
SUBSTITUTE SENATE BILL 6277

State of Washington

53rd Legislature

1994 Regular Session

By Senate Committee on Law & Justice (originally sponsored by Senators Haugen, Winsley and M. Rasmussen; by request of Secretary of State)

Read first time 02/04/94.

1 AN ACT Relating to corporations; amending RCW 24.03.030, 24.03.070,
2 24.03.265, 23B.08.080, 24.06.095, 24.06.110, 24.06.245, and 24.06.300;
3 and adding a new section to chapter 24.06 RCW.

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

5 **Sec. 1.** RCW 24.03.030 and 1986 c 240 s 4 are each amended to read
6 as follows:

7 A corporation subject to this chapter:

8 (1) Shall not have or issue shares of stock;

9 (2) Shall not make any disbursement of income to its members,
10 directors, or officers;

11 (3) Shall not loan money or credit to its officers or directors;

12 (4) May pay compensation in a reasonable amount to its members,
13 directors, or officers for services rendered;

14 (5) May confer benefits upon its members in conformity with its
15 purposes; (~~and~~)

16 (6) That has the authority through its articles of incorporation
17 and bylaws to make and collect assessments on members where ownership
18 of property is a condition of membership in the corporation or
19 association or where the assessments are based on the value of all or

1 part of the real property owned by members of the corporation, shall
2 not make the assessments except where the assessments are approved by
3 a majority vote of the members at an annual or special meeting held
4 under RCW 24.03.075 and to which notice of the intent to adopt an
5 assessment has been delivered to all of the members, who are entitled
6 to vote, not less than ten days nor more than fifty days before the
7 date of the meeting either personally or by mail; and

8 (7) Upon dissolution or final liquidation may make distributions to
9 its members as permitted by this chapter, and no such payment, benefit,
10 or distribution shall be deemed to be a dividend or a distribution of
11 income.

12 **Sec. 2.** RCW 24.03.070 and 1991 c 72 s 43 are each amended to read
13 as follows:

14 The initial bylaws of a corporation shall be adopted by its board
15 of directors. The power to alter, amend, or repeal the bylaws or adopt
16 new bylaws shall be vested in the board of directors unless otherwise
17 provided in the articles of incorporation or the bylaws. The bylaws
18 may contain any provisions for the regulation and management of the
19 affairs of a corporation not inconsistent with law or the articles of
20 incorporation. The bylaws of any corporation that has the authority
21 through its articles of incorporation to make and collect assessments
22 on members where ownership of property is a condition of membership in
23 the corporation or association or where the assessments are based on
24 the value of all or part of the real property owned by members of the
25 corporation, shall include provisions, consistent with RCW
26 24.03.030(6), for voting on the assessments and notice of the annual or
27 special meetings at which the assessments are to be considered and
28 approved. The board may adopt emergency bylaws in the manner provided
29 by RCW 23B.02.070.

30 **Sec. 3.** RCW 24.03.265 and 1986 c 240 s 39 are each amended to read
31 as follows:

32 Superior courts shall have full power to liquidate the assets and
33 affairs of a corporation:

34 (1) In an action by a member, director, or the attorney general
35 when it is made to appear:

36 (a) That the directors are deadlocked in the management of the
37 corporate affairs and that irreparable injury to the corporation is

1 being suffered or is threatened by reason thereof, and either that the
2 members are unable to break the deadlock or there are no members having
3 voting rights; or

4 (b) That the acts of the directors or those in control of the
5 corporation are illegal, oppressive or fraudulent; or

6 (c) That the corporate assets are being misapplied or wasted; or

7 (d) A corporation has made, collected, or attempted to collect
8 assessments on members where ownership of property is a condition of
9 membership in the corporation or association or where the assessments
10 are based on the value of all or part of the real property owned by
11 members of the corporation without an express authority to make the
12 assessments in its articles of incorporation or without proper notice
13 or approval as required under RCW 24.03.030 and 24.03.080 or in
14 violation of the provisions of its bylaws; or

15 (e) That the corporation is unable to carry out its purposes.

16 (2) In an action by a creditor:

17 (a) When the claim of the creditor has been reduced to judgment and
18 an execution thereon has been returned unsatisfied and it is
19 established that the corporation is insolvent; or

20 (b) When the corporation has admitted in writing that the claim of
21 the creditor is due and owing and it is established that the
22 corporation is insolvent.

23 (3) Upon application by a corporation to have its dissolution
24 continued under the supervision of the court.

25 (4) When an action has been filed by the attorney general to
26 dissolve a corporation under the provisions of this chapter and it is
27 established that liquidation of its affairs should precede the entry of
28 a decree of dissolution.

29 Proceedings under subsections (1), (2), or (3) of this section
30 shall be brought in the county in which the registered office or the
31 principal office of the corporation is situated.

32 It shall not be necessary to make directors or members parties to
33 any (~~such~~) action or proceedings unless relief is sought against them
34 personally.

35 **Sec. 4.** RCW 23B.08.080 and 1989 c 165 s 87 are each amended to
36 read as follows:

1 (1) The shareholders may remove one or more directors with or
2 without cause unless the articles of incorporation provide that
3 directors may be removed only for cause.

4 (2) If a director is elected by holders of one or more authorized
5 classes or series of shares, only the holders of those classes or
6 series of shares may participate in the vote to remove the director.

7 (3) If cumulative voting is authorized, ((a)) and if less than the
8 entire board is to be removed, no director may ((not)) be removed if
9 the number of votes sufficient to elect the director under cumulative
10 voting is voted against the director's removal. If cumulative voting
11 is not authorized, a director may be removed only if the number of
12 votes cast to remove the director exceeds the number of votes cast not
13 to remove the director.

14 (4) A director may be removed by the shareholders only at a special
15 meeting called for the purpose of removing the director and the meeting
16 notice must state that the purpose, or one of the purposes, of the
17 meeting is removal of the director.

18 NEW SECTION. **Sec. 5.** A new section is added to chapter 24.06 RCW
19 to read as follows:

20 A corporation or association subject to this chapter that has the
21 authority through its articles of incorporation and bylaws to make and
22 collect assessments on members where ownership of property is a
23 condition of membership in the corporation or association or where the
24 assessments are based on the value of all or part of the real property
25 owned by members shall not make the assessments except where the
26 assessments are approved by a majority vote of the members at an annual
27 or special meeting held under RCW 24.06.100 and to which notice of the
28 intent to adopt an assessment has been delivered to all of the members,
29 who are entitled to vote, not less than ten days nor more than fifty
30 days before the date of the meeting either personally or by mail.

31 **Sec. 6.** RCW 24.06.095 and 1970 ex.s. c 78 s 1 are each amended to
32 read as follows:

33 The initial bylaws of a corporation shall be adopted by its board
34 of directors. The power to alter, amend or repeal the bylaws or adopt
35 new bylaws shall be vested in the board of directors unless otherwise
36 provided in the articles of incorporation or the bylaws. The bylaws
37 may contain any provisions for the regulation and management of the

1 affairs of a corporation not inconsistent with law or the articles of
2 incorporation(~~(: PROVIDED, That)~~). Where the bylaws of an existing
3 corporation prohibit voting by mail or by proxy or attorney-in-fact,
4 and the quorum required by its bylaws for election of directors or
5 transaction of other business has not been obtained at a shareholders'
6 or members' meeting, for a period which includes at least two
7 consecutive annual meeting dates, the board of directors shall have
8 power to amend such bylaws to thereafter authorize voting by mail or by
9 proxy or attorney-in-fact. The bylaws of any corporation that has the
10 authority through its articles of incorporation to make and collect
11 assessments on members where ownership of property is a condition of
12 membership in the corporation or association or where the assessments
13 are based on the value of all or part of the real property owned by
14 members shall include provisions, consistent with section 5 of this
15 act, for voting on the assessments and notice of the annual or special
16 meetings at which the assessments are to be considered and acted upon.

17 **Sec. 7.** RCW 24.06.110 and 1969 ex.s. c 120 s 22 are each amended
18 to read as follows:

19 The right of a class or classes of members or shareholders to vote
20 may be limited, enlarged or denied to the extent specified in the
21 articles of incorporation. Unless so limited, enlarged or denied, each
22 member and each outstanding share of each class shall be entitled to
23 one vote on each matter submitted to a vote of members or shareholders.
24 No member of a class may acquire any interest which will entitle him to
25 a greater vote than any other member of the same class.

26 A member or shareholder may vote in person or, unless the articles
27 of incorporation or the bylaws otherwise provide, may vote by mail or
28 by proxy executed in writing by the member or shareholder or by his
29 duly authorized attorney-in-fact: PROVIDED, That no proxy shall be
30 valid for more than eleven months from the date of its execution unless
31 otherwise specified in the proxy.

32 The articles of incorporation may provide that whenever proposals
33 or directors or officers are to be voted upon, such vote may be taken
34 by mail if the name of each candidate and the text of each proposal to
35 be so voted upon are set forth in a writing accompanying or contained
36 in the notice of meeting. Persons voting by mail shall be deemed
37 present for all purposes of quorum, count of votes and percentages of
38 total voting power voting.

1 The articles of incorporation or the bylaws may provide that in all
2 elections for directors every person entitled to vote shall have the
3 right to cumulate his vote and to give one candidate a number of votes
4 equal to his vote multiplied by the number of directors to be elected,
5 or by distributing such votes on the same principle among any number of
6 such candidates.

7 The articles of incorporation or the bylaws shall provide that
8 whenever proposals to make and collect assessments are to be voted
9 upon, the assessments must be approved by a majority vote of the
10 members.

11 **Sec. 8.** RCW 24.06.245 and 1969 ex.s. c 120 s 49 are each amended
12 to read as follows:

13 Any member or shareholder of a corporation shall have the right to
14 dissent from any of the following corporate actions:

15 (1) Any plan of merger or consolidation to which the corporation is
16 a party; or

17 (2) Any sale or exchange of all or substantially all of the
18 property and assets of the corporation not made in the usual and
19 regular course of its business, including a sale in dissolution, but
20 not including a sale pursuant to an order of a court having
21 jurisdiction in the premises or a sale for cash on terms requiring that
22 all or substantially all of the net proceeds of sale be distributed to
23 the shareholders in accordance with their respective interests within
24 one year after the date of sale; or

25 (3) Any amendment to the articles of incorporation which changes
26 voting or property rights of members or shareholders other than by
27 changing the number of memberships or shares or classes of either
28 thereof; or

29 (4) Any amendment to the articles of incorporation which
30 reorganizes a corporation under the provisions of this chapter; or

31 (5) Any assessments on members where ownership of property is a
32 condition of membership in the corporation or association or where the
33 assessments are based on the value of all or part of the real property
34 owned by members.

35 The provisions of this section shall not apply to the members or
36 shareholders of the surviving corporation in a merger if such
37 corporation is on the date of the filing of the articles of merger the
38 owner of all the outstanding shares of the other corporations, domestic

1 or foreign, which are parties to the merger, or if a vote of the
2 members and shareholders of such corporation is not necessary to
3 authorize such merger.

4 **Sec. 9.** RCW 24.06.300 and 1969 ex.s. c 120 s 60 are each amended
5 to read as follows:

6 The superior court shall have full power to liquidate the assets
7 and to provide for the dissolution of a corporation when:

8 (1) In any action by a member, shareholder or director it is made
9 to appear that:

10 (a) The directors are deadlocked in the management of the corporate
11 affairs and that irreparable injury to the corporation is being
12 suffered or is threatened by reason thereof, and that the members or
13 shareholders are unable to break the deadlock; or

14 (b) The acts of the directors or those in control of the
15 corporation are illegal, oppressive, or fraudulent; or

16 (c) The corporate assets are being misapplied or wasted; or

17 (d) The corporation is unable to carry out its purposes; or

18 (e) The shareholders have failed, for a period which includes at
19 least two consecutive annual meeting dates, to elect successors to
20 directors whose terms have expired or would have expired upon the
21 election of their successors; or

22 (f) The corporation has made, collected, or attempted to collect
23 assessments on members where ownership of property is a condition of
24 membership in the corporation or association or where the assessments
25 are based on the value of all or part of the real property owned by
26 members without an express authority to make the assessments in its
27 articles of incorporation or without proper notice or approval as
28 required under section 5 of this act and RCW 24.06.105 or in violation
29 of the provisions of its bylaws.

30 (2) In an action by a creditor:

31 (a) The claim of the creditor has been reduced to judgment and an
32 execution thereon has been returned unsatisfied, and it is established
33 that the corporation is insolvent; or

34 (b) The corporation has admitted in writing that the claim of the
35 creditor is due and owing, and it is established that the corporation
36 is insolvent.

37 (3) A corporation applies to have its dissolution continued under
38 the supervision of the court.

1 (4) An action has been filed by the attorney general to dissolve
2 the corporation and it is established that liquidation of its affairs
3 should precede the entry of a decree of dissolution.

4 Proceedings under subsections (1), (2) or (3) of this section shall
5 be brought in the county in which the registered office or the
6 principal office of the corporation is situated.

7 It shall not be necessary to make directors, members or
8 shareholders party to any such action or proceedings unless relief is
9 sought against them personally.

--- END ---