

**SENATE BILL REPORT**

**SB 6277**

**AS REPORTED BY COMMITTEE ON LAW & JUSTICE, FEBRUARY 4, 1994**

**Brief Description:** Concerning corporations that may make assessments based on real property value.

**SPONSORS:** Senators Haugen, Winsley and M. Rasmussen; by request of Secretary of State

**SENATE COMMITTEE ON LAW & JUSTICE**

**Majority Report:** That Substitute Senate Bill No. 6277 be substituted therefor, and the substitute bill do pass.

Signed by Senators A. Smith, Chairman; Ludwig, Vice Chairman; Hargrove, Nelson, Niemi, Quigley, Roach, Schow and Spanel.

**Staff:** Jon Carlson (786-7459)

**Hearing Dates:** February 4, 1994

**BACKGROUND:**

Under the Washington Nonprofit Corporation Act, a nonprofit corporation: 1) may not have or issue shares of stock; 2) may not disburse income to its members, directors, or officers; 3) may not loan money or credit to its officers or directors; 4) may pay compensation in a reasonable amount to its members, directors or officers for services rendered; 5) may confer benefits upon its members in conformity with its purposes; and 6) upon dissolution may make certain distributions to its members.

The initial bylaws of a nonprofit corporation must be adopted by its board of directors. The bylaws may contain any provisions for the regulation and management of a corporation not inconsistent with law or the articles of incorporation.

In certain circumstances, a superior court has the full power to liquidate the assets and affairs of a corporation in actions brought by members, directors, creditors, or the Attorney General.

The majority of homeowner associations and condominium associations are organized as nonprofit corporations. The members of these associations can be charged regular or special assessments for common expenses, charges, and fines. There are instances where these assessments are being imposed by an executive committee of the association, without a vote of the entire membership.

The current corporation statute contains an ambiguity regarding elections to remove an entire board of directors

where cumulative voting is used. The statute may be construed to allow a shareholder to cast enough votes for a director or directors to prevent the removal of the entire board, contrary to the intention of a majority of the shareholders.

**SUMMARY:**

A nonprofit corporation that is authorized through its articles of incorporation and bylaws to make and collect assessments may not make the assessments unless they are approved by a majority vote of the members at an annual or special meeting. Notice of the intent to adopt an assessment must be delivered in person or by mail to all the members who are entitled to vote not less than ten days nor more than 50 days before the date of the meeting.

The bylaws of these corporations must include provisions for voting on the assessments and notice of the annual or special meetings at which the assessments are to be considered.

Superior court may liquidate the assets and affairs of a nonprofit corporation in an action by a member, director, or the Attorney General when it appears that a corporation makes, collects, or attempts to collect assessments without the express authority of its articles of incorporation, without proper notice or approval, or in violation of its bylaws.

**EFFECT OF PROPOSED SUBSTITUTE:**

The provisions are amended to include other types of nonprofit corporations, such as mutual corporations or miscellaneous corporations.

An ambiguity is corrected in the Business Corporation Act. The amendment clarifies the statutory power of the majority of a corporation to remove the entire board of directors.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** none requested

**TESTIMONY FOR:**

Many letters have been received by the Secretary of State regarding homeowner associations that have levied fees on their members without the knowledge or consent of the members. This bill ensures that each member has a voting right on all fees levied.

**TESTIMONY AGAINST:** None

**TESTIFIED:** Ralph Munro, Secretary of State