

**RCW 23B.10.040 Voting on amendments to articles of incorporation by voting groups.**

(1) Except as otherwise required by subsection (3) of this section or otherwise permitted by subsection (4) of this section, the holders of the outstanding shares of a class or series are entitled to vote as a separate voting group on a proposed amendment if shareholder voting is otherwise required by this title and if the amendment would:

(a) Increase the aggregate number of authorized shares of the class or series;

(b) Effect an exchange or reclassification of all or part of the issued and outstanding shares of the class or series into shares of another class or series, thereby adversely affecting the holders of the shares so exchanged or reclassified;

(c) Change the rights, preferences, or limitations of all or part of the issued and outstanding shares of the class or series, thereby adversely affecting the holders of shares of the class or series;

(d) Change all or part of the issued and outstanding shares of the class or series into a different number of shares of the same class or series, thereby adversely affecting the holders of shares of the class or series;

(e) Create a new class or series of shares having rights or preferences with respect to distributions or to dissolution that are, or upon designation by the board of directors in accordance with RCW 23B.06.020 may be, prior, superior, or substantially equal to the shares of the class or series;

(f) Increase the rights or preferences with respect to distributions or to dissolution, or the number of authorized shares of any class or series that, after giving effect to the amendment, has rights or preferences with respect to distributions or to dissolution that are, or upon designation by the board of directors in accordance with RCW 23B.06.020 may be, prior, superior, or substantially equal to the shares of the class or series;

(g) Limit or deny an existing preemptive right of all or part of the shares of the class or series;

(h) Cancel or otherwise adversely affect rights to distributions or dividends that have accumulated but not yet been declared on all or part of the shares of the class or series; or

(i) Effect a redemption or cancellation of all or part of the shares of the class or series in exchange for cash or any other form of consideration other than shares of the corporation.

(2) If a proposed amendment would affect only a series of a class of shares in one or more of the ways described in subsection (1) of this section, only the shares of that series are entitled to vote as a separate voting group on the proposed amendment. A voting group entitled to vote separately under this section may never comprise a group of holders smaller than the holders of a single class or series authorized and designated as a class or series in the articles of incorporation, unless otherwise provided in the articles of incorporation or unless the board of directors conditions its submission of the proposed amendment on a separate vote by one or more smaller voting groups.

(3) If a proposed amendment, that would otherwise entitle two or more classes or series of shares to vote as separate voting groups under this section, would affect those two or more classes or series in the same or a substantially similar way, then instead of voting as separate voting groups the shares of all similarly affected classes or series shall vote together as a single voting group on the proposed

amendment, unless otherwise provided in the articles of incorporation or unless the board of directors conditions its submission of the proposed amendment on a separate vote by one or more classes or series.

(4) A class or series of shares is entitled to the voting group rights granted by this section although the articles of incorporation generally describe the shares of the class or series as nonvoting shares. The articles of incorporation may, however, limit or deny the voting group rights granted by subsection (1)(a), (e), or (f) of this section as to any class or series of issued or unissued shares, by means of a provision that makes explicit reference to the limitation or denial of voting group rights that would otherwise apply under subsection (1)(a), (e), or (f) of this section. [2003 c 35 s 5; 1989 c 165 s 123.]