

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2577

Chapter 98, Laws of 2004

(partial veto)

58th Legislature
2004 Regular Session

NONPROFIT CORPORATIONS

EFFECTIVE DATE: 6/10/04

Passed by the House February 14, 2004
Yeas 95 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 3, 2004
Yeas 48 Nays 0

BRAD OWEN

President of the Senate

Approved March 24, 2004, with the
exception of section 3, which is vetoed.

GARY F. LOCKE

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2577** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

Chief Clerk

FILED

March 24, 2004 - 2:13 p.m.

**Secretary of State
State of Washington**

HOUSE BILL 2577

Passed Legislature - 2004 Regular Session

State of Washington 58th Legislature 2004 Regular Session

By Representatives Linville, Carrell, Kirby, Newhouse, Lovick,
Campbell, McMahan, Moeller and Flannigan

Read first time 01/16/2004. Referred to Committee on Judiciary.

1 AN ACT Relating to nonprofit corporations; and amending RCW
2 24.03.065, 24.03.075, and 24.03.465.

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

4 **Sec. 1.** RCW 24.03.065 and 1986 c 240 s 12 are each amended to read
5 as follows:

6 (1) A corporation may have one or more classes of members or may
7 have no members. If the corporation has one or more classes of
8 members, the designation of (~~such~~) the class or classes, the manner
9 of election or appointment and the qualifications and rights of the
10 members of each class (~~shall~~) must be set forth in the articles of
11 incorporation or the bylaws. Unless otherwise specified in the
12 articles of incorporation or the bylaws, an individual, domestic or
13 foreign profit or nonprofit corporation, a general or limited
14 partnership, an association or other entity may be a member of a
15 corporation. If the corporation has no members, that fact (~~shall~~)
16 must be set forth in the articles of incorporation or the bylaws. A
17 corporation may issue certificates evidencing membership therein.

18 (2) A corporation may have one or more member committees. The

1 creation, makeup, authority, and operating procedures of any member
2 committee or committees must be addressed in the corporation's articles
3 of incorporation or bylaws.

4 **Sec. 2.** RCW 24.03.075 and 1986 c 240 s 14 are each amended to read
5 as follows:

6 Meetings of members and committees of members may be held at such
7 place, either within or without this state, as (~~may be~~) stated in or
8 fixed in accordance with the bylaws. In the absence of any such
9 provision, all meetings (~~shall~~) must be held at the registered office
10 of the corporation in this state.

11 An annual meeting of the members (~~shall~~) must be held at (~~such~~)
12 the time (~~as may be~~) stated in or fixed in accordance with the
13 bylaws. Failure to hold the annual meeting at the designated time
14 (~~shall~~) does not work a forfeiture or dissolution of the corporation.

15 Special meetings of the members may be called by the president or
16 by the board of directors. Special meetings of the members may also be
17 called by (~~such~~) other officers or persons or number or proportion of
18 members as (~~may be~~) provided in the articles of incorporation or the
19 bylaws. In the absence of a provision fixing the number or proportion
20 of members entitled to call a meeting, a special meeting of members may
21 be called by members having one-twentieth of the votes entitled to be
22 cast at (~~such~~) the meeting.

23 Except as (~~may be~~) otherwise restricted by the articles of
24 incorporation or the bylaws, members and any committee of members of
25 the corporation may participate in a meeting (~~of members~~) by (~~means~~
26 ~~of a~~) conference telephone or similar communications equipment (~~by~~
27 ~~means of which~~) so that all persons participating in the meeting can
28 hear each other at the same time (~~and~~). Participation by (~~such~~
29 ~~means shall~~) that method constitutes presence in person at a meeting.

30 ***Sec. 3.** RCW 24.03.465 and 1967 c 235 s 94 are each amended to read
31 as follows:

32 (1) Any action required by this chapter to be taken at a meeting of
33 the members or (~~directors of a corporation~~) a committee of members,
34 or any action (~~which~~) that may be taken at a meeting of the members
35 or (~~directors~~) a committee of the members under a corporation's
36 articles of incorporation or bylaws, may be taken without a meeting,

1 except as otherwise restricted by the articles of incorporation or
2 bylaws, if a consent in ((writing)) the form of a record, setting forth
3 the action ((so)) taken, ((shall be signed by all)) is executed by a
4 majority of the members or committee of members entitled to vote with
5 respect to the subject matter ((thereof, or all of the directors, as
6 the case may be)).

7 ((Such)) The consent ((shall have)) has the same ((force and))
8 effect as a ((unanimous)) majority vote, and may be so stated ((as
9 such)) in any articles or document filed with the secretary of state
10 under this chapter.

11 (2) Any action required by this chapter to be taken at a meeting of
12 the directors of a corporation, or any action that may be taken at a
13 meeting of the directors, may be taken without a meeting if a consent
14 in the form of a record, setting forth the action taken, is executed by
15 all of the directors entitled to vote with respect to the subject
16 matter. The consent has the same effect as a unanimous vote and may be
17 so stated in any articles or document filed with the secretary of state
18 under this chapter.

*Sec. 3 was vetoed. See message at end of chapter.

Passed by the House February 14, 2004.

Passed by the Senate March 3, 2004.

Approved by the Governor March 24, 2004, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State March 24, 2004.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 3, House
Bill No. 2577 entitled:

"AN ACT Relating to nonprofit corporations;"

This bill would allow a nonprofit corporation to provide in its
articles of incorporation or its bylaws that one or more committees
of members may handle duties assigned in the articles or bylaws. It
further provides that committees of members may meet by
teleconference or other electronic means.

Section 3 of House Bill No. 2577 would have amended RCW 24.03.465 to
provide that unless restricted by articles or bylaws, members or
committees of members could take action on a matter without a meeting
if a majority of members, or committee members, consent. This
authority is inconsistent with that provided to nonprofit
corporations in section 39 of Engrossed Senate Bill No. 6188, which
the Legislature also passed this session and which also amends RCW
24.03.465. Section 39 provides that an action "may be taken without
a meeting if a consent in the form of a record, setting forth the
action so taken, shall be executed by all of the members entitled to
vote with respect to the subject matter thereof, or all of the
directors, as the case may be." Substantively, these two sections
differ on the important point of whether a "consent to action" by
members of a nonprofit corporation requires affirmative action by a
majority of members or by all members entitled to vote.

Section 3 would have also been inconsistent with section 11 of Engrossed Senate Bill No. 6188, which allows matters submitted to a vote of the members to be acted upon by a majority vote, and that such a vote may be conducted "by mail, by electronic transmission, or by proxy in the form of a record executed by the member." Section 11 would provide this authority only where specifically approved in the bylaws or articles of incorporation, while section 3 would have provided this authority unless it is specifically restricted in the bylaws or articles of incorporation.

In any event, section 11 of Engrossed Senate Bill No. 6188 provides an alternative mechanism by which matters submitted to members may be acted upon by a majority vote. This section establishes specific requirements and time limits for such voting, and therefore provides an effective and more comprehensive mechanism for action by members, and committees of members, than that provided under section 3 of House Bill No. 2577.

For these reasons, I have vetoed section 3 of House Bill No. 2577.

With the exception of section 3, House Bill No. 2577 is approved."