
SENATE BILL 5006

State of Washington

69th Legislature

2025 Regular Session

By Senators Pedersen and Holy; by request of Washington State Bar Association

Prefiled 12/03/24.

1 AN ACT Relating to making updates to Washington's corporation
2 acts; and amending RCW 23B.06.240, 23B.08.250, 23B.11A.070,
3 23B.13.020, 23B.14.020, 24.03A.575, and 24.06.145.

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

5 **Sec. 1.** RCW 23B.06.240 and 2020 c 194 s 6 are each amended to
6 read as follows:

7 (1) Unless the articles of incorporation provide otherwise, a
8 corporation may issue rights, options, or warrants for the purchase
9 of shares or other securities of the corporation. The board of
10 directors (~~((shall))~~) must determine the terms and conditions upon
11 which the rights, options, or warrants are issued(~~(, their form and~~
12 ~~content, and the terms and conditions relating to their exercise,~~
13 ~~including the time or times, the conditions precedent, and the~~
14 ~~consideration for which and the holders by whom the rights, options,~~
15 ~~or warrants may be exercised)) and may become exercisable,
16 exchangeable, or convertible, including the consideration for which
17 the shares or other securities are to be issued. The authorization by
18 the board of directors for the corporation to issue such rights,
19 options, or warrants constitutes authorization of the issuance of the
20 shares or other securities for which the rights, options, or warrants
21 are exercisable.~~

1 (2) The terms and conditions of such rights, options, or
2 warrants (~~(, including the time or times, the conditions precedent,~~
3 ~~and the consideration for which and the holders by whom the rights,~~
4 ~~options, or warrants may be exercised, as well as their duration (a)~~
5 ~~may preclude)) may include restrictions or conditions that:~~

6 (a) Preclude or limit the exercise, transfer, or receipt of such
7 rights, options, or warrants (~~(or invalidate))~~ by any person or
8 persons owning or offering to acquire any number or percentage of the
9 outstanding shares or other securities of the corporation or by any
10 transferee or transferees of any such person or persons;

11 (b) Invalidate or void any rights, options, or warrants (~~(and (b)~~
12 ~~may be made))~~ held by any person or persons or any such transferee or
13 transferees; or

14 (c) Are dependent upon facts ascertainable outside the documents
15 evidencing them or outside the resolution or resolutions adopted by
16 the board of directors creating such rights, options, or warrants if
17 the manner in which those facts operate on the rights, options, or
18 warrants or the holders thereof is clearly set forth in the documents
19 or the resolutions. For purposes of this section, "facts
20 ascertainable outside the documents evidencing them or outside the
21 resolution or resolutions adopted by the board of directors creating
22 such rights, options, or warrants" includes, but is not limited to,
23 the existence of any condition or the occurrence of any event,
24 including, without limitation, a determination or action by any
25 person or body, including the corporation, its board of directors, or
26 an officer, employee, or agent of the corporation.

27 (3) The board of directors may authorize one or more officers to:
28 (a) Designate the recipients of rights, options, warrants, or other
29 equity awards that involve the issuance of shares of the corporation;
30 and (b) determine, within an amount and subject to other limitations
31 established by the board of directors and, if applicable, the
32 shareholders, the number of such rights, options, warrants, or other
33 equity awards, and the terms and conditions of such rights, options,
34 warrants, or other equity awards to be received by the recipients. An
35 officer may not use such authority to designate himself or herself or
36 any other persons as the board of directors may specify as a
37 recipient of such rights, options, warrants, or other equity awards.

38 **Sec. 2.** RCW 23B.08.250 and 2009 c 189 s 27 are each amended to
39 read as follows:

1 (1) Unless this title, the articles of incorporation, or the
2 bylaws provide otherwise, a board of directors may ~~((create))~~
3 establish one or more board committees ~~((of directors. Each committee~~
4 ~~must have two or more members, who serve at the pleasure))~~ composed
5 exclusively of one or more directors to perform functions of the
6 board of directors.

7 (2) The ~~((creation))~~ establishment of a board committee and
8 appointment of members to it must be approved by the greater of (a) a
9 majority of all the directors in office when ~~((the creation of the~~
10 ~~committee is approved))~~ this corporate action is taken or (b) the
11 number of directors required by the articles of incorporation or
12 bylaws to ~~((approve the creation of the committee under RCW~~
13 ~~23B.08.240))~~ take corporate action under RCW 23B.08.240, unless, in
14 either case, this title or the articles of incorporation provide
15 otherwise.

16 (3) RCW 23B.08.200 through 23B.08.240 ~~((, which govern meetings,~~
17 ~~approval of corporate action without meetings, notice and waiver of~~
18 ~~notice, and quorum and voting requirements of the board of directors,~~
19 ~~apply to committees and their members as well))~~ apply to board
20 committees and their members.

21 (4) ~~((To the extent specified by the board of directors or in the~~
22 ~~articles of incorporation or bylaws, each committee may exercise the~~
23 ~~authority of the board of directors under RCW 23B.08.010.~~

24 ~~(5) A committee may not, however:~~

25 ~~(a) Approve a distribution))~~ A board committee may exercise the
26 powers of the board of directors under RCW 23B.08.010, to the extent
27 specified by the board of directors or in the articles of
28 incorporation or bylaws, except that a board committee may not:

29 (a) Authorize or approve distributions, except according to a
30 ~~((general))~~ formula or method, or within limits, prescribed by the
31 board of directors;

32 (b) Approve or propose to shareholders corporate action that this
33 title requires be approved by shareholders;

34 (c) Fill vacancies on the board of directors or, subject to
35 subsection (5) of this section, on any ((of its)) board committees;
36 or

37 ~~((Amend articles of incorporation pursuant to RCW 23B.10.020;~~

38 ~~(e))~~ Adopt, amend, or repeal bylaws((

39 ~~(f) Approve a plan of merger not requiring shareholder approval;~~

40 ~~or~~

1 ~~(g) Approve the issuance or sale or contract for sale of shares,~~
2 ~~or determine the designation and relative rights, preferences, and~~
3 ~~limitations of a class or series of shares, except that the board of~~
4 ~~directors may authorize a committee, or a senior executive officer of~~
5 ~~the corporation to do so within limits specifically prescribed by the~~
6 ~~board of directors.~~

7 ~~(6) The creation of, delegation of authority to, or approval of~~
8 ~~corporate action by a committee does not alone constitute compliance~~
9 ~~by a director with the standards of conduct described in RCW~~
10 ~~23B.08.300)).~~

11 (5) The board of directors may appoint one or more directors as
12 alternate members of any board committee to replace any absent or
13 disqualified member during the member's absence or disqualification.
14 If the articles of incorporation, the bylaws, or the resolution
15 creating the board committee so provide, the member or members
16 present at any board committee meeting and not disqualified from
17 voting may, by unanimous action, appoint another director to act in
18 place of an absent or disqualified member during that member's
19 absence or disqualification.

20 **Sec. 3.** RCW 23B.11A.070 and 2024 c 22 s 9 are each amended to
21 read as follows:

22 (1) When a merger becomes effective:

23 (a) The domestic corporation or other entity that is designated
24 in the plan of merger as the surviving entity continues;

25 (b) The separate existence of every domestic corporation or other
26 entity that is merged into the surviving entity ceases;

27 (c) All property owned by, and every contract right possessed by,
28 each domestic corporation or other entity that is merged into the
29 surviving entity are the property and contract rights of the
30 surviving entity without transfer, reversion, or impairment;

31 (d) All debts, obligations, and other liabilities of each
32 domestic corporation or other entity that is merged into the
33 surviving entity are debts, obligations, or liabilities of the
34 surviving entity;

35 (e) The name of the surviving entity may, but need not be,
36 substituted in any pending proceeding for the name of any party to
37 the merger whose separate existence ceased in the merger;

38 (f) If the surviving entity is a domestic entity, the articles of
39 incorporation and bylaws or the organic rules of the surviving entity

1 are amended, or amended and restated, to the extent provided in the
2 plan of merger;

3 (g) The shares of or interests in each entity that is a party to
4 the merger that are to be converted in accordance with the terms of
5 the merger into shares or other securities, interests, obligations,
6 rights to acquire shares, other securities, or interests, cash, other
7 property, or any combination of the foregoing, are converted, and the
8 former holders of such shares or interests are entitled only to the
9 rights provided to them by those terms or to any rights they may have
10 under chapter 23B.13 RCW or the organic law governing the other
11 entity;

12 (h) Except as provided by law or the plan of merger, all the
13 rights, privileges, franchises, and immunities of each entity that is
14 merged into the surviving entity, are the rights, privileges,
15 franchises, and immunities of the surviving entity;

16 (i) All the property and contract rights of the surviving entity
17 remain its property and contract rights without transfer, reversion,
18 or impairment;

19 (j) The surviving entity remains subject to all its debts,
20 obligations, and other liabilities; and

21 (k) Except as provided by law or the plan of merger, the
22 surviving entity continues to hold all of its rights, privileges,
23 franchises, and immunities.

24 (2) When a share exchange becomes effective, the shares in the
25 acquired entity that are to be exchanged for shares or other
26 securities, obligations, rights to acquire shares, other securities,
27 cash, other property, or any combination of the foregoing, are
28 exchanged, and the former holders of such shares are entitled only to
29 the rights provided to them in the plan of share exchange or to any
30 rights they may have under chapter 23B.13 RCW.

31 (3) Except as provided otherwise in the articles of incorporation
32 of a domestic corporation or the organic law governing or organic
33 rules of an other entity, the effect of a merger or share exchange on
34 owner liability is as follows:

35 (a) A person who becomes subject to new owner liability in
36 respect of an entity as a result of a merger or share exchange will
37 have that new owner liability only in respect of owner liabilities
38 that arise after the merger or share exchange becomes effective;

39 (b) If a person had owner liability with respect to a party to
40 the merger or the acquired entity before the merger or share exchange

1 becomes effective with respect to shares or interests of such party
2 or acquired entity which were exchanged in the merger or share
3 exchange, which were canceled in the merger, or the terms and
4 conditions of which relating to owner liability were amended under
5 the terms of the merger:

6 (i) The merger or share exchange does not discharge that prior
7 owner liability with respect to any owner liabilities that arose
8 before the merger or share exchange becomes effective;

9 (ii) The provisions of the organic law governing any entity for
10 which the person had that prior owner liability will continue to
11 apply to the collection or discharge of any owner liabilities
12 preserved by (b)(i) of this subsection (3), as if the merger or share
13 exchange had not occurred;

14 (iii) The person will have such rights of contribution from other
15 persons as are provided by the organic law governing the entity for
16 which the person had that prior owner liability with respect to any
17 owner liabilities preserved by (b)(i) of this subsection (3), as if
18 the merger or share exchange had not occurred; and

19 (iv) The person will not, by reason of such prior owner
20 liability, have owner liability with respect to any owner liabilities
21 that arise after the merger or share exchange becomes effective;

22 (c) If a person has owner liability both before and after a
23 merger becomes effective with unchanged terms and conditions with
24 respect to the entity that is the surviving entity by reason of
25 owning the same shares or interests before and after the merger
26 becomes effective, the merger has no effect on such owner liability;
27 and

28 (d) A share exchange has no effect on owner liability related to
29 shares of the acquired entity that were not exchanged in the share
30 exchange.

31 (4) Upon a merger becoming effective, a foreign other entity that
32 is the surviving entity of the merger is deemed to:

33 (a) Appoint the secretary of state as its agent for service of
34 process in a proceeding to enforce the rights of shareholders of each
35 domestic corporation that is a party to the merger who are entitled
36 to and exercise dissenters' rights under chapter 23B.13 RCW; and

37 (b) Agree that it will promptly pay the amount, if any, to which
38 such shareholders are entitled under chapter 23B.13 RCW.

39 (5) Except as provided in the organic law governing a party to a
40 merger or in its articles of incorporation or organic rules, the

1 merger does not give rise to any rights that a shareholder, interest
2 holder, governor, or third party would have upon a dissolution,
3 liquidation, or winding up of that party. The merger does not require
4 a party to the merger to wind up its affairs and does not constitute
5 or cause its dissolution or termination.

6 **Sec. 4.** RCW 23B.13.020 and 2024 c 22 s 22 are each amended to
7 read as follows:

8 (1) A shareholder is entitled to dissent from, and obtain payment
9 of the fair value of the shareholder's shares in the event of, any of
10 the following corporate actions:

11 (a) Consummation of a merger to which the corporation is a party
12 (i) if shareholder approval is required for the merger by RCW
13 23B.11A.040 or the articles of incorporation, or would be required
14 but for the provisions of RCW 23B.11A.045, and the shareholder is, or
15 but for the provisions of RCW 23B.11A.045 would be, entitled to vote
16 on the merger, except that the right to dissent will not be available
17 to any shareholder of the corporation with respect to shares of any
18 class or series that remain outstanding after consummation of the
19 merger; or (ii) if the corporation is a subsidiary and the merger is
20 governed by RCW 23B.11A.050;

21 (b) A plan of share exchange, which has become effective, to
22 which the corporation is a party as the corporation whose shares have
23 been acquired, if the shareholder was entitled to vote on the plan;

24 (c) A sale, lease, exchange, or other disposition, which has
25 become effective, of all, or substantially all, of the property and
26 assets of the corporation other than in the usual and regular course
27 of business, if the shareholder was entitled to vote on the sale,
28 lease, exchange, or other disposition, including a disposition in
29 dissolution, but not including a disposition pursuant to court order
30 or a disposition for cash pursuant to a plan by which all or
31 substantially all of the net proceeds of the disposition will be
32 distributed to the shareholders within one year after the date of the
33 disposition;

34 (d) An amendment of the articles of incorporation, whether or not
35 the shareholder was entitled to vote on the amendment, if the
36 amendment effects a redemption or cancellation of all of the
37 shareholder's shares in exchange for cash or other consideration
38 other than shares of the corporation;

39 (e) Any action described in RCW 23B.25.120;

1 (f) Any corporate action approved pursuant to a shareholder vote
2 to the extent the articles of incorporation, bylaws, or a resolution
3 of the board of directors provides that voting or nonvoting
4 shareholders are entitled to dissent and obtain payment for their
5 shares; (~~or~~)

6 (g) A plan of entity conversion in the case of a conversion of a
7 domestic corporation to a foreign corporation, which has become
8 effective, to which the domestic corporation is a party as the
9 converting entity, if: (i) The shareholder was entitled to vote on
10 the plan; and (ii) the shareholder does not receive shares in the
11 surviving entity that have terms as favorable to the shareholder in
12 all material respects and that represent at least the same percentage
13 interest of the total voting rights of the outstanding shares of the
14 surviving entity as the shares held by the shareholder before the
15 conversion; or

16 (h) Consummation of a conversion of the corporation to another
17 entity which is not a foreign corporation pursuant to RCW 23B.09.010.

18 (2) A shareholder entitled to dissent and obtain payment for the
19 shareholder's shares under this chapter may not challenge the
20 corporate action creating the shareholder's entitlement unless the
21 action fails to comply with the procedural requirements imposed by
22 this title, RCW 25.10.831 through 25.10.886, the articles of
23 incorporation, or the bylaws, or is fraudulent with respect to the
24 shareholder or the corporation.

25 (3) The right of a dissenting shareholder to obtain payment of
26 the fair value of the shareholder's shares shall terminate upon the
27 occurrence of any one of the following events:

28 (a) The proposed corporate action is abandoned or rescinded;

29 (b) A court having jurisdiction permanently enjoins or sets aside
30 the corporate action; or

31 (c) The shareholder's demand for payment is withdrawn with the
32 written consent of the corporation.

33 **Sec. 5.** RCW 23B.14.020 and 2011 c 328 s 8 are each amended to
34 read as follows:

35 (1) A corporation's board of directors may propose dissolution
36 for submission to the shareholders.

37 (2) For a proposal to dissolve to be approved:

38 (a) The board of directors must recommend dissolution to the
39 shareholders unless (i) the board of directors determines that

1 because of conflict of interest or other special circumstances it
2 should make no recommendation or (ii) RCW 23B.08.245 applies, and in
3 either case the board of directors communicates the basis for so
4 proceeding to the shareholders; and

5 (b) The shareholders entitled to vote must approve the proposal
6 to dissolve as provided in subsection (5) of this section.

7 (3) The board of directors may condition its submission of the
8 proposal for dissolution on any basis, including the affirmative vote
9 of holders of a specified percentage of shares held by any group of
10 shareholders not otherwise entitled under this title or the articles
11 of incorporation to vote as a separate voting group on the proposed
12 dissolution.

13 (4) The corporation shall notify each shareholder, whether or not
14 entitled to vote, of the proposed dissolution either (a) by giving
15 notice of a shareholders' meeting in accordance with RCW 23B.07.050
16 and stating that the purpose or one of the purposes of the meeting is
17 to consider dissolving the corporation, or (b) in accordance with the
18 requirements of RCW 23B.07.040 for approving the proposed dissolution
19 without a meeting.

20 (5) (~~In addition to any other voting conditions imposed by the~~
21 ~~board of directors under subsection (3) of this section, the proposed~~
22 ~~dissolution must be approved by two-thirds of the voting group~~
23 ~~comprising all~~) (a) With respect to a corporation formed before
24 August 1, 2024:

25 (i) Unless the articles of incorporation, or the board of
26 directors acting in accordance with subsection (3) of this section,
27 requires a different vote, shareholder approval of the proposed
28 dissolution requires:

29 (A) The approval of two-thirds of the votes entitled to be cast
30 on the proposed dissolution; and

31 (B) The approval of two-thirds of the votes entitled to be cast
32 on the proposed dissolution(~~, and of~~) by each other voting group
33 entitled under the articles of incorporation to vote separately on
34 the proposed dissolution.

35 (ii) The articles of incorporation may require a (~~greater or~~
36 lesser)) different vote than that provided in this subsection (5)(a),
37 or a (~~greater or lesser~~) different vote by (~~any~~) separate voting
38 groups (~~provided for in the articles of incorporation~~), so long as
39 the required vote is not less than a majority of all the votes

1 entitled to be cast on the proposed dissolution and of each other
2 voting group entitled to vote separately on the proposed dissolution.

3 (b) With respect to a corporation formed on or after August 1,
4 2024, unless the articles of incorporation, or the board of directors
5 acting in accordance with subsection (3) of this section, requires a
6 greater vote, shareholder approval of the proposed dissolution
7 requires:

8 (i) The approval of a majority of the votes entitled to be cast
9 on the proposed dissolution; and

10 (ii) The approval of a majority of the votes entitled to be cast
11 on the proposed dissolution by each other voting group entitled under
12 the articles of incorporation to vote separately on the proposed
13 dissolution.

14 **Sec. 6.** RCW 24.03A.575 and 2021 c 176 s 2506 are each amended to
15 read as follows:

16 (1) Unless this chapter, the articles, or the bylaws provide
17 otherwise, a board may create one or more committees of the board
18 that consist of (~~two~~) one or more directors. A committee of the
19 board shall not include as voting members persons who are not
20 directors, except:

21 (a) As provided in Title 48 RCW or the regulations promulgated
22 thereunder;

23 (b) If the only powers delegated to the committee are those
24 necessary for the committee to serve in any fiduciary capacity with
25 respect to one or more employee benefit plans established under the
26 federal employee retirement income security act of 1974, or any
27 successor statute; or

28 (c) Unless without the inclusion of persons who are not directors
29 it is impossible or impracticable for the corporation to comply with
30 applicable law other than this chapter.

31 (2) Unless this chapter otherwise provides, the creation of a
32 committee of the board and appointment of directors to it shall be
33 approved by the greater of:

34 (a) A majority of all the directors in office when the action is
35 taken; or

36 (b) The number of directors required by the articles or bylaws to
37 take action under RCW 24.03A.565.

38 (3) RCW 24.03A.550 through 24.03A.570 apply to both committees of
39 the board and their members to the greatest practicable extent.

1 (4) To the extent specified by the board or in the articles or
2 bylaws, each committee of the board may exercise the powers of the
3 board granted through RCW 24.03A.490(2), except as limited by
4 subsection (5) of this section.

5 (5) A committee of the board may not:

6 (a) Authorize distributions;

7 (b) Adopt, amend, alter, or repeal bylaws;

8 (c) In the case of a membership corporation, approve or propose
9 to members action that must be approved by members under the articles
10 or bylaws;

11 (d) Elect, appoint(~~(+)~~), or remove any member of any committee
12 of the board or any director or officer of the corporation;

13 (e) Amend the articles;

14 (f) Adopt a plan of merger with another corporation;

15 (g) Adopt a plan of domestication, for-profit conversion, or
16 entity conversion;

17 (h) Authorize the sale, lease, or exchange of all or
18 substantially all of the property and assets of the corporation not
19 in the ordinary course of business;

20 (i) Authorize the voluntary dissolution of the corporation or
21 revoke proceedings therefor;

22 (j) Adopt a plan for the distribution of the assets of the
23 corporation; or

24 (k) Amend, alter, or repeal any resolution of the board, unless
25 the resolution provides by its terms that it may be amended, altered,
26 or repealed by a committee.

27 (6) The creation of, delegation of authority to, or action by a
28 committee of the board does not alone constitute compliance by a
29 director with the standards of conduct described in RCW 24.03A.495.

30 (7) A nonprofit corporation may create or authorize the creation
31 of one or more advisory committees whose members need not be
32 directors or meet the qualification requirements for directors. The
33 board shall not delegate any of its authority to an advisory
34 committee. An advisory committee:

35 (a) Is not a committee of the board; and

36 (b) May not exercise any of the powers of the board.

37 **Sec. 7.** RCW 24.06.145 and 2011 c 336 s 667 are each amended to
38 read as follows:

1 If the articles of incorporation or the bylaws so provide, the
2 board of directors, by resolution adopted by a majority of the
3 directors in office, may designate and appoint one or more committees
4 each of which shall consist of (~~two~~) one or more directors, which
5 committees, to the extent provided in such resolution, in the
6 articles of incorporation, or in the bylaws of the corporation, shall
7 have and exercise the authority of the board of directors in the
8 management of the corporation: PROVIDED, That no such committee shall
9 have the authority of the board of directors in reference to:

10 (1) Amending, altering, or repealing the bylaws;

11 (2) Electing, appointing, or removing any member of any such
12 committee or any director or officer of the corporation;

13 (3) Amending the articles of incorporation;

14 (4) Adopting a plan of merger or a plan of consolidation with
15 another corporation;

16 (5) Authorizing the sale, lease, exchange, or mortgage, of all or
17 substantially all of the property and assets of the corporation;

18 (6) Authorizing the voluntary dissolution of the corporation or
19 revoking proceedings therefor; or

20 (7) Amending, altering, or repealing any resolution of the board
21 of directors which by its terms provides that it shall not be
22 amended, altered, or repealed by such committee.

23 The designation and appointment of any such committee and the
24 delegation thereto of authority shall not operate to relieve the
25 board of directors, or any individual director of any responsibility
26 imposed upon it or him or her by law.

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