

---

**SUBSTITUTE HOUSE BILL 2660**

---

**State of Washington                      53rd Legislature                      1994 Regular Session**

**By** House Committee on Judiciary (originally sponsored by Representatives Anderson and Reams; by request of Secretary of State)

Read first time 02/04/94.

1            AN ACT Relating to corporations; and amending RCW 24.03.030,  
2 24.03.070, 24.03.265, 23B.08.080, 24.06.095, 24.06.110, 24.06.245, and  
3 24.06.300; and adding a new section to chapter 24.06 RCW.

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

5            **Sec. 1.** RCW 24.03.030 and 1986 c 240 s 4 are each amended to read  
6 as follows:

7            A corporation subject to this chapter:

8            (1) Shall not have or issue shares of stock;

9            (2) Shall not make any disbursement of income to its members,  
10 directors, or officers;

11            (3) Shall not loan money or credit to its officers or directors;

12            (4) May pay compensation in a reasonable amount to its members,  
13 directors, or officers for services rendered;

14            (5) May confer benefits upon its members in conformity with its  
15 purposes; (~~and~~)

16            (6) That has the authority through its articles of incorporation  
17 and bylaws to make and collect assessments on members where ownership  
18 of property is a condition of membership in the corporation or where  
19 the assessments are based on the value of all or part of the real

1 property owned by members of the corporation, shall not make the  
2 assessments except where the assessments are approved by a majority  
3 vote of the members at an annual or special meeting held under RCW  
4 24.03.075 and to which notice of the intent to adopt an assessment has  
5 been delivered to all of the members, who are entitled to vote, not  
6 less than ten days nor more than fifty days before the date of the  
7 meeting either personally or by mail; and

8 (7) Upon dissolution or final liquidation may make distributions to  
9 its members as permitted by this chapter, and no such payment, benefit,  
10 or distribution shall be deemed to be a dividend or a distribution of  
11 income.

12 **Sec. 2.** RCW 24.03.070 and 1991 c 72 s 43 are each amended to read  
13 as follows:

14 The initial bylaws of a corporation shall be adopted by its board  
15 of directors. The power to alter, amend, or repeal the bylaws or adopt  
16 new bylaws shall be vested in the board of directors unless otherwise  
17 provided in the articles of incorporation or the bylaws. The bylaws  
18 may contain any provisions for the regulation and management of the  
19 affairs of a corporation not inconsistent with law or the articles of  
20 incorporation. The bylaws of any corporation that has the authority  
21 through its articles of incorporation to make and collect assessments  
22 on members where ownership of property is a condition of membership in  
23 the corporation or where the assessments are based on the value of all  
24 or part of the real property owned by members of the corporation, shall  
25 include provisions, consistent with RCW 24.03.030(6), for voting on the  
26 assessments and notice of the annual or special meetings at which the  
27 assessments are to be considered and approved. The board may adopt  
28 emergency bylaws in the manner provided by RCW 23B.02.070.

29 **Sec. 3.** RCW 24.03.265 and 1986 c 240 s 39 are each amended to read  
30 as follows:

31 Superior courts shall have full power to liquidate the assets and  
32 affairs of a corporation:

33 (1) In an action by a member, director, or the attorney general  
34 when it is made to appear:

35 (a) That the directors are deadlocked in the management of the  
36 corporate affairs and that irreparable injury to the corporation is  
37 being suffered or is threatened by reason thereof, and either that the

1 members are unable to break the deadlock or there are no members having  
2 voting rights; or

3 (b) That the acts of the directors or those in control of the  
4 corporation are illegal, oppressive or fraudulent; or

5 (c) That the corporate assets are being misapplied or wasted; or

6 (d) A corporation has made, collected, or attempted to collect  
7 assessments on members where ownership of property is a condition of  
8 membership in the corporation or where the assessments are based on the  
9 value of all or part of the real property owned by members of the  
10 corporation without an express authority to make the assessments in its  
11 articles of incorporation or without proper notice or approval as  
12 required under RCW 24.03.030 and 24.03.080 or in violation of the  
13 provisions of its bylaws; or

14 (e) That the corporation is unable to carry out its purposes.

15 (2) In an action by a creditor:

16 (a) When the claim of the creditor has been reduced to judgment and  
17 an execution thereon has been returned unsatisfied and it is  
18 established that the corporation is insolvent; or

19 (b) When the corporation has admitted in writing that the claim of  
20 the creditor is due and owing and it is established that the  
21 corporation is insolvent.

22 (3) Upon application by a corporation to have its dissolution  
23 continued under the supervision of the court.

24 (4) When an action has been filed by the attorney general to  
25 dissolve a corporation under the provisions of this chapter and it is  
26 established that liquidation of its affairs should precede the entry of  
27 a decree of dissolution.

28 Proceedings under subsections (1), (2), or (3) of this section  
29 shall be brought in the county in which the registered office or the  
30 principal office of the corporation is situated.

31 It shall not be necessary to make directors or members parties to  
32 any (~~such~~) action or proceedings unless relief is sought against them  
33 personally.

34 NEW SECTION. Sec. 4. A new section is added to chapter 24.06 RCW  
35 to read as follows:

36 A corporation or association subject to this chapter that has the  
37 authority through its articles of incorporation and bylaws to make and  
38 collect assessments on members where ownership of property is a

1 condition of membership in the corporation or where the assessments are  
2 based on the value of all or part of the real property owned by  
3 members, shall not make the assessments except where the assessments  
4 are approved by a majority vote of the members at an annual or special  
5 meeting held under RCW 24.06.100 and to which notice of the intent to  
6 adopt an assessment has been delivered to all of the members, who are  
7 entitled to vote, not less than ten days nor more than fifty days  
8 before the date of the meeting either personally or by mail.

9       **Sec. 5.** RCW 23B.08.080 and 1989 c 165 s 87 are each amended to  
10 read as follows:

11       (1) The shareholders may remove one or more directors with or  
12 without cause unless the articles of incorporation provide that  
13 directors may be removed only for cause.

14       (2) If a director is elected by holders of one or more authorized  
15 classes or series of shares, only the holders of those classes or  
16 series of shares may participate in the vote to remove the director.

17       (3) If cumulative voting is authorized, ~~((a))~~ and if less than the  
18 entire board is to be removed, no director may ~~((not))~~ be removed if  
19 the number of votes sufficient to elect the director under cumulative  
20 voting is voted against the director's removal. If cumulative voting  
21 is not authorized, a director may be removed only if the number of  
22 votes cast to remove the director exceeds the number of votes cast not  
23 to remove the director.

24       (4) A director may be removed by the shareholders only at a special  
25 meeting called for the purpose of removing the director and the meeting  
26 notice must state that the purpose, or one of the purposes, of the  
27 meeting is removal of the director.

28       **Sec. 6.** RCW 24.06.095 and 1970 ex.s. c 78 s 1 are each amended to  
29 read as follows:

30       The initial bylaws of a corporation shall be adopted by its board  
31 of directors. The power to alter, amend or repeal the bylaws or adopt  
32 new bylaws shall be vested in the board of directors unless otherwise  
33 provided in the articles of incorporation or the bylaws. The bylaws  
34 may contain any provisions for the regulation and management of the  
35 affairs of a corporation not inconsistent with law or the articles of  
36 incorporation(~~(:—PROVIDED, That)~~). Where the bylaws of an existing  
37 corporation prohibit voting by mail or by proxy or attorney-in-fact,

1 and the quorum required by its bylaws for election of directors or  
2 transaction of other business has not been obtained at a shareholders'  
3 or members' meeting, for a period which includes at least two  
4 consecutive annual meeting dates, the board of directors shall have  
5 power to amend such bylaws to thereafter authorize voting by mail or by  
6 proxy or attorney-in-fact. The bylaws of any corporation that has the  
7 authority through its articles of incorporation to make and collect  
8 assessments on members where ownership of property is a condition of  
9 membership in the corporation or association or where the assessments  
10 are based on the value of all or part of the real property owned by  
11 members shall include provisions, consistent with section 4 of this  
12 act, for voting on the assessments and for providing notice of the  
13 annual or special meetings at which the members will consider or vote  
14 on the assessments.

15 **Sec. 7.** RCW 24.06.110 and 1969 ex.s. c 120 s 22 are each amended  
16 to read as follows:

17 The right of a class or classes of members or shareholders to vote  
18 may be limited, enlarged or denied to the extent specified in the  
19 articles of incorporation. Unless so limited, enlarged or denied, each  
20 member and each outstanding share of each class shall be entitled to  
21 one vote on each matter submitted to a vote of members or shareholders.  
22 No member of a class may acquire any interest which will entitle him to  
23 a greater vote than any other member of the same class.

24 A member or shareholder may vote in person or, unless the articles  
25 of incorporation or the bylaws otherwise provide, may vote by mail or  
26 by proxy executed in writing by the member or shareholder or by his  
27 duly authorized attorney-in-fact: PROVIDED, That no proxy shall be  
28 valid for more than eleven months from the date of its execution unless  
29 otherwise specified in the proxy.

30 The articles of incorporation may provide that whenever proposals  
31 or directors or officers are to be voted upon, such vote may be taken  
32 by mail if the name of each candidate and the text of each proposal to  
33 be so voted upon are set forth in a writing accompanying or contained  
34 in the notice of meeting. Persons voting by mail shall be deemed  
35 present for all purposes of quorum, count of votes and percentages of  
36 total voting power voting.

37 The articles of incorporation or the bylaws may provide that in all  
38 elections for directors every person entitled to vote shall have the

1 right to cumulate his vote and to give one candidate a number of votes  
2 equal to his vote multiplied by the number of directors to be elected,  
3 or by distributing such votes on the same principle among any number of  
4 such candidates.

5 The articles of incorporation or the bylaws shall provide that  
6 whenever proposals to make and collect assessments are to be voted  
7 upon, the assessments must be approved by a majority vote of a quorum  
8 of the members.

9 **Sec. 8.** RCW 24.06.245 and 1969 ex.s. c 120 s 49 are each amended  
10 to read as follows:

11 Any member or shareholder of a corporation shall have the right to  
12 dissent from any of the following corporate actions:

13 (1) Any plan of merger or consolidation to which the corporation is  
14 a party; or

15 (2) Any sale or exchange of all or substantially all of the  
16 property and assets of the corporation not made in the usual and  
17 regular course of its business, including a sale in dissolution, but  
18 not including a sale pursuant to an order of a court having  
19 jurisdiction in the premises or a sale for cash on terms requiring that  
20 all or substantially all of the net proceeds of sale be distributed to  
21 the shareholders in accordance with their respective interests within  
22 one year after the date of sale; or

23 (3) Any amendment to the articles of incorporation which changes  
24 voting or property rights of members or shareholders other than by  
25 changing the number of memberships or shares or classes of either  
26 thereof; or

27 (4) Any amendment to the articles of incorporation which  
28 reorganizes a corporation under the provisions of this chapter; or

29 (5) Any assessments on members where ownership of property is a  
30 condition of membership in the corporation or association or where the  
31 assessments are based on the value of all or part of the real property  
32 owned by members.

33 The provisions of this section shall not apply to the members or  
34 shareholders of the surviving corporation in a merger if such  
35 corporation is on the date of the filing of the articles of merger the  
36 owner of all the outstanding shares of the other corporations, domestic  
37 or foreign, which are parties to the merger, or if a vote of the

1 members and shareholders of such corporation is not necessary to  
2 authorize such merger.

3 **Sec. 9.** RCW 24.06.300 and 1969 ex.s. c 120 s 60 are each amended  
4 to read as follows:

5 The superior court shall have full power to liquidate the assets  
6 and to provide for the dissolution of a corporation when:

7 (1) In any action by a member, shareholder or director it is made  
8 to appear that:

9 (a) The directors are deadlocked in the management of the corporate  
10 affairs and that irreparable injury to the corporation is being  
11 suffered or is threatened by reason thereof, and that the members or  
12 shareholders are unable to break the deadlock; or

13 (b) The acts of the directors or those in control of the  
14 corporation are illegal, oppressive, or fraudulent; or

15 (c) The corporate assets are being misapplied or wasted; or

16 (d) The corporation is unable to carry out its purposes; or

17 (e) The shareholders have failed, for a period which includes at  
18 least two consecutive annual meeting dates, to elect successors to  
19 directors whose terms have expired or would have expired upon the  
20 election of their successors; or

21 (f) The corporation has made, collected, or attempted to collect  
22 assessments on members where ownership of property is a condition of  
23 membership in the corporation or association or where the assessments  
24 are based on the value of all or part of the real property owned by  
25 members, without express authority to make the assessments in its  
26 articles of incorporation or without proper notice or approval as  
27 required under section 4 of this act and RCW 24.06.105, or in violation  
28 of the provisions of its bylaws.

29 (2) In an action by a creditor:

30 (a) The claim of the creditor has been reduced to judgment and an  
31 execution thereon has been returned unsatisfied, and it is established  
32 that the corporation is insolvent; or

33 (b) The corporation has admitted in writing that the claim of the  
34 creditor is due and owing, and it is established that the corporation  
35 is insolvent.

36 (3) A corporation applies to have its dissolution continued under  
37 the supervision of the court.

1           (4) An action has been filed by the attorney general to dissolve  
2 the corporation and it is established that liquidation of its affairs  
3 should precede the entry of a decree of dissolution.

4           Proceedings under subsections (1), (2) or (3) of this section shall  
5 be brought in the county in which the registered office or the  
6 principal office of the corporation is situated.

7           It shall not be necessary to make directors, members or  
8 shareholders party to any such action or proceedings unless relief is  
9 sought against them personally.

--- END ---