the laws of the*
25 *state, and do not constitute a gift of public funds within the meaning*
26 *of Section 6 of Article XVI of the California Constitution.*

1 *SEC. 2. Section 2117 of the Corporations Code is amended to*
2 *read:*

3 2117. (a) Every foreign corporation (other than a foreign
4 association) qualified to transact intrastate business shall file,
5 within 90 days after the filing of its original statement and
6 designation of foreign corporation and annually thereafter during
7 the applicable filing period, on a form prescribed by the Secretary
8 of State, a statement containing the following:

9 (1) The name of the corporation as registered in California and
10 the California Secretary of State's file number.

11 (2) The names and complete business or residence addresses of
12 its chief executive officer, secretary, and chief financial officer.

13 (3) The street address of its principal executive office.

14 (4) The mailing address of the corporation, if different from the
15 street address of its principal executive office.

16 (5) The street address of its principal business office in this
17 state, if any.

18 (6) If the corporation chooses to receive renewal notices and
19 any other notifications from the Secretary of State by electronic
20 mail instead of by United States mail, the corporation shall include
21 a valid electronic mail address for the corporation or for the
22 corporation's designee to receive those notices.

23 (7) A statement of the general type of business that constitutes
24 the principal business activity of the corporation (for example,
25 manufacturer of aircraft; wholesale liquor distributor; or retail
26 department store).

27 (b) The statement required by subdivision (a) shall also
28 designate, as the agent of the corporation for the purpose of service
29 of process, a natural person residing in this state or a corporation
30 that has complied with Section 1505 and whose capacity to act as
31 the agent has not terminated. If a natural person is designated, the
32 statement shall set forth the person's complete business or
33 residence street address. If a corporate agent is designated, no
34 address for it shall be set forth.

35 (c) The statement required by subdivision (a) shall be available
36 and open to the public for inspection. The Secretary of State shall
37 provide access to all information contained in the statement by
38 means of an online database.

39 (d) In addition to any other fees required, a foreign corporation
40 shall pay a five-dollar (\$5) disclosure fee upon filing the statement

1 required by subdivision (a). One-half of the fee shall,
2 notwithstanding Section 12176 of the Government Code, be
3 deposited into the Business Programs Modernization Fund
4 established in subdivision (k) of Section 1502, and one-half shall
5 be deposited into the Victims of Corporate Fraud Compensation
6 Fund established in Section 2280.

7 (e) Whenever any of the information required by subdivision
8 (a) is changed, the corporation may file a current statement
9 containing all the information required by subdivisions (a) and
10 (b). In order to change its agent for service of process or the address
11 of the agent, the corporation shall file a current statement
12 containing all the information required by subdivisions (a) and
13 (b). Whenever any statement is filed pursuant to this section, it
14 supersedes any previously filed statement and the statement in the
15 filing pursuant to Section 2105.

16 (f) Subdivisions (c), (d), (f), and (g) of Section 1502 apply to
17 statements filed pursuant to this section, except that “articles” shall
18 mean the filing pursuant to Section 2105, and “corporation” shall
19 mean a foreign corporation.

20 (g) *The Secretary of State may obtain address information from*
21 *the Franchise Tax Board to use in providing notices to a foreign*
22 *corporation.*

23 *SEC. 3. Section 5008.9 is added to the Corporations Code, to*
24 *read:*

25 *5008.9. (a) A nonprofit corporation described in Section 5059,*
26 *5060, 5061, or 9912 that has incorporated under the laws of this*
27 *state, or a foreign nonprofit corporation that has qualified to*
28 *transact intrastate business, shall be subject to administrative*
29 *dissolution or administrative surrender in accordance with this*
30 *section if, as of January 1, 2015, or later, at least one of the*
31 *following applies:*

32 *(1) The nonprofit corporation’s corporate powers are suspended*
33 *or forfeited by the Franchise Tax Board and have been suspended*
34 *or forfeited by the Franchise Tax Board for a period of not less*
35 *than 48 continuous months.*

36 *(2) The nonprofit corporation was incorporated in this state or*
37 *qualified to transact intrastate business and has not filed a*
38 *Statement of Information with the Secretary of State, as provided*
39 *by Section 2117, 6210, 8210, or 9660, for a period of not less than*
40 *48 continuous months.*

1 (b) Prior to the administrative dissolution or administrative
2 surrender of the nonprofit corporation, the nonprofit corporation
3 shall be notified of the pending administrative dissolution or
4 administrative surrender as follows:

5 (1) The Franchise Tax Board shall mail written notice to the
6 last known address of a nonprofit corporation meeting the
7 requirement described in paragraph (1) of subdivision (a).

8 (2) The Secretary of State shall provide a notice to the last
9 known address of a nonprofit corporation meeting the requirement
10 described in paragraph (2) of subdivision (a).

11 (3) If the nonprofit corporation does not have a valid address
12 in the records of the Franchise Tax Board or the Secretary of State,
13 the notice provided in subdivision (d) shall be deemed sufficient
14 notice prior to administrative dissolution or administrative
15 surrender.

16 (c) The Franchise Tax Board shall transmit to the Secretary of
17 State the names of nonprofit corporations subject to the
18 administrative dissolution or administrative surrender provisions
19 of this section.

20 (d) The Secretary of State shall provide 60 calendar days' notice
21 of the pending administrative dissolution or administrative
22 surrender on its Internet Web site by listing the corporation name,
23 the Secretary of State's file number, and California corporation
24 number, as applicable, for the nonprofit corporation.

25 (e) (1) A nonprofit corporation may provide the Franchise Tax
26 Board or the Secretary of State with a written objection to the
27 administrative dissolution or administrative surrender.

28 (2) The Franchise Tax Board and the Secretary of State shall
29 notify each other if a written objection has been received.

30 (f) If no written objection to the administrative dissolution or
31 administrative surrender is received by the Secretary of State or
32 the Franchise Tax Board during the 60-day period described in
33 subdivision (d), the nonprofit corporation shall be administratively
34 dissolved or administratively surrendered in accordance with this
35 section. The certificate of the Secretary of State shall be prima
36 facie evidence of the administrative dissolution or administrative
37 surrender.

38 (g) (1) If the written objection of a nonprofit corporation to the
39 administrative dissolution or administrative surrender has been
40 received by the Franchise Tax Board or the Secretary of State

1 *before the expiration of the 60-day period described in subdivision*
2 *(d), that nonprofit corporation shall have an additional 90 days*
3 *from the date the written objection is received by the Franchise*
4 *Tax Board or the Secretary of State to pay or otherwise satisfy all*
5 *accrued taxes, penalties, and interest and to file a current*
6 *Statement of Information with the Secretary of State.*

7 (2) (A) *If the conditions in paragraph (1) are satisfied, the*
8 *administrative dissolution or administrative surrender shall be*
9 *canceled.*

10 (B) *If the conditions in paragraph (1) are not satisfied, the*
11 *nonprofit corporation shall be administratively dissolved or*
12 *administratively surrendered in accordance with this section as*
13 *of the date that is 90 days after the receipt of the written objection.*

14 (3) *The Franchise Tax Board or the Secretary of State may*
15 *extend the 90-day period in paragraph (1), but for no more than*
16 *one period of 90 days.*

17 (h) *Upon administrative dissolution or administrative surrender*
18 *in accordance with this section, the corporation's liabilities for*
19 *qualified taxes, interest, and penalties as defined in Section 23156*
20 *of the Revenue and Taxation Code, if any, shall be abated. Any*
21 *actions taken by the Franchise Tax Board to collect that abated*
22 *liability shall be released, withdrawn, or otherwise terminated by*
23 *the Franchise Tax Board, and no subsequent administrative or*
24 *civil action shall be taken or brought to collect all or part of that*
25 *amount. Any amounts erroneously received by the Franchise Tax*
26 *Board in contravention of this section may be credited and*
27 *refunded in accordance with Article 1 (commencing with Section*
28 *19301) of Chapter 6 of Part 10.2 of the Revenue and Taxation*
29 *Code.*

30 (i) *If the corporation is administratively dissolved or*
31 *administratively surrendered under this section, the liability to*
32 *creditors, if any, is not discharged. The liability of the directors*
33 *of, or other persons related to, the administratively dissolved or*
34 *administratively surrendered corporation is not discharged. The*
35 *administrative dissolution or administrative surrender of a*
36 *nonprofit corporation pursuant to this section shall not diminish*
37 *or adversely affect the ability of the Attorney General to enforce*
38 *liabilities as otherwise provided by law.*

39 SEC. 4. *Section 6210 of the Corporations Code is amended to*
40 *read:*

1 6210. (a) Every corporation shall, within 90 days after the
2 filing of its original articles and biennially thereafter during the
3 applicable filing period, file, on a form prescribed by the Secretary
4 of State, a statement containing: (1) the name of the corporation
5 and the Secretary of State's file number; (2) the names and
6 complete business or residence addresses of its chief executive
7 officer, secretary, and chief financial officer; (3) the street address
8 of its principal office in this state, if any; (4) the mailing address
9 of the corporation, if different from the street address of its
10 principal executive office or if the corporation has no principal
11 office address in this state; and (5) if the corporation chooses to
12 receive renewal notices and any other notifications from the
13 Secretary of State by electronic mail instead of by United States
14 mail, a valid electronic mail address for the corporation or for the
15 corporation's designee to receive those notices.

16 (b) The statement required by subdivision (a) shall also
17 designate, as the agent of the corporation for the purpose of service
18 of process, a natural person residing in this state or any domestic
19 or foreign or foreign business corporation that has complied with
20 Section 1505 and whose capacity to act as an agent has not
21 terminated. If a natural person is designated, the statement shall
22 set forth the person's complete business or residence street address.
23 If a corporate agent is designated, no address for it shall be set
24 forth.

25 (c) For the purposes of this section, the applicable filing period
26 for a corporation shall be the calendar month during which its
27 original articles were filed and the immediately preceding five
28 calendar months. The Secretary of State shall provide a notice to
29 each corporation to comply with this section approximately three
30 months prior to the close of the applicable filing period. The notice
31 shall state the due date for compliance and shall be sent to the last
32 address of the corporation according to the records of the Secretary
33 of State or to the last electronic mail address according to the
34 records of the Secretary of State if the corporation has elected to
35 receive notices from the Secretary of State by electronic mail.
36 Neither the failure of the Secretary of State to send the notice nor
37 the failure of the corporation to receive it is an excuse for failure
38 to comply with this section.

39 (d) Whenever any of the information required by subdivision
40 (a) is changed, the corporation may file a current statement

1 containing all the information required by subdivisions (a) and
2 (b). In order to change its agent for service of process or the address
3 of the agent, the corporation must file a current statement
4 containing all the information required by subdivisions (a) and
5 (b). Whenever any statement is filed pursuant to this section, it
6 supersedes any previously filed statement and the statement in the
7 articles as to the agent for service of process and the address of
8 the agent.

9 *(e) The Secretary of State may obtain address information from*
10 *the Franchise Tax Board to use in providing notices to a*
11 *corporation.*

12 ~~(e)~~

13 *(f) The Secretary of State may destroy or otherwise dispose of*
14 *any statement filed pursuant to this section after it has been*
15 *superseded by the filing of a new statement.*

16 ~~(f)~~

17 *(g) This section shall not be construed to place any person*
18 *dealing with the corporation on notice of, or under any duty to*
19 *inquire about, the existence or content of a statement filed pursuant*
20 *to this section.*

21 *SEC. 5. Section 6610.5 is added to the Corporations Code, to*
22 *read:*

23 *6610.5. (a) Notwithstanding any other provision of this*
24 *division, when a corporation has not issued any memberships, a*
25 *majority of the directors, or, if no directors have been named in*
26 *the articles or have been elected, the incorporator or a majority*
27 *of the incorporators, may sign and verify a certificate of dissolution*
28 *stating all of the following:*

29 *(1) That the certificate of dissolution is being filed within 24*
30 *months from the date the articles of incorporation were filed.*

31 *(2) That the corporation does not have any debts or other*
32 *liabilities, except as provided in paragraph (3) and subdivision*
33 *(d).*

34 *(3) That the tax liability will be satisfied on a taxes-paid basis*
35 *or that a person or corporation or other business entity assumes*
36 *the tax liability, if any, of the dissolving corporation and is*
37 *responsible for additional corporate taxes, if any, that are assessed*
38 *and that become due after the date of the assumption of the tax*
39 *liability.*

1 (4) That a final franchise tax return, as described by Section
 2 23332 of the Revenue and Taxation Code, has been or will be filed
 3 with the Franchise Tax Board as required under Part 10.2
 4 (commencing with Section 18401) of Division 2 of the Revenue
 5 and Taxation Code.

6 (5) That the corporation was created in error.

7 (6) That the known assets of the corporation remaining after
 8 payment of, or adequately providing for, known debts and liabilities
 9 have been distributed as required by law or that the corporation
 10 acquired no known assets, as the case may be.

11 (7) That a majority of the directors, or, if no directors have been
 12 named in the articles or have been elected, the incorporator or a
 13 majority of the incorporators authorized the dissolution and elected
 14 to dissolve the corporation.

15 (8) That the corporation has not issued any memberships, and
 16 if the corporation has received payments for memberships, those
 17 payments have been returned to those making the payments.

18 (9) That the corporation is dissolved.

19 (b) A certificate of dissolution signed and verified pursuant to
 20 subdivision (a) shall be filed with the Secretary of State. The
 21 Secretary of State shall notify the Franchise Tax Board of the
 22 dissolution.

23 (c) Upon filing a certificate of dissolution pursuant to
 24 subdivision (b), a corporation shall be dissolved and its powers,
 25 rights, and privileges shall cease.

26 (d) Notwithstanding the dissolution of a corporation pursuant
 27 to this section, its liability to creditors, if any, is not discharged.
 28 The liability of the directors of, or other persons related to, the
 29 dissolved corporation is not discharged. The dissolution of a
 30 corporation pursuant to this section shall not diminish or adversely
 31 affect the ability of the Attorney General to enforce liabilities as
 32 otherwise provided by law.

33 SEC. 6. Section 8210 of the Corporations Code is amended to
 34 read:

35 8210. (a) Every corporation shall, within 90 days after the
 36 filing of its original articles and biennially thereafter during the
 37 applicable filing period, file, on a form prescribed by the Secretary
 38 of State, a statement containing: (1) the name of the corporation
 39 and the Secretary of State's file number; (2) the names and
 40 complete business or residence addresses of its chief executive

1 officer, secretary, and chief financial officer; (3) the street address
2 of its principal office in this state, if any; (4) the mailing address
3 of the corporation, if different from the street address of its
4 principal executive office or if the corporation has no principal
5 office address in this state; and (5) if the corporation chooses to
6 receive renewal notices and any other notifications from the
7 Secretary of State by electronic mail instead of by United States
8 mail, a valid electronic mail address for the corporation or for the
9 corporation's designee to receive those notices.

10 (b) The statement required by subdivision (a) shall also
11 designate, as the agent of the corporation for the purpose of service
12 of process, a natural person residing in this state or any domestic
13 or foreign or foreign business corporation that has complied with
14 Section 1505 and whose capacity to act as an agent has not
15 terminated. If a natural person is designated, the statement shall
16 set forth the person's complete business or residence street address.
17 If a corporate agent is designated, no address for it shall be set
18 forth.

19 (c) For the purposes of this section, the applicable filing period
20 for a corporation shall be the calendar month during which its
21 original articles were filed and the immediately preceding five
22 calendar months. The Secretary of State shall provide a notice to
23 each corporation to comply with this section approximately three
24 months prior to the close of the applicable filing period. The notice
25 shall state the due date for compliance and shall be sent to the last
26 address of the corporation according to the records of the Secretary
27 of State or to the last electronic mail address according to the
28 records of the Secretary of State if the corporation has elected to
29 receive notices from the Secretary of State by electronic mail.
30 Neither the failure of the Secretary of State to send the notice nor
31 the failure of the corporation to receive it is an excuse for failure
32 to comply with this section.

33 (d) Whenever any of the information required by subdivision
34 (a) is changed, the corporation may file a current statement
35 containing all the information required by subdivisions (a) and
36 (b). In order to change its agent for service of process or the address
37 of the agent, the corporation must file a current statement
38 containing all the information required by subdivisions (a) and
39 (b). Whenever any statement is filed pursuant to this section, it
40 supersedes any previously filed statement and the statement in the

1 articles as to the agent for service of process and the address of
2 the agent.

3 (e) *The Secretary of State may obtain address information from*
4 *the Franchise Tax Board to use in providing notices to a*
5 *corporation.*

6 ~~(e)~~

7 (f) *The Secretary of State may destroy or otherwise dispose of*
8 *any statement filed pursuant to this section after it has been*
9 *superseded by the filing of a new statement.*

10 ~~(f)~~

11 (g) *This section shall not be construed to place any person*
12 *dealing with the corporation on notice of, or under any duty to*
13 *inquire about, the existence or content of a statement filed pursuant*
14 *to this section.*

15 *SEC. 7. Section 8610.5 is added to the Corporations Code, to*
16 *read:*

17 *8610.5. (a) Notwithstanding any other provision of this*
18 *division, when a corporation has not issued any memberships, a*
19 *majority of the directors, or, if no directors have been named in*
20 *the articles or have been elected, the incorporator or a majority*
21 *of the incorporators, may sign and verify a certificate of dissolution*
22 *stating the following:*

23 *(1) That the certificate of dissolution is being filed within 24*
24 *months from the date the articles of incorporation were filed.*

25 *(2) That the corporation does not have any debts or other*
26 *liabilities, except as provided in paragraph (3) and subdivision*
27 *(d).*

28 *(3) That the tax liability will be satisfied on a taxes-paid basis,*
29 *or that a person or corporation or other business entity assumes*
30 *the tax liability, if any, of the dissolving corporation and is*
31 *responsible for additional corporate taxes, if any, that are assessed*
32 *and that become due after the date of the assumption of the tax*
33 *liability.*

34 *(4) That a final franchise tax return, as described by Section*
35 *23332 of the Revenue and Taxation Code, has been or will be filed*
36 *with the Franchise Tax Board as required under Part 10.2*
37 *(commencing with Section 18401) of Division 2 of the Revenue*
38 *and Taxation Code.*

39 *(5) That the corporation was created in error.*

1 (6) That the known assets of the corporation remaining after
2 payment of, or adequately providing for, known debts and liabilities
3 have been distributed as required by law or that the corporation
4 acquired no known assets, as the case may be.

5 (7) That a majority of the directors, or, if no directors have been
6 named in the articles or have been elected, the incorporator or a
7 majority of the incorporators authorized the dissolution and elected
8 to dissolve the corporation.

9 (8) That the corporation has not issued any memberships, and
10 if the corporation has received payments for memberships, those
11 payments have been returned to those making the payments.

12 (9) That the corporation is dissolved.

13 (b) A certificate of dissolution signed and verified pursuant to
14 subdivision (a) shall be filed with the Secretary of State. The
15 Secretary of State shall notify the Franchise Tax Board of the
16 dissolution.

17 (c) Upon filing a certificate of dissolution pursuant to
18 subdivision (b), a corporation shall be dissolved and its powers,
19 rights, and privileges shall cease.

20 (d) Notwithstanding the administrative dissolution of a
21 corporation pursuant to this section, its liability to creditors, if
22 any, is not discharged. The liability of the directors of, or other
23 persons related to, the administratively dissolved corporation is
24 not discharged. The dissolution of a corporation pursuant to this
25 section shall not diminish or adversely affect the ability of the
26 Attorney General to enforce liabilities as otherwise provided by
27 law.

28 SEC. 8. Section 9680.5 is added to the Corporations Code, to
29 read:

30 9680.5. (a) Notwithstanding any other provision of this
31 division, when a corporation has not issued any memberships, a
32 majority of the directors, or, if no directors have been named in
33 the articles or been elected, the incorporator or a majority of the
34 incorporators, may sign and verify a certificate of dissolution
35 stating the following:

36 (1) That the certificate of dissolution is being filed within 24
37 months from the date the articles of incorporation were filed.

38 (2) That the corporation does not have any debts or other
39 liabilities, except as provided in paragraph (3) and subdivision
40 (d).

1 (3) That the tax liability will be satisfied on a taxes-paid basis
2 or that a person or corporation or other business entity assumes
3 the tax liability, if any, of the dissolving corporation and is
4 responsible for additional corporate taxes, if any, that are assessed
5 and that become due after the date of the assumption of the tax
6 liability.

7 (4) That a final franchise tax return, as described by Section
8 23332 of the Revenue and Taxation Code, has been or will be filed
9 with the Franchise Tax Board as required under Part 10.2
10 (commencing with Section 18401) of Division 2 of the Revenue
11 and Taxation Code.

12 (5) That the corporation was created in error.

13 (6) That the known assets of the corporation remaining after
14 payment of, or adequately providing for, known debts and liabilities
15 have been distributed as required by law or that the corporation
16 acquired no known assets, as the case may be.

17 (7) That a majority of the directors, or, if no directors have been
18 named in the articles or been elected, the incorporator or a
19 majority of the incorporators authorized the dissolution and elected
20 to dissolve the corporation.

21 (8) That the corporation has not issued any memberships, and
22 if the corporation has received payments for memberships, those
23 payments have been returned to those making the payments.

24 (9) That the corporation is dissolved.

25 (b) A certificate of dissolution signed and verified pursuant to
26 subdivision (a) shall be filed with the Secretary of State. The
27 Secretary of State shall notify the Franchise Tax Board of the
28 dissolution.

29 (c) Upon filing a certificate of dissolution pursuant to
30 subdivision (b), a corporation shall be dissolved and its powers,
31 rights, and privileges shall cease.

32 (d) Notwithstanding the dissolution of a nonprofit corporation
33 pursuant to this section, its liability to creditors, if any, is not
34 discharged. The liability of the directors of, or other persons
35 related to, the dissolved corporation is not discharged. The
36 dissolution of a nonprofit corporation pursuant to this section
37 shall not diminish or adversely affect the ability of the Attorney
38 General to enforce liabilities as otherwise provided by law.

39 SEC. 9. Section 23156 is added to the Revenue and Taxation
40 Code, to read:

1 23156. (a) *The Franchise Tax Board shall abate, upon written*
2 *request by a qualified corporation, as defined in this section,*
3 *unpaid qualified taxes, interest, and penalties for the taxable years*
4 *in which the nonprofit corporation certifies, under penalty of*
5 *perjury, that it was not doing business, within the meaning of*
6 *Section 23101.*

7 (b) *For purposes of this section:*

8 (1) *“Qualified corporation” means a nonprofit corporation*
9 *identified in Section 5059, 5060, 5061, or 9912 of the Corporations*
10 *Code that is incorporated under the laws of this state or a nonprofit*
11 *foreign corporation that has qualified to transact intrastate*
12 *business in this state and that satisfies any of the following*
13 *conditions:*

14 (A) *Was operating and previously obtained tax-exempt status*
15 *with the Franchise Tax Board, but had its tax-exempt status*
16 *revoked under Section 23777.*

17 (B) *Was operating and previously obtained tax-exempt status*
18 *with the Internal Revenue Service, but had its tax-exempt status*
19 *revoked under subsection (j) of Section 6033 of the Internal*
20 *Revenue Code.*

21 (C) *Never did business, within the meaning of Section 23101,*
22 *in this state at any time after the time of its incorporation in this*
23 *state.*

24 (2) *“Qualified taxes, interest, and penalties” means tax imposed*
25 *under Section 23153 and associated interest and penalties, and*
26 *any penalties imposed under Section 19141. “Qualified taxes,*
27 *interest, and penalties” does not include tax imposed under Section*
28 *23731, or associated interest or penalties.*

29 (c) *The qualified corporation must establish that it has ceased*
30 *all business operations at the time of filing the request for*
31 *abatement under this section.*

32 (d) *The abatement of unpaid qualified tax, interest, and penalties*
33 *is conditioned on the dissolution of the qualified corporation within*
34 *12 months from the date of filing the request for abatement under*
35 *this section.*

36 *If the qualified corporation is not dissolved within 12 months*
37 *from the date of filing the request for abatement or restarts*
38 *business operations at any time after requesting abatement under*
39 *this section, the abatement of qualified tax, interest, and penalties*
40 *under this section shall be canceled and the qualified taxes,*

1 *interest, and penalties subject to that abatement shall be treated*
2 *as if the abatement never occurred.*

3 *(e) The Franchise Tax Board shall prescribe any rules and*
4 *regulations that may be necessary or appropriate to implement*
5 *this section. Chapter 3.5 (commencing with Section 11340) of Part*
6 *1 of Division 3 of Title 2 of the Government Code shall not apply*
7 *to any standard, criterion, procedure, determination, rule, notice,*
8 *or guideline established or issued by the Franchise Tax Board*
9 *pursuant to this section.*

10 *SEC. 10. No reimbursement is required by this act pursuant*
11 *to Section 6 of Article XIII B of the California Constitution because*
12 *the only costs that may be incurred by a local agency or school*
13 *district will be incurred because this act creates a new crime or*
14 *infraction, eliminates a crime or infraction, or changes the penalty*
15 *for a crime or infraction, within the meaning of Section 17556 of*
16 *the Government Code, or changes the definition of a crime within*
17 *the meaning of Section 6 of Article XIII B of the California*
18 *Constitution.*

19 ~~SECTION 1. The Legislature finds and declares all of the~~
20 ~~following:~~

21 ~~(a) There are more than 144,000 nonprofit corporations in~~
22 ~~California that provide a variety of programs and services in areas~~
23 ~~as diverse as education, recreation, health care, legal, job training,~~
24 ~~and housing to millions of Californians. These organizations,~~
25 ~~depending on their formation status, are required to register with~~
26 ~~the office of the Secretary of State, the Franchise Tax Board, and~~
27 ~~the office of the Attorney General.~~

28 ~~(b) Each of these state agencies has a specific role to play in the~~
29 ~~establishment and oversight of a nonprofit corporation.~~

30 ~~(c) The office of the Secretary of State is in charge of~~
31 ~~administering the process for a nonprofit corporation that chooses~~
32 ~~to incorporate and also has the continued duty to ensure that the~~
33 ~~nonprofit corporation adheres to the mission for which it was~~
34 ~~formed.~~

35 ~~(d) The Franchise Tax Board has the responsibility of~~
36 ~~determining, reviewing, and monitoring the state tax-exempt status~~
37 ~~of a nonprofit corporation to ensure that its tax-exempt status still~~
38 ~~applies.~~

39 ~~(e) The California Attorney General regulates the nonprofit~~
40 ~~organizations and individuals that administer or solicit charitable~~

1 funds or assets in California and has broad legal and statutory
2 authority to commence enforcement actions against charitable
3 organizations and trusts.

4 (f) Through each of their roles, the office of the Secretary of
5 State, the Franchise Tax Board, and the office of the Attorney
6 General play a crucial role in ensuring that the nonprofit
7 corporations of California are adequately protecting the public's
8 trust.

9 (g) Every year, hundreds of nonprofit corporations seek
10 administrative changes to expand their mission or alter their tax
11 status, and, in some cases, to even go out of existence. This
12 dissolution process, which involves the winding down of the
13 nonprofit corporation's affairs, is very cumbersome and protracted.

14 SEC. 2.— Section 5008.9 is added to the Corporations Code, to
15 read:

16 5008.9. In order to more effectively analyze and monitor the
17 status, finances, and activities of a corporation, as defined in
18 Section 5046, in the state, the office of the Secretary of State, the
19 Franchise Tax Board, and the office of the Attorney General shall
20 collectively review and develop a streamlined process to efficiently
21 dissolve a corporation to the extent that this process is consistent
22 with other sections of law.