

---

**SUBSTITUTE SENATE BILL 5495**

---

**State of Washington**

**62nd Legislature**

**2011 Regular Session**

**By** Senate Judiciary (originally sponsored by Senators Kohl-Welles and Pflug)

READ FIRST TIME 02/21/11.

1           AN ACT Relating to shareholder quorum and voting requirements under  
2 the Washington business corporation act; adding a new section to  
3 chapter 23B.17 RCW; and declaring an emergency.

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

5           NEW SECTION. **Sec. 1.** A new section is added to chapter 23B.17 RCW  
6 to read as follows:

7           (1) A corporation that meets the following requirements is subject  
8 to the alternative quorum and voting requirements set forth in  
9 subsection (2) of this section:

10           (a) As of the record date of the annual or special meeting of  
11 shareholders:

12           (i) The corporation is a public company;

13           (ii) Shares of its common stock are admitted to trading on a  
14 regulated market listed on the list of the regulated markets notified  
15 to the European commission by the member states under Article 16 of the  
16 investment services directive (93/22/EEC), as such list is amended from  
17 time to time; and

18           (iii) At least twenty percent of the shares of the corporation's  
19 common stock are held of record by the depository trust company and are

1 deposited securities, as defined in the rules, bylaws, and organization  
2 certificate of the depository trust company, credited to the account or  
3 accounts of one or more stock depositories located in a member state of  
4 the European Union;

5 (b) At the time that such shares were initially listed on the  
6 regulated market, shares of the corporation's common stock were listed  
7 on the New York stock exchange or the nasdaq stock market;

8 (c) At the time that such shares were initially listed on the  
9 regulated market, such listing was a condition to the acquisition of  
10 one hundred percent of the equity interests of a foreign corporation or  
11 similar entity where:

12 (i) The securities of the foreign corporation or similar entity  
13 were admitted to trading on the regulated market immediately prior to  
14 the acquisition;

15 (ii) The consideration for the acquisition was newly issued shares  
16 of common stock of the corporation; and

17 (iii) The shares issued in connection with the acquisition equaled  
18 before the issuance more than forty percent of the outstanding common  
19 stock of the corporation; and

20 (d) At the corporation's most recent annual or special meeting of  
21 shareholders less than sixty-five percent of the shares within the  
22 voting group comprising all the votes entitled to be cast were present  
23 in person or by proxy.

24 (2) At any annual or special meeting actually held, other than by  
25 written consent under RCW 23B.07.040, by a corporation meeting the  
26 requirements of subsection (1) of this section:

27 (a) The required quorum of the voting group consisting of all votes  
28 entitled to be cast, and of each other voting group that includes  
29 common shares of the corporation which is entitled to vote separately  
30 with respect to a proposed corporate action, shall be the lesser of:

31 (i) A majority of the shares of such voting group other than shares  
32 credited to the account of stock depositories located in a member state  
33 of the European Union as described in subsection (1)(a)(iii) of this  
34 section, provided the number of votes comprising such majority equals  
35 or exceeds one-sixth of the total votes entitled to be cast by the  
36 voting group; or

37 (ii) One-third of the total votes entitled to be cast by the voting  
38 group.

1 (b) The vote required for approval by any voting group entitled to  
2 vote with respect to any amendment of the corporation's articles of  
3 incorporation or bylaws, or any plan of merger or share exchange to  
4 which the corporation is a party, or any sale, lease, exchange, or  
5 other disposition of all or substantially all of the corporation's  
6 property otherwise than in the usual and regular course of business, or  
7 dissolution, shall be a majority of the votes actually cast by such  
8 voting group with respect to the proposed corporate action, provided  
9 that the votes approving the proposed corporate action equal or exceed  
10 fifteen percent of the votes within the voting group.

11 (3) The alternative quorum and voting requirements specified in  
12 subsection (2) of this section shall, with respect to any corporation  
13 meeting the requirements of subsection (1) of this section, control  
14 over and supersede any greater quorum or voting requirements that may  
15 be specified in the corporation's articles of incorporation or bylaws  
16 or in RCW 23B.02.020, 23B.07.250, 23B.07.270, 23B.10.030, 23B.11.030,  
17 23B.12.020, or 23B.14.020.

18 NEW SECTION. **Sec. 2.** This act is necessary for the immediate  
19 preservation of the public peace, health, or safety, or support of the  
20 state government and its existing public institutions, and takes effect  
21 immediately.

--- END ---